

statements may be examined at the places specified in Item IV below. Nasdaq 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

On July 25, 2000, the NASD, jointly with self-regulatory organizations, submitted to the Commission the Implementation Plan. As part of the Plan, the NASD committed to establish a minimum quotation increment of \$0.01 for Nasdaq securities trading in decimals. That is, Nasdaq would display and disseminate quotations in securities trading in decimal-based increments to two places beyond the decimal point (to the penny). This proposed rule change establishes the \$0.01 minimum quote increment for Nasdaq securities that transition from fractional to decimal pricing. The filing also informs market participants that decimal quotations submitted to Nasdaq that do not comport with the penny minimum quotation increment standard will be rejected by Nasdaq systems. Nasdaq intends to impose the \$0.01 minimum decimal quotation increment, pursuant to the Plan's phase-in schedule, beginning March 12, 2001, on every Nasdaq security that becomes authorized for decimal trading pursuant to the Plan.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with the provisions of Section 15A(b)(6) of the Act⁷ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, and processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of 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

Nasdaq does not believe that the proposed rule change will result in 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

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 Act⁸ and Rule 19b-4(f)(6) thereunder.⁹ 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.

Nasdaq has requested that the Commission accelerate the operative date. The Commission finds good cause to waive the 30-day operative waiting period, because such designation is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow Nasdaq to begin quoting securities in penny increments pursuant to the Implementation Plan, which is part of the industry-wide conversion to decimal pricing. For these reasons, the Commission finds good cause to waive both the 5-day pre-filing requirement and the 30-day operative waiting period.¹⁰

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, 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 number SR-NASD-01-07 and should be submitted by February 20, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43866; File No. SR-Phlx-01-01]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to the Dissemination of Options Quotations With Size

January 22, 2001.

I. Introduction

On January 8, 2001, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change seeking to amend Exchange Options Floor Procedure Advice ("OFPA") F-7, Bids and Offers, to state that the size of any bid or offer in a quotation disseminated by the Exchange shall be equal to the AUTO-X guarantee for the quoted option and shall be firm, except that the disseminated size of bids and offers of customer limit orders shall be ten contracts and shall be firm, regardless of the actual size of such orders. Notice of the proposed rule change appeared in the **Federal Register** on January 18, 2001.³ The Commission received no comments on the proposal. This order

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ 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).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 43822 (January 8, 2001), 66 FR 4884.

⁷ 15 U.S.C. 78o-3(b)(6).

approves the proposed rule change on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to codify its initial program for the dissemination of options quotations with size. The Exchange anticipates that, on or about January 22, 2001, the Options Price Reporting Authority ("OPRA") will begin to support the dissemination of options quotations that include the size, or the number of contracts, represented in disseminated bids and offers on the Exchange.

Although, the Phlx anticipates that OPRA will have the necessary systems capacity to accept and disseminate quotations with size by late January 2001, and that one or more options exchanges will be in a position to disseminate *actual* quotation size at the time, the Phlx will not have completed its application of the systems changes necessary to permit it to disseminate actual quotation size for a number of months.

Therefore, until the Exchange's systems disseminate actual quotation size on a quote-by-quote basis, the Phlx proposes to establish by rule and periodically publish,⁴ on its web site and through regulatory circulars to Exchange members and member organizations, the quotation size for which its members' quotations are firm as required by Rule 11Ac1-1(d)(1)(i) under the Act.⁵

In addition, the Exchange proposes to voluntarily disseminate to OPRA the applicable automatic execution size guarantee for each quoted option, except that with respect to customer limit orders the Phlx would disseminate a size of 10 contracts, regardless of the actual size of the customer order. In all cases, the Phlx would be firm for its disseminated quotation size (without regard to whether the given order would be eligible for automatic execution via the Exchange's automatic execution feature, AUTO-X).⁶

Until the Phlx has completed its application of the systems changes necessary to automatically update its quotation size on a continuous basis, the Phlx believes that the instant proposal represents a vast improvement over the current system, by increasing transparency and providing the market place with considerably more information upon which to base order routing decisions.

Finally, the Phlx expects to begin providing quotations with actual size on a floor-wide basis within one year. The Exchange represents that it will undertake to submit a further proposed rule change when the Exchange is able to disseminate actual size associated with its options quotes and customer limit orders.

The Exchange represents that the instant proposed rule change does not affect in any respect the Exchange's obligations concerning non-public customer orders.⁷ Further, the Exchange represents that prior to the April 1, 2001 mandatory compliance date of the amended Quote Rule, the Exchange will establish firm quote requirements with respect to orders received from broker-dealers, as required by the amended Quote Rule.

III. Discussion

For the reasons discussed below, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange. In particular, the Commission believes the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act⁸ that the rules of an exchange be designed to facilitate transactions in securities, promote just and equitable principals of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.⁹ The Commission believes that the proposal should help to increase transparency by providing more information to investors in a readily accessible manner. In addition, the proposal should help to increase

investor confidence in transactions on the Exchange by providing greater certainty to investors by ensuring that quotes made by market participants are firm for a specified number of contracts for customer orders.

The Commission believes that the Exchange's proposal to establish by rule and periodically publish the size for their best bid and offer in each options series that it listed on the Exchange is consistent with the amendments to the Quote Rule provided that the Exchange establish firm quote requirements for orders received from broker-dealers prior to April 1, 2001. The Commission notes that the Exchange represents that it will periodically publish on its web site and through regulatory circulars to Exchange members and member organizations the size for which its members' quotations must be firm. Further, the Commission notes that the Exchange intends to provide quotations with actual size on a floor-wide basis within one year.

Finally, the Commission, pursuant to section 19(b)(2) of the Act,¹⁰ finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that the Exchange anticipates the OPRA may begin to support the dissemination of quotes with size as soon as January 22, 2001. The Commission believes that granting accelerated approval to this proposal should allow investors to receive more information as soon as that information can be made available through the OPRA system. Accordingly, the Commission finds that there is good cause, consistent with section 19(b)(2) of the Act,¹¹ to approve the proposal on an accelerated basis.

IV. Conclusion

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,¹² that the proposed rule change (SR-Phlx-01-01) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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⁴ On November 17, 2000, the Commission amended Rule 11Ac1-1 ("Quote Rule") under the Act to require options exchanges and options market makers to publish firm quotes. The compliance date for the amended Quote Rule is April 1, 2001. See Securities Exchange Act Release No. 43591 (November 17, 2000), 65 FR 75439 (December 1, 2000).

⁵ Rule 11Ac1-1(d)(1)(i) under the Act, 17 CFR 240.11Ac1-1(d)(1)(i). To accommodate the fact that the options markets did not yet disseminate quotes with size, the Commission provided an alternative to the Quote Rule, as applied in the equity markets, which allows options markets to establish by rule and periodically publish the size for which their quotations will be firm.

⁶ In the event that certain Phlx specialist firms are able to develop and implement proprietary systems (called "Specialized Quote Feeds" or "SQFs") that

are able to disseminate actual size prior to the Exchange's systems disseminating quotations with actual size on a floor-wide basis, the Phlx would undertake to file a further proposed rule change with the Commission requesting approval to disseminate actual size for those options classes assigned to such specialist firms.

⁷ See Phlx Rule 1015(b) and Options Floor Procedure Advice A-11.

⁸ 15 U.S.C. 78f(b)(5).

⁹ In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 15 U.S.C. 78s(b)(2).

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30-(a)(12).