value based on prices that occurred after an expiration and to treat options that were in the money based upon that subsequently determined price as having been exercised on the expiration date. This rule change makes more explicit the broad scope of OCC's discretion to invoke that authority and the broad discretion that OCC or an adjustment panel (in the case of options) has in fixing final settlement prices and exercise settlement amounts.[9] The rule change also will make clear that OCC may follow the procedures in CME's current rule and may use either the latest closing prices for individual stocks that fail to trade or use opening prices for the next day on which the stock trades.

The authority to fix final settlement prices for futures and exercise settlement amounts for options in unusual market conditions should be sufficiently broad to ensure that the authority will exist to conform such settlement values to the settlement values established for related products traded in other markets whenever that result is deemed, on balance, to be in the best interest of investors. Experience has shown that this authority must be stated broadly so that if CME or other related markets in the future amend the circumstances in which they can fix settlement values or the means that they use to fix those values, OCC will not need to amend its rules further to conform. Because CME and other markets often do not coordinate with OCC when they change their rules governing the fixing of settlement values, OCC may not be able to conform its rules to amendments made by other markets quickly enough to avoid a disconnect between the futures and options markets. The rule change provides broad discretion both as to the circumstances in which authority would exist to fix a settlement value and the method by which the settlement value would be fixed.

The primary purpose of the rule change is to give OCC broad discretionary authority to adjust settlement values for OCC-cleared index options and futures whenever, and in whatever manner, OCC deems appropriate to avoid a disconnect between the futures and options markets or among the futures markets. It is equally important to note, however, that such coordination is primarily of importance only when OCC-cleared options are exercised on expiration dates or when OCC-cleared futures have maturity dates that coincide with the expiration, maturity, or delivery dates of related contracts traded in other markets. Accordingly, exercises of index options prior to the expiration date would not necessarily be adjusted to conform to activity in other markets. Finally, even in the case of final settlement values that would ordinarily correspond with final settlement values in other markets, the coordination of such settlement values is not the only factor that OCC (or an adjustment panel) will consider in deciding whether and how to fix settlement values. Accordingly, there could be circumstances where settlement values for OCC-cleared products would not be conformed to prices used in other markets even though the authority would exist to do so.

[9] A supplement to the Options Disclosure Document that describes the substance of the by-law changes proposed herein has been filed with the Commission.

## III. Discussion

Section 19(b)(2)(B) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to protect investors and the public interest.[10] By being able in times of market disruptions to conform settlement prices for security futures and index options to settlement prices that are used for related products traded in other markets, OCC will be able to fix exercise prices to better meet investors' expectations in establishing hedged positions that the values of different derivatives contracts with the same underlying interest will have a predictable relationship to one another. As a result, investors will be better protected from losses resulting from market disruptions. Therefore, OCC's proposed rule change meets the requirements of section 17A(b)(3)(F).

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2002–09) be, and hereby is, approved.

[10] 15 U.S.C. 78q–1(b)(3)(F).

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–25010 Filed 10–1–02; 8:45 am]

**BILLING CODE 8010–01–P**

[11] 17 CFR 200.30–3(a)(12).

---

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–46545; File No. SR–Phlx–2002–49]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Extension of PACE Guarantee Exemption

September 24, 2002.

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 September 12, 2002, 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 self-regulatory organization.

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 Phlx proposes to amend the first paragraph of Supplementary Material Section .10(a)(iii) of Exchange Rule 229, Philadelphia Stock Exchange Automated Communication and Execution System (PACE''),[3] to extend a current exemption from that provision so that it will be effective for as long as the Commission's exemption from section 8(d) of the ITS Plan issued by Commission Order dated August 28, 2002 (the ''ITS Exemption'') remains in effect.[4]

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

[2] 17 CFR 240.19b–4.

[3] PACE is the Exchange's Automated Communication and Execution System. PACE provides a system for the automatic execution of orders on the Exchange equity floor under predetermined conditions.

[4] *See* Securities Exchange Act Release No. 46428, 67 FR 56607 (September 4, 2002) (Order Pursuant to Section 11A of the Securities Exchange Act of 1934 and Rule 11Aa3–2(f) thereunder Granting A De Minimis Exemption for Transactions in Certain Exchange-Traded Funds from the Trade-Through Provisions of the Intermarket Trading System.). The ITS Plan is a national market system plan approved by the Commission pursuant to Section 11A of the Act and Rule 11Aa3–2 thereunder.

The text of the proposed rule change is available at the Phlx and 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

Exchange Rule 229, Supplementary Material Section .10(a)(iii) provides that if 100 or more shares print through the limit price on any exchange(s) eligible to compose the PACE Quote [5] after the time of entry of any such order into PACE, the specialist shall execute all such orders at the limit price without waiting for an accumulation of 1000 shares to print at the limit price on the New York market.[6] On August 28, 2002, the Commission issued the ITS Exemption which applies to the exchange-traded funds (''ETFs'') tracking the Nasdaq-100 Index (''QQQs''), the Dow Jones Industrial Average (''DIAMONDs''), and the Standard & Poor