

system notices (60 FR 63075, effective January 17, 1996) applies to the records maintained within the system. The are no routine uses unique to this system of records.

**PURPOSE(S):**

OPM will use the records to issue official U.S. Government Identification cards to OPM employees and contract employees requiring access to OPM building and offices. The records will also be used to maintain a record of all holders of identification cards, for renewal and recovery of expired cards, and to identify lost or stolen cards.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are maintained in an automated database.

**RETRIEVABILITY:**

By name.

**SAFEGUARDS:**

Access is limited to security and guard force personnel. Records are stored in guarded security areas.

**RETENTION AND DISPOSAL:**

Records are destroyed 3 months after they are returned to the issuing office.

**SYSTEM MANAGER(S) AND ADDRESS:**

U.S. Office of Personnel Management, Office of Contracting & Administrative Services, Facilities Services Division, Security Office, Washington, DC 20415-7100.

**NOTIFICATION PROCEDURE:**

OPM employees wishing to inquire whether this system of records contains information about them should contact the system manager indicated. Individuals must furnish their full names for their records to be located and identified.

**RECORD ACCESS PROCEDURE:**

OPM employees wishing to request access to records about them should contact the system manager indicated. Individuals must furnish their full names for their records to be located and identified.

**CONTESTING RECORD PROCEDURES:**

OPM employees wishing to request amendment of their records should contact the system manager indicated. Individuals must furnish their full names for their records to be located and identified.

**RECORD SOURCE CATEGORIES:**

Information in this system of records is obtained from:

a. The individual to whom the records pertain.

b. Information taken from official OPM records.

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-42264; File No. SR-PHLX-99-38]

**Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Relating to the Removal of Certain Printers From the Equity Floor**

December 21, 1999.

**I. Introduction**

On September 10, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("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 relating to the removal of certain printers from the floor of the Exchange, the revision of the Exchange's minor rule plan, and the modification of Advice E-5 to conform to Phlx Rule 206. On October 22, 1999, the Exchange submitted Amendment No. 1 to its proposed rule change.<sup>3</sup> The proposed rule change and Amendment No. 1 were published in the *Federal Register* on November 24, 1999.<sup>4</sup> No comments were received on the proposal. On December 20, 1999, the Exchange submitted Amendment No. 2 to its proposed rule change.<sup>5</sup> This notice and

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

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

<sup>3</sup> See Letter from Cynthia Hoekstra, Counsel, Phlx, to Nancy Sanow, Senior Special Counsel, Division of Market Regulation ("Division"), Commission, dated October 21, 1999 ("Amendment No. 1").

<sup>4</sup> Securities Exchange Act Release No. 42151 (November 17, 1999), 64 FR 66223 (November 24, 1999).

<sup>5</sup> In Amendment No. 2, the Exchange requested accelerated approval of its proposed rule change and notified the Division that the Exchange will be submitting an undertaking concerning the record-keeping requirements of its equity specialists affected by the removal of the DARTS printers. See Letter from John Dayton, Counsel, Phlx, to Nancy Sanow, Senior Special Counsel, Division, Commission, dated December 17, 1999 ("Amendment No. 2"). A copy of the undertaking letter was received on December 20, 1999. See Letter from Lanny Schwartz, Executive Vice

order approves the proposed rule change, as amended, and solicits comments from interested persons on Amendment No. 2.

**II. Description of the Proposal**

The Phlx proposes to amend Equity Floor Procedure Advice E-5 ("Advice E-5"), Clocked Tickets; Phlx Rule 206, Written Orders-Day Orders; and Phlx Rule 216, Records to be Kept. The purpose of the amendments to Advice E-5 and Phlx Rules 206 and 216 is to allow for the removal of the Designated Automatic Routing to Terminal System ("DARTS") printers from the equity floor without causing the specialists and floor brokers to be in violation of Advice E-5 or Phlx Rules 206 and 216.<sup>6</sup>

Currently, orders sent to the equity floor through the PACE System<sup>7</sup> generate a hard copy ticket, which is printed on a DARTS printer.<sup>8</sup> These tickets provide hard copy records of the time of receipt of orders. In addition, specialists stamp the time of execution of the order on the reverse side of the ticket on all manual market and limit orders. However, the system that supports the DARTS printers is not, and cannot become, Year 2000 compliant. Therefore, the DARTS printers will be removed from the Equity Floor. The information that is produced by the DARTS printer will be maintained electronically for the appropriate time periods mandated by the books and records requirements of the Commission. The Exchange has submitted a letter to the Commission undertaking, in part, to maintain and preserve, on behalf of the equity specialist firms, all information contained on the order tickets generated by the DARTS printer.<sup>9</sup>

Advice E-5 requires floor brokers to record, by time stamp, the time of receipt of the order on the front of the ticket and the time of execution of the order on the reverse side of the ticket. Specialists also are required to record the time of execution of orders executed

President, Legal, Phlx, to Michael A. Macchiaroli, Associate Director, Office of Risk Management and Control, Division, Commission, dated December 20, 1999 ("Schwartz Letter").

<sup>6</sup> This proposal affects PACE order tickets only, not telephone orders/manual tickets or production of hard copy reports.

