companies.[6] After the Exchange's currently pending corporate governance proposals become final, a majority independent board will become an Exchange listing standard.[7] As a result, the Exchange believes that board approval of a voluntary delisting is all that must be required by the Exchange.

The Exchange further believes that neither advance notification to shareholders nor a company press release need be mandated under Exchange rules. In the case of a transfer of a listing from one market to another, both the company transferring and the market to which it is transferring are typically eager to publicize the event.[8] Practical considerations such as the need to make brokers and investors aware of a change in ticker symbol also serve to insure that a planned move is visible. In any event, companies are obligated to publicly disclose material events,[9] and the Exchange expects that a company that has made a final determination to voluntarily delist its securities from the Exchange would promptly disclose that determination to the public.[10]

The Exchange has for many years replicated Rule 500 in Section 806 of its Listed Company Manual, which is a separate compendium of rules applicable to listed companies. In making this change, the Exchange will delete Rule 500 in its entirety. The remaining requirement of board approval and notice thereof to the Exchange will be codified in section 806 of the Listed Company Manual.

2. Statutory Basis

The NYSE represents that the basis under the Act for this proposed rule change is the requirement under section 6(b)(5)[11] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change 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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or 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 the 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. 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 NYSE. All submissions should refer to file number SR–NYSE–2003–23 and should be submitted by October 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–23051 Filed 9–9–03; 8:45 am]

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[6] *See* Press Release from Investor Responsibility Research Center, March 7, 2002, available at *www.irrc.com/company/06062002_NYSE.html.*

[7] *See* Securities Exchange Act Release No. 47672 (April 11, 2003), 68 FR 19051 (April 17, 2003) (SR–NYSE 2002–33). Under the Exchange's proposed standards, a controlled company will not be required to have a majority independent board. Here too, however, a board that is acceptable under the new Exchange standards should be appropriate to make a delisting decision.

[8] The company referred to in footnote 3 above that transferred to Nasdaq issued a press release announcing that fact approximately one month prior to the actual transfer.

[9] *See* Sections 202.05 and .06 of the Exchange's Listed Company Manual. The Exchange also notes that pending proposed amendments by the SEC to Form 8–K will require a Form 8–K filing when a company has taken definitive action to terminate a listing, including by reason of a transfer to another market. *See* Securities Exchange Act Release No. 46084 (June 17, 2002), 67 FR 42914 (June 25, 2002) (File No. S7–22–02).

[10] When reviewing this proposed rule change, members of the Exchange's Pension Managers Advisory Committee as well as members of the Exchange's Board of Directors observed that companies should not voluntarily delist from the Exchange without investors in their stock having advance notice of the event. For the reasons stated above, the Exchange believes that there will be adequate public notice. If, however, for some reason disclosure is not made by the company or a third party when such disclosure is warranted, then the Exchange itself will publicly announce the planned delisting.

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48430; File No. SR–Phlx–2003–52]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, and Amendment No. 1 thereto, by the Philadelphia Stock Exchange, Inc. Relating to a System Change to a Pilot Program to Disengage AUTO–X the Automatic Execution Feature of the Exchange's Automated Options Market (AUTOM)

September 3, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4[2] thereunder, notice is hereby given that on July 14, 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, II, and III, below, which Items have been prepared by the Phlx. On August 26, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Richard S. Rudolph, Director and Counsel, Phlx, to Marc McKayle, Special Counsel, Division of Market Regulation (''Division''), Commission, dated August 25, 2003 (''Amendment No. 1''). In Amendment No. 1, the Exchange amended the proposed rule change to clarify that the specified disengagement size would continue to be subject to the approval of the Options Committee and would be posted on the Exchange's Web site for each option.

proposed rule change, as amended, from interested persons.

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

The Phlx proposes to amend Phlx Rule 1080, Philadelphia Stock Exchange Automated Options Market (''AUTOM'') and Automatic Execution System (''AUTO–X''),[4] to reflect a systems change to its pilot program concerning AUTO–X, whereby AUTO–X is disengaged for a period of 30 seconds after the number of contracts automatically executed in a given option meets the specified disengagement size for the option (the ''pilot''). The text of the proposed rule change is set forth below. Brackets indicate deletions.

Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

Rule 1080. (a)–(j) No change.

Commentary:

.01–.05 No change.

.06 Reserved.

.07 The specified disengagement size set forth in Rule 1080(c)(iv)(I) is subject to the approval of the Options Committee [and shall not be for a number of contracts that is fewer than the highest quotation size for any series in the given option]. The specified disengagement size for each option shall be posted on the Exchange's Web site.

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.

[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* Phlx Rule 1080.

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 amend Phlx Rule 1080, Commentary .07, to reflect a systems change to the pilot.[5] The pilot was originally approved on a six-month basis for a limited number of eligible options[6] and extended for an additional six-month period.[7] Subsequently, the number of options eligible for the pilot was expanded to include all Phlx-traded options.[8] In December 2001, the pilot was extended again for an additional six-month period;[9] and extended again in May 2002,[10] November, 2002,[11] and, most recently, in May 2003.[12]

The pilot currently includes the following features:

• Once an automatic execution occurs via AUTO–X in an option, the system begins a ''counting'' program, which counts the number of contracts executed automatically for that option up to a certain size,[13] which causes AUTO–X to become disengaged for that option.

• When the number of contracts executed automatically for that option exhausts the specified disengagement size for the specific option within a 15 second time frame, the system ceases to automatically execute for that option, and drops all AUTO–X eligible orders in that option for manual handling by the specialist for a period of 30 seconds in order to enable the specialist to refresh quotes in that option.

[5] *See* Amendment No. 1, *supra* note 3.

[6] *See* Securities Exchange Act Release No. 43652 (December 1, 2000), 65 FR 77059 (December 8, 2000) (SR–Phlx–00–96).

[7] *See* Securities Exchange Act Release No. 44362 (May 29, 2001), 66 FR 30037 (June 4, 2001) (SR–Phlx–2001–56).

[8] *See* Securities Exchange Act Release No. 44760 (August 31, 2001), 66 FR 47253 (September 11, 2001) (SR–Phlx–2001–79).

[9] *See* Securities Exchange Act Release No. 45090 (November 21, 2001), 66 FR 59834 (November 30, 2001) (SR–Phlx–2001–100).

[10] *See* Securities Exchange Act Release No. 45862 (May 1, 2002), 67 FR 30990 (May 8, 2002) (SR–Phlx–2002–22).

[11] *See* Securities Exchange Act Release No. 46840 (November 15, 2002), 67 FR 70473 (November 22, 2002) (SR–Phlx–2002–59).

[12] *See* Securities Exchange Act Release No. 47955 (May 30, 2003), 68 FR 34458 (June 9, 2003) (SR–Phlx–2003–29).

[13] Phlx Rule 1080(c)(iv)(I) provides that when the number of contracts automatically executed within a 15 second period in an option exceeds the specified disengagement size, a 30 second period ensues during which subsequent orders are handled manually. The specified disengagement size is determined by the specialist and subject to the approval of the Exchange's Options Committee. The specified disengagement size for each option is listed on the Exchange's Web site.

• Upon the expiration of 30 seconds, automatic executions resume, the ''counting'' program is set to zero and it begins counting the number of contracts executed automatically within a 15 second time frame again, up to the specified disengagement size.

Again, when the number of contracts automatically executed exhausts the specified disengagement size within a 15 second time frame, the system drops all subsequent AUTO–X eligible orders for manual handling by the specialist for a period of 30 seconds. The system then continues to reset the ''counting'' program and drop to manual, etc.

In April 2003, the Commission approved a proposal by the Exchange to provide automatic executions for eligible inbound orders (for the account(s) of both customers and broker-dealers) at the Exchange's disseminated price, up to the disseminated size, replacing the previous Exchange rule that allowed a pre-set ''AUTO–X guarantee'' size, in which eligible orders would be automatically executed up to that AUTO–X guarantee, regardless of the Exchange's disseminated size.[14] Previously, if the Exchange's disseminated size in a particular series was greater than the AUTO–X guarantee, eligible orders delivered via AUTOM for a size greater than the AUTO–X guarantee would be automatically executed at the AUTO–X guaranteed size, and the remainder of the order would be executed manually by the specialist at the disseminated price, up to the remaining disseminated size, in accordance with the Exchange's rules regarding firm quotations.[15]

Because the Exchange currently guarantees automatic executions for eligible orders up to the Exchange's disseminated size, the most recent pilot extension included Commentary .07 to Rule 1080, prohibiting specialists from setting the specified disengagement size to a number of contracts that is fewer than their largest disseminated size.

