

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 IV below. NASD Dispute Resolution 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

NASD Dispute Resolution proposes to amend the procedure followed upon the disqualification or other disability of an arbitrator on a three-person arbitration panel under Rule 10313 of the Code. Currently, Rule 10313 of the Code provides that, when an arbitrator becomes disqualified, resigns, dies, refuses or otherwise becomes unable to perform as an arbitrator, the arbitration proceeds with the remaining arbitrators unless a party objects within five days of notification of the vacancy.<sup>4</sup> If there is an objection, the arbitrator is replaced.

Under the proposed rule change, NASD Dispute Resolution will send the name of a replacement arbitrator along with notification of the vacancy. After having this information, parties then will have five business days in which to decide whether to continue with only the remaining two arbitrators or accept a replacement.

NASD Dispute Resolution staff has indicated that, in their experience, parties almost never want to proceed with only the two remaining arbitrators. Therefore, NASD Dispute Resolution believes that providing a replacement arbitrator immediately, without waiting for an objection, would save the parties time and reduce the administrative costs of producing a letter and waiting for responses when, in most cases, there will be an objection to continuing with only two arbitrators.

2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change, as amended, is consistent with section 15A(b)(6) of the Act<sup>5</sup> which requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and

equitable principles of trade, and, in general, to protect investors and the public interest. NASD Dispute Resolution believes that the proposed rule change will protect investors and the public interest by providing parties with an immediate replacement arbitrator, thereby reducing delays in the arbitration process and reducing the forum's administrative costs.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NASD Dispute Resolution does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change, as amended.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change, as amended, does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and NASD Dispute Resolution provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date,<sup>6</sup> it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder.<sup>8</sup> At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2002-38 and should be submitted by April 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-45667; File No. SR-Phlx-2002-20]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to an Extension of the Interim Intermarket Linkage Program**

March 28, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 25, 2002, 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, II, and III below, which Items

<sup>4</sup> In very unusual circumstances, two arbitrators may have been disqualified or otherwise unable to serve at the same time, and the parties would have to decide whether to proceed with the one remaining arbitrator or seek two replacements.

<sup>5</sup> 15 U.S.C. 78o-3(b)(6).

<sup>6</sup> On March 13, 2002, NASD Dispute Resolution submitted the original rule filing under section 19(b)(2) of Act. 15 U.S.C. 78s(b)(2). In Amendment No. 1, NASD Dispute Resolution requested that the proposed rule change become effective upon filing pursuant to section 19(b)(3)(A) of Act and Rule 19b-4(f)(6) thereunder. 15 U.S.C. 78s(b)(3)(A) and 17 CFR 240.19b-4(f)(6). The Commission has agreed to accept the original rule filing as satisfying the 5-day pre-filing requirement pursuant to Rule 19b-4(f)(6). 17 CFR 240.19b-4(f)(6).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

have been prepared by the Phlx. Phlx submitted Amendment No. 1 to the proposed rule change on March 27, 2002.<sup>3</sup> The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,<sup>4</sup> and Rule 19b-4(f)(6) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Phlx proposes to extend until January 31, 2003 the pilot program authorizing implementation of "interim linkages" with the other options exchanges.

### **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 IV 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 request an extension of an intermarket options linkage on an "interim" basis. Currently, the Exchange is operating this interim linkage as a pilot program pursuant to Phlx Rule 1081.<sup>6</sup> The interim linkage utilizes existing market infrastructure to facilitate the sending and receiving of order flow between Phlx Specialists,

and may later include Registered Options Traders and their counterparts on the other options exchanges as an interim step towards development of a "permanent" linkage. The Exchange now proposes that the interim linkage would remain in effect on a pilot basis until January 31, 2003.

By way of background, the Commission has approved a linkage plan that now includes all five options exchanges.<sup>7</sup> The options exchanges continue to work towards implementation of this linkage, which include contracting with a third party to build a linkage infrastructure. In the meantime, the options exchanges have implemented this interim linkage.

The key component of the interim linkage is the participating exchanges opening their automated customer execution systems, on a limited basis, to market maker orders. Specifically, market makers, such as Phlx Specialists, and later Registered Options Traders, are able to designate certain orders as "customer" orders, and thus receive execution under the automatic execution parameters of participating exchanges pursuant to the interim linkage.<sup>8</sup>

The interim linkage authorizes the Phlx to implement bilateral or multilateral interim arrangements with the other exchanges to provide for equal access between market makers on our respective exchanges. Currently the interim linkage pilot program allows Phlx Specialists and their equivalents on the other exchanges, when they are holding customer orders, to send orders reflecting the customer orders to the other market for execution when the other market has a better quote. Such orders are limited in size to the lesser of the size of the two markets' "firm" quotes for customer orders. The Exchange expects that the interim linkage may expand to include limited access for pure principal orders of no more than 10 contracts.

All interim linkage orders must be "immediate or cancel" (that is, they cannot be placed on an exchange's limit order book), and a market maker can

send a linkage order only when the other (receiving) market is displaying the best national bid or offer and the sending market is displaying an inferior price. This allows a Phlx Specialist to access the better price for its customer. In addition, if the interim linkage includes principal orders, it would allow market makers to attempt to "clear" another market displaying a superior quote.

Phlx Specialists' participation in the interim linkage is voluntary. Only when a Phlx Specialist and its equivalent on another exchange believe that this form of mutual access is advantageous will the exchanges employ the interim linkage procedures. The Exchange believes that the interim linkage benefits investors and provides useful experience to help the exchanges in implementing the full linkage. For these reasons, the Exchange requests an extension of the pilot program until January 31, 2003.