<sup>7</sup> PACE is the Exchange's automated order routing and execution system on the equity trading floor.

<sup>8</sup> PACE orders are also processed electronically. The Exchange believes, therefore, that the elimination of hard copy tickets will not impact the ability to efficiently process orders and executions. In fact, the Exchange believes that the removal of the hard copy tickets will improve trade processing efficiencies and reduce the amount of paper that is used on the trading floor. See Amendment No. 2, *supra* note 5.

<sup>9</sup> See Schwartz Letter, *supra* note 5.

off the specialist's book. In addition, Phlx Rule 206 requires, in part, that all orders given to a specialist be in writing and timed by him when received. Phlx Rule 216 requires, in part, that every specialist keep a record of all orders placed with him and all executions or such orders. In addition, Phlx Rule 216 requires the specialist to preserve such records in accordance with Rule 17a-4 of the Act.<sup>10</sup>

With no hard copy tickets recording order receipt and execution time data, floor brokers and specialists on the Equity Floor could be in violation of Advice E-5 and Rule 206 each time an order is received and executed on PACE. Without the DARTS printer tickets, specialists would be in violation of Rule 216 if they did not retain the DARTS printer tickets. Therefore, as a matter of practicality, it is necessary to eliminate the hard copy recording and document maintenance requirements for trades for which no hard copy ticket is generated. As stated above, the information that is produced by the DARTS printer will be maintained electronically for the appropriate time periods mandated by the books and records requirements of the Commission.

In addition, the proposed change to Advice E-5 would require specialists to record the time of receipt of hand-held orders to be placed on the specialist's book on the front of the ticket in accordance with Phlx Rule 206. Further, the fine schedule for violations of Advice E-5, which has not been updated for ten years, will be increased to better reflect the seriousness of the violation. The fine schedule for violations of Advice E-5 will be increased from \$50 to \$100 for the first occurrence, from \$100 to \$250 for the second occurrence, and from \$200 to \$500 for the third occurrence.

### III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>11</sup> Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)<sup>12</sup> requirements 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, and, in

general, to protect investors and the public interest.

The Commission finds that the removal of the DARTS printers is necessary since the printers cannot become Year 2000 compliant. The Commission notes that all PACE orders are currently processed electronically, and, further, that the Exchange has represented that the removal of the DARTS printers should not impact the processing of orders or executions and may, in fact, improve trade processing efficiencies and reduce paper on the trading floor. The Commission also notes that the Exchange has submitted a letter to the Commission undertaking to maintain and preserve electronically, on behalf of the equity specialist firms, all information contained on the order tickets generated by the DARTS printer.<sup>13</sup> The Exchange also agreed, in part, to promptly surrender such records at the request of the equity specialist firm, as well as allow the Commission to examine such records.<sup>14</sup> The Commission therefore, believes that it is appropriate to modify the Phlx's rules so that Phlx floor brokers and specialists will not violate Advice E-5 and Phlx Rules 206 and 216 once the printers are removed.

The Commission also finds it is appropriate to revise Advice E-5 to specifically require specialists to record the time of receipt of hand-held orders to be placed on the specialist's book on the front of the ticket, because it merely incorporates the existing requirement of Phlx Rule 206. Thus, the proposed revision to Advice E-5 clarifies the obligations of specialists. Further, the Commission believes it is appropriate to update the fine schedule for violations of Advice E-5 to better reflect the seriousness of such violations. The Commission notes that the Exchange has represented that the fine schedule has not been revised for ten years.

The Commission finds good cause for approving proposed Amendment No. 2 prior to the thirtieth day after the date of publication of notice of filing in the **Federal Register**. The Exchange is merely asking for expedited approval of its proposal to ensure a smooth transition from the DARTS printers to an electronic system before the Year 2000. The Exchange believes that accelerated approval will allow ample time for equity floor members to adjust to this change.<sup>15</sup> Thus, the Commission believes that allowing the removal of the

DARTS printers and the revision of the corresponding Phlx Rules 206 and 216 and Advice E-5 prior to the Year 2000 will allow the Exchange to address Year 2000 associated issues in an expedited manner. In addition, the Commission notes that the revision to Advice E-5, which would require specialists to record the time of receipt of hand-held orders to be placed on the specialists book on the front of the ticket, merely clarifies the requirement of Phlx Rule 206 in Advice E-5. The Commission also believes it is appropriate to revise the fine schedule in Advice E-5 in conjunction with the other amendments to Advice E-5.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, including whether Amendment No. 2, 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, N.W., 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 in Washington, DC. Copies of such filing will also be available for inspection and copying at the principle office Exchange. All submission should refer to File No. SR-Phlx-99-38 and should be submitted by January 19, 2000.

### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act<sup>16</sup> that the proposed rule change SR-PHLX-99-38), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**  
Deputy Secretary

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<sup>10</sup> 17 CFR 240.17a-4.

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

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> See Schwartz Letter, *supra* note 5.

<sup>14</sup> *Id.*

<sup>15</sup> To assist members with the transition, the Exchange intends to provide refresher training sessions relating to the equity specialist workstations. See Amendment No. 2, *supra* note 5.

<sup>16</sup> 15 U.S.C. 78s(b)(2).

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