

addressing certain violations, the Exchange's minor rule violation plan provides a reasonable means to address rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects that the PCX will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under the Exchange's minor rule violation plan, on a case by case basis, or if a violation requires formal disciplinary action.

In addition, the Commission notes that proposed rules 10.13(h)(40), 10.13(h)(41), and 10.13(h)(43) relate to market making obligations. The Commission believes that only the most technical and non-substantive violations of a market maker's obligations should be handled pursuant to a minor rule plan.⁷

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-PCX-2003-32) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-31808 Filed 12-24-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48947; File No. SR-Phlx-2003-81]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to a Pilot Program To Deploy the Options Floor Broker Management System

December 18, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹, and Rule 19b-4² thereunder, notice is hereby given that on December 17, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described

in Items I and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend its pilot program pertaining to the Options Floor Broker Management System (the "System") from November 14, 2003, until February 6, 2004.³ The System is a new component of the Exchange's Automated Options Market (AUTOM) and Automatic Execution (AUTO-X) System.⁴

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Phlx has prepared summaries, set forth in sections A, B,

and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the effectiveness of the rules governing the System beyond the current effective date of November 14, 2003, in order to continue to have rules in place concerning the System and to ensure that Floor Brokers using the System during the continuing deployment would not be in violation of current Exchange rules regarding ticket marking requirements. The rules had previously been effective through August 29, 2003, extended through September 12, 2003, and extended again through November 14, 2003.⁵

The System is designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. Floor Brokers or their employees access the System through an electronic Exchange-provided handheld device on which they have the ability to enter the required information as set forth in Phlx Rule 1063(e), either from their respective posts on the options trading floor or in the trading crowd. The System will eventually replace the Exchange's current Floor Broker Order Entry System ("FBOE"),⁶ as part of a roll-out of the new System floor-wide.

All of the rules pertaining to the System effective November 14, 2003 are proposed to be extended until February 6, 2004, including: Exchange Rules 1014(g), 1015, 1051, 1063, 1064, and 1080.06, as well as Option Floor Procedure Advices ("Advice") A-11, B-6, B-8, C-2, C-3, F-1, F-2, and F-4.

The Exchange believes that the System will enable Floor Brokers to handle orders they represent more efficiently, and will further enable the Exchange to comply with the audit trail requirement for non-electronic orders required under the Order Instituting Public Administrative Proceedings Pursuant to section 19(h)(1) of the

⁵ See note 3, *supra*.

⁶ See Securities Exchange Act Release No. 41524 (June 14, 1999), 64 FR 33127 (June 21, 1999) (SR-Phlx-99-11). The FBOE, a component of AUTOM, currently provides a means for (but does not require) Floor Brokers to route eligible orders to the specialist's post, consistent with the order delivery criteria of the AUTOM System set forth in Exchange Rule 1080(b). The new System would include the same functionality as the FBOE, in addition to providing an electronic audit trail for non-electronic orders received by Floor Brokers by way of the entry of the required information in proposed Phlx Rule 1063(e).

⁷ See, e.g., Securities Exchange Act Release No. 27878 (April 14, 1990), 55 FR 13345, [SR-NYSE-89-44].

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On July 31, 2003, the Exchange filed a proposed rule change to implement a pilot program to deploy the Exchange's new System. The proposed rule change was noticed, and accelerated approval was granted thereto, on July 31, 2003. The pilot was scheduled to expire on August 29, 2003. See Securities Exchange Act Release No. 48266 (July 31, 2003), 68 FR 152 (August 7, 2003) (SR-Phlx-2003-56). On August 29, the Commission extended the pilot to September 12, 2003. See Securities Exchange Act Release No. 48425 (August 29, 2003), 68 FR 53210 (September 9, 2003) (SR-Phlx-2003-60). On September 12, 2003, the Commission extended the pilot again until November 14, 2003. See Securities Exchange Act Release No. 48490 (September 12, 2003), 68 FR 54926 (September 19, 2003). In order to avoid a lapse in the effectiveness of this pilot, the Commission now is approving the Exchange's proposal to extend the rule from November 14, 2003 until February 6, 2004. The Exchange has also filed for permanent approval of the proposed rules. See Securities Exchange Act Release No. 48265 (July 31, 2003), 68 FR 47137 (August 7, 2003) (SR-Phlx-2003-40). The Exchange acknowledges that SR-Phlx-2003-40 and Amendment No. 1 thereto are subject to public comment, which may result in amendments to the proposed rules.

⁴ AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. See Exchange Rule 1080.