The Exchange has developed a new system that will automatically execute eligible orders up to the disseminated size in a given series regardless of the specified disengagement size. Thus, if the disseminated size exceeds the specified disengagement size for the series, and an eligible order is delivered for a number of contracts that is greater than the specified disengagement size, the order will be executed up to the disseminated size, followed by an

[14] *See* Securities Exchange Act Release No. 47646 (April 8, 2003), 68 FR 17976 (April 14, 2003) (SR–Phlx–2003–18).

[15] *See* Phlx Rule 1082.

AUTO–X disengagement period of 30 seconds (if the specialist revises the quote in the series prior to the expiration of 30 seconds, AUTO–X will be automatically re-engaged). Because of the new system, it is no longer necessary to require that the specified disengagement size be greater than the largest disseminated size for any series in a given option. Therefore, the proposal would delete from Commentary .07 to Phlx Rule 1080 the provision that the specified disengagement size shall not be for a number of contracts that is fewer than the highest quotation size for any series in the given option.[16]

The Exchange believes that the new system should enable specialists to continue to fulfill their obligations to make fair and orderly markets during periods of peak market activity, while simultaneously enabling them to meet the requirement to provide automatic executions up to the disseminated size, regardless of whether the specified disengagement size is for a number of contracts that is less than the disseminated size.

2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act,[17] in general, and furthers the objectives of section 6(b)(5) of the Act,[18] in particular, in that it that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest and promote just and equitable principles of trade by providing automatic executions for eligible orders up to the Exchange's disseminated size, while continuing to enable Exchange specialists to maintain fair and orderly markets during periods of peak market activity.

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.

[16] *See* Amendment No. 1, *supra* note 3.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

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

The proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act,[19] and Rule 19b–4(f)(5) thereunder.[20] The proposal effects a change in an existing order-entry or trading system of a self-regulatory organization that (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not have the effect of limiting the access to or availability of the system pursuant to Rule. At any time within 60 days of the filing of such 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 or for the protection of investors, or otherwise in furtherance of the purposes of the Act.[21]

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–2003–52 and should be submitted by October 1, 2003.

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(5).

[21] For the purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on August 26, 2003, the date Phlx filed Amendment No. 1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Margaret H. McFarland,

Deputy Secretary.

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[22] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3539]

State of New York

As a result of the President's major disaster declaration on August 29, 2003, I find that Allegany, Cattaraugus, Chemung, Columbia, Delaware, Fulton, Greene, Livingston, Montgomery, Ontario, Rensselaer, Schuyler, Steuben, and Yates Counties in the State of New York constitute a disaster area due to damages caused by severe storms, flooding and tornadoes occurring on July 21, 2003 and continuing through August 13, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 28, 2003 and for economic injury until the close of business on May 31, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Fl., Niagara Falls, NY 14303.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Albany, Broome, Chautauqua, Chenango, Dutchess, Erie, Genesee, Hamilton, Herkimer, Monroe, Otsego, Saratoga, Schenectady, Schoharie, Seneca, Sullivan, Tioga, Tompkins, Ulster, Washington, Wayne, and Wyoming Counties in the State of New York; Bradford, McKean, Potter, Tioga, Warren, and Wayne counties in the State of Pennsylvania; Bennington County in the State of Vermont; Berkshire County in the State of Massachusetts; and Litchfield County in the State of Connecticut.

The interest rates are:

For Physical Damage:

Homeowners With Credit Available Elsewhere: 5.625%.

Homeowners Without Credit Available Elsewhere: 2.812%.

Businesses With Credit Available Elsewhere: 5.906%.

Businesses and Non-Profit Organizations Without Credit Available Elsewhere: 2.953%.