##### **2. Statutory Basis**

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>10</sup> in particular, because it should prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

#### **B. Self-Regulatory Organization's Statement on Burden on Competition**

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

#### **C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others**

No written comments were received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30

<sup>3</sup> In Amendment No. 1, the Exchange made a technical correction to its rule text. See letter from John Dayton, Assistant Secretary and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated March 26, 2002 ("Amendment No. 1").

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>5</sup> 17 CFR 240.19b-4(f)(6). The Phlx requested that the Commission waive the rule's requirements of a 30-day operative delay and a five-day pre-filing notice.

<sup>6</sup> See Securities Exchange Act Release Nos. 44311 (May 16, 2001), 66 FR 28768 (May 24, 2001) (immediate effectiveness of interim linkage as a pilot program until January 31, 2002); and 45288 (January 16, 2002), 67 FR 3525 (January 24, 2002) (approval of an extension of interim linkage pilot until April 1, 2002).

<sup>7</sup> See Securities Exchange Act Release Nos. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000); 43573 (November 16, 2000), 65 FR 70850 (November 28, 2000); and 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000). The Exchange intends and believes that the other options exchange intend to file an amendment to the "permanent" linkage plan setting, among other things, the final implementation date for "permanent" linkage to be no later than April 30, 2003.

<sup>8</sup> As with other orders that are executed under the automatic execution parameters of the Exchange, when a limit order constitutes the Exchange's best bid or offer, the specialist executes the incoming order against that order.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(5).

days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>11</sup> and Rule 19b-4(f)(6)<sup>12</sup> thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>13</sup> does not become operative prior to 30 days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. The Phlx has requested, in order to allow the Exchange to continue to participate in the interim options linkage, that the Commission accelerate the implementation of the proposed rule change so that it may take effect prior to the 30 days specified in Rule 19b-4(f)(6)(iii).<sup>14</sup> The Exchange believes that this request for an extension of Phlx Rule 1081 is substantially similar to the proposed rule changes filed by the other options exchanges and approved by the Commission.<sup>15</sup> Further, this extension should allow the Exchange to participate in the interim linkage until the "permanent" linkage is closer to being operational. The Commission finds that the proposed rule change is consistent with the protection of investors and the public interest and, therefore, has determined to make the

proposed rule change operative as of the date of this notice.<sup>16</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>17</sup> normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b-4(f)(iii)<sup>18</sup> permits the Commission to designate a shorter time. The Phlx seeks to have the five-business-day pre-filing requirement waived with respect to the proposed rule change. The Commission has determined to waive the five-business-day pre-filing requirement.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference, Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2002-20 and should be submitted by April 24, 2002.

<sup>16</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

<sup>18</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>19</sup> 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### Economic Injury Disaster Loans as a Result of the September 11, 2001 Terrorist Attacks

**ACTION:** Notice of extension of application deadline.

#### FOR FURTHER INFORMATION CONTACT:

George Camp, Supervisory Program Analyst, Office of Disaster Assistance, 202-205-6734.

#### SUPPLEMENTARY INFORMATION:

In response to the President's major disaster declarations with respect to the World Trade Center and the Pentagon and the widespread economic impact caused by the terrorist attacks and the related Federal actions taken directly thereafter, the SBA revised its disaster loan regulations on October 22, 2001. Under the revised regulations, SBA can make economic injury disaster loans (EIDL) to eligible small business concerns outside the declared disaster areas that suffered substantial economic injury as a direct result of the destruction of the World Trade Center or the damage to the Pentagon on September 11, 2001, or as a direct result of any related Federal action taken between September 11, 2001 and October 22, 2001.

As authorized by 13 CFR 123.605, SBA is extending the application deadline for good cause. On March 15, 2002, SBA published in the **Federal Register** (67 FR 11874) an interim final rule that changes the date upon which the size of a business is determined for purposes of this expanded EIDL program. In addition, SBA published in the **Federal Register** on January 23, 2002 (67 FR 3041) an interim final rule which makes adjustments in its monetary-based size standards in recognition of the effect of inflation since 1994. An extension of time to file for expanded EIDL assistance is appropriate and necessary to enable businesses to ascertain if they are now eligible in light of these recent **Federal Register** publications. Accordingly, with this Notice, the SBA extends the filing deadline for expanded economic injury disaster loans under this disaster program from April 22, 2002 to May 22, 2002.

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>12</sup> 17 CFR 240.19b-4(f)(6).

<sup>13</sup> *Id.*

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> See Securities Exchange Act Release Nos. 45373 (January 31, 2002), 67 FR 5860 (February 7, 2002) (approval of extension of interim linkage program on the American Stock Exchange LLC until December 31, 2002); 45336 (January 25, 2002), 67 FR 5137 (February 4, 2002) (approval of extension of interim linkage program on the Chicago Board Options Exchange, Inc. until the earlier of January 31, 2003 or the complete implementation of "permanent" linkage); 45337 (January 25, 2002), 67 FR 5018 (February 1, 2002) (approval of extension of interim linkage program on the International Securities Exchange LLC until the earlier of January 31, 2003 or the complete implementation of "permanent" linkage); and 45374 (January 31, 2002), 67 FR 5869 (February 7, 2002) (approval of extension of interim linkage program on the Pacific Exchange, Inc. until the earlier of January 31, 2003 or the complete implementation of "permanent" linkage).