

within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change 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 Exchange.

All submissions should refer to File No. SR-NYSE-2001-05 and should be submitted by May 14, 2001.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44185; File No. SR-Phlx-2001-20]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. To Extend a Pilot Program Relating to Price Protection in a Decimals Environment

April 16, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 1, 2001, the Philadelphia Stock Exchange Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On April 13, 2001, the Exchange amended the proposal.³ The Exchange filed this proposal under section 19(b)(3)(A) of the Act,⁴ and Rule 19b-4(f)(6)⁵ thereunder, 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 Exchange proposes to extend through August 31, 2001 the operation of the pilot program that amended Phlx Rule 229, Philadelphia Stock Exchange Automated Communication and Execution System (PACE) ("Pilot"),⁶ as part of implementing industry-wide decimalization and securities pricing in fractions and decimals.⁷ The text of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See April 23, 2001 letter from Jurij Trypupenko, Esquire, Phlx to Alton S. Harvey, Division of Market Regulation, SEC and attachments ("Amendment No. 1"). In Amendment No. 1, the Phlx converted the proposed rule change to a non-controversial proposal pursuant to Rule 19b-4(f)(6). 17 CFR 240.19b-4(f)(6). In addition, the Phlx changed the number of the proposed rule change from SR-Phlx-01-20 to SR-Phlx-2001-20, and made other technical, non-substantive changes to the proposal.

⁴ 15 U.S.C. 78s(b)(3)(A).

⁵ 17 CFR 240.19b-4(f)(6).

⁶ PACE provides a system of automatic delivery and execution of orders on the Phlx equity floor under predetermined conditions.

⁷ The Pilot was established in SR-Phlx-00-08. See Securities Exchange Act Release No. 43206 (August 25, 2000), 65 FR 53250 (September 1, 2001). The Commission notes that full implementation of decimal pricing in equities and options was completed on April 9, 2001. While the rules governing the Pilot make reference to

proposed rule change is available at the Phlx and at the Commission.

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 Exchange 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 Exchange 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 Phlx proposes to extend, through August 31, 2001, the effectiveness of the Pilot that amends Phlx Rule 229 and institutes, for equities priced in decimals, among other things, decimal-based requirements relating to mandatory double-up/double-down price protection and automatic price improvement, as indicated below.

Supplementary Material .05 to Rule 229 establishes that if the PACE Quote⁸ at the time of order entry into the system reflects a $\frac{1}{8}$ point spread or less (the difference between the best bid and offer) for equities trading in fractions, or \$.05 or less for equities trading in decimals, that order will be executed immediately.

Supplementary Material .07(c) to Rule 229 establishes that automatic price improvement and mandatory manual double-up/double-down price protection applies to both fractional and decimal priced equities. The Pilot provides that specialists may choose to provide automatic price improvement of \$.01 to all customers and all eligible market orders in an equity trading in decimals (where the PACE Quote is either \$.05 or greater or \$.03 or greater), or $\frac{1}{16}$ to equities trading in fractions (where the PACE Quote is $\frac{3}{16}$ or greater or $\frac{1}{8}$ or greater).⁹ And specialists that

fractional pricing, the Commission did not require the Phlx to amend its rules at this time to reflect full implementation of decimal pricing. The Phlx should, at some point in the future, file a proposed rule change to remove references to fractional pricing from its rules.

⁸ The PACE Quote is the National Best Bid/Offer.

⁹ The Exchange previously established a six-month pilot program relating to price improvement based on a percentage of the spread between the bid

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⁹ 17 CFR 200.30-2(a)(12).

do not agree to provide price improvement in a security have to provide manual double-up/double-down price protection in any instance where the bid/ask of the PACE Quote is $\frac{1}{8}$ or greater for equities trading in fractions, or \$.05 or greater for equities trading in decimals.¹⁰

The Exchange believes that extension of the Pilot through August 31, 2001 would be conducive to the proper implementation of decimal pricing, and should facilitate the transition to decimal pricing.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act¹¹ in general, and in particular, with Section 6(b)(5),¹² in that it promotes just and equitable principles of trade, fosters cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitates transactions in securities, removes impediments to and perfects the mechanism of a free and open market and national market system, and, in general, protects investors and the public interest. The Phlx also believes the proposal will facilitate the orderly transition to decimal pricing.

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

The Exchange 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 either solicited or received.

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

Because the foregoing proposed rule change 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, it has become effective pursuant to section 19(b)(3)(A) of the Act¹³ and Rule 19b-4(f)(6) thereunder.¹⁴ 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.¹⁵

The Exchange has requested that the Commission accelerate the operative date. The Commission finds good cause to designate the proposal to become operative immediately because such designation is consistent with the protection of investors and the public interest. The Commission believes that the proposal should be effective and operative immediately upon filing to ensure there is no lapse in the Pilot's effectiveness. For these reasons, the Commission finds good cause to designate that the proposal is both effective and operative upon filing with the Commission.¹⁶

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 Exchange. All submissions should refer to file number SR-Phlx-2001-20, and should be submitted by May 14, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice No. 3607]

Secretary of State's Advisory Committee on Private International Law: Study Group on Enforcement of Foreign Judgments: Meeting Notice

There will be a public meeting of a study group of the Secretary of State's Advisory Committee on Private International Law on Wednesday, May 16, 2001, to consider the draft Hague Convention on Jurisdiction and the Enforcement of Foreign Judgments. The meeting will be held from 9:30 am to 5:00 pm in room 332 of the Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington DC.

The purpose of the Study Group meeting is to assist the Department of State prepare the U.S. negotiating position for the first diplomatic session of the Hague Conference June 6-20, 2001 in the Hague, the Netherlands.

The last formal negotiating session on the project was in October 1999, which produced a preliminary draft convention text. Due to opposition by the United States and some other delegations to this text, the Hague Conference decided to postpone the final negotiating session from October 2000, and to hold it in two parts. The first part will be in June, and the second part has not yet been scheduled. The Conference decided that the June session would operate on a consensus basis, with the ordinary voting rules suspended. For the last several months, the Hague countries have been engaged in frequent informal meetings to attempt to narrow their differences and prepare the June diplomatic negotiating session.

A copy of the preliminary draft convention is available on the website of the Hague Conference, along with a detailed explanatory report by Peter Nygh and Fausto Pocar. These documents, together with other background documents on the negotiations may be found at

and offer. See Securities Exchange Act Release No. 43901 (January 30, 2001), 66 FR 8988 (February 5, 2001) (SR-Phlx 01-12).

¹⁰ Double-up/double-down is defined in Supplementary Material .07(c)(ii) to Phlx Rule 229 as a trade that would be at least $\frac{1}{4}$ (up or down) for equities trading in fractions or \$.10 (up or down) for equities trading in decimals from the last regular way sale on the primary market, or, $\frac{1}{4}$ for equities trading in fractions or \$.10 for equities trading in decimals from the regular way sale that was the previous intra-day change on the primary market.

¹¹ 15 U.S.C. 78f.

¹² 15 U.S.C. 78f(b)(5).

¹³ 15 U.S.C. 78s(b)(3)(A).

¹⁴ 17 CFR 240.19b-4(f)(6).

¹⁵ For purposes of calculating the 60-day abrogation date, the Commission considers the 60-day period to have commenced on April 13, 2001, the date of the Phlx filed Amendment No. 1.

¹⁶ 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). The Commission accepted the Phlx's initial filing on March 1, 2001, as satisfying the five-day pre-filing notice requirement under Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

¹⁷ 17 CFR 200.30-3(a)(12).