

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 98-27824 Filed 10-15-98; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40530; File No. SR-PHLX-98-18]

### Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Auto-X Contra Party Participation (the Wheel)

October 7, 1998.

#### I. Introduction

On June 5, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change to amend Options Floor Procedure Advice F-24 ("Advice F-24") governing AUTO-X Contra Party Participation (the Wheel). The proposed rule change was published for comment in the **Federal Register** on September 3, 1998.<sup>3</sup> The Commission received no comments regarding the proposal. On September 15, 1998, the Phlx filed with the Commission Amendment No. 1 to the proposed rule change.<sup>4</sup> This order approves the proposed rule change. In addition, the Commission is publishing this notice to solicit comments on Amendment No. 1 to the proposed rule change and is simultaneously approving Amendment No. 1 on an accelerated basis.

#### I. Description of the Proposal

AUTO-X is the automatic execution feature of the Exchange's Automated

Options Market ("AUTOM") system,<sup>5</sup> which provides customers with automatic executions of eligible option orders at displayed markets. The Wheel is an automated mechanism for assigning floor traders (*i.e.*, specialists and Registered Options Traders ("ROT's")), on a rotating basis, as contra-side participants to AUTO-X orders.

In 1994, the Commission approved the Exchange's Wheel provisions as Advice F-24.<sup>6</sup> The purpose of the Wheel is to increase the efficiency and liquidity of order execution through AUTO-X by including certain floor traders in the automated assignment of contra-parties to incoming AUTO-X orders. Thus, the Wheel is intended to make AUTO-X more efficient, as contra-side participation is assigned automatically. Although specialists are required to participate on the Wheel, currently, ROT participation is voluntary, absent extraordinary circumstances.

In its filing, the Phlx proposes that in extraordinary circumstances, to promote liquidity, two Floor Officials may require all ROTs who signed onto the Wheel at any time during the last thirty business days to participate on the Wheel. This proposed amendment to section (d) of Advice F-24 removes the broader ability to require all ROTs to sign on in extraordinary circumstances by limiting the provision to ROTs who have previously signed on. Thus, ROTs who had not signed onto the Wheel in the past thirty days would not be subject to this provision. The purpose of this change is to establish a more equitable sign-on requirement, affecting only those ROTs who have previously participated on the Wheel.

The Phlx also proposes to amend section (c)(iii) of Advice F-24 to require expressly that ROTs sign off the Wheel when leaving the Wheel assignment area for more than a brief interval.<sup>7</sup> The Exchange explains that this change should clarify the obligations of a ROT to sign off the Wheel by incorporating affirmative language into Advice F-24(c)(iii). The proposal is designed to

ensure that ROTs are aware of and meet their responsibilities pertaining to the sign-off requirements for the Wheel. Because section (c)(iii) is subject to a fine schedule, the Exchange also proposes to amend its minor rule violation enforcement and reporting plan.<sup>8</sup> Moreover, Amendment No. 1 incorporated language into Advice F-24 that became effective pursuant to a rule filing submitted subsequent to the current proposal.<sup>9</sup>

#### III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act. In particular, the Commission believes the proposal is consistent with Section 6(b)(5)<sup>10</sup> of the Act.<sup>11</sup> Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to remove impediments to and perfect the mechanism of a free and open market and a national market system.

As the Commission previously has noted, AUTO-X enhances the Exchange's ability to execute small public customer orders in a timely, accurate, and efficient manner, and the automation of assignments of contra-parties for AUTO-X trades should improve order processing and turnaround time.<sup>12</sup> The Commission agrees with the Exchange that it should be more equitable, in extraordinary circumstances when ROTs are forced onto the Wheel, to limit those ROTs compelled to serve as contra-parties to those who have taken advantage of Wheel participation in the past thirty days. Moreover, given the significance of maintaining orderly Wheel operations, it is sensible to clarify the affirmative responsibility of Wheel participants to sign-off the wheel when they leave the Wheel assignment area

<sup>8</sup> The Phlx's minor rule violation enforcement and reporting plan ("minor rule plan"), codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules. Rule 19d-1(c)(2) under the Act authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting. Rule 19d-1(c)(1) under the Act requires prompt filing with the Commission of any final disciplinary action. However, minor rule violations not exceeding \$2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

<sup>9</sup> See Securities Exchange Act Release No. 40370 (August 27, 1998) 63 FR 47077 (September 3, 1998) (notice of immediate effectiveness of SR-PHLX-98-34).

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

<sup>11</sup> In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>12</sup> See Securities Exchange Act Release No. 35033 (November 30, 1994) 59 FR 63152 (December 7, 1994) (order approving SR-PHLX-94-32).

<sup>5</sup> AUTOM is an electronic order routing system for option orders. See Phlx Rule 1080.

<sup>6</sup> Securities Exchange Act Release No. 35033 (November 30, 1994), 59 FR 63152 (December 7, 1994) (order approving Advice F-24).

<sup>7</sup> The Phlx defines "brief" to mean 5 minutes or less, or in matters of a dispute, the amount of time it takes to call in a Floor Official and inform him/her of the issue at hand. See Securities Exchange Act Release No. 38881 (July 28, 1997), 62 FR 41986 (August 4, 1997) (order approving changes to Advice F-24). The Exchange has clarified that ROTs who signed off to leave the Wheel assignment area may return and sign back onto the Wheel the same day. Telephone conversation between Linda S. Christie, Counsel, Phlx, and Lisa Henderson, Attorney, Division, Commission (July 23, 1998).

<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.

<sup>3</sup> Securities Exchange Act Release No. 40374 (August 27, 1998) 63 FR 47078.

<sup>4</sup> In Amendment No. 1, the Exchange noted additional language in Advice F-24 that had become effective pursuant to a separate rule filing. See Letter from Linda S. Christie, Counsel, Exchange, to Richard Strasser, Assistant Director, Division of Market Regulation ("Division"), Commission, dated September 14, 1998 ("Amendment No. 1").

for more than a brief interval and to adjust the Exchange's Minor Rule Violation Plan accordingly.

Finally, the Commission finds good cause for approving proposed Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Amendment merely updates the proposed Advice F-24 to reflect changes in the Advice made pursuant to a separate rule filing.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1, including whether the proposed Amendment 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 Phlx. All submissions should refer to File No. SR-PHLX-98-18 and should be submitted by November 6, 1998.

#### Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-PHLX-98-18), as amended, is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3138]

##### State of Alabama (Amendment #1)

In accordance with a notice from the Federal Emergency Management Agency dated October 6, 1998, the above-

numbered Declaration is hereby amended to include Butler and Conecuh Counties, Alabama as a disaster area due to damages caused by Hurricane Georges beginning on September 25, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties may be filed until the specified date at the previously designated location. All counties contiguous to the above-named primary county have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 29, 1998 and for economic injury the termination date is June 30, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 7, 1998.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 98-27869 Filed 10-15-98; 8:45 am]

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#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3135; Amendment #1]

##### State of Florida

In accordance with a notice from the Federal Emergency Management Agency dated October 6, 1998, the above-numbered Declaration is hereby amended to include Franklin and Gulf Counties, Florida as a disaster area due to damages caused by Hurricane Georges beginning September 25, 1998 and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Wakulla in the State of Florida may be filed until the specified date at the previously designated location. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 27, 1998 and for economic injury the termination date is June 28, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 7, 1998.

**James Rivera,**

*Acting Associate Administrator for Disaster Assistance.*

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#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3133; Amendment #2]

##### State of Louisiana

In accordance with information received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on September 9, 1998 and continuing through October 4, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 22, 1998 and for economic injury the termination date is June 23, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 7, 1998.

**Bernard Kulik,**

*Associate Administrator for Disaster Assistance.*

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#### SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3139; Amendment #1]

##### State of Mississippi

In accordance with a notice from the Federal Emergency Management Agency dated October 6, 1998, the above-numbered Declaration is hereby amended to include Jefferson Davis, Marion, Pike, and Wayne Counties, Mississippi as a disaster area due to damages caused by Hurricane Georges beginning September 25, 1998 and continuing.

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 previously designated location: Amite, Clarke, Lawrence, Lincoln, Simpson, and Walthall in the State of Mississippi. Any counties contiguous to the above-named counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is November 30, 1998 and for economic injury the termination date is July 1, 1999.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(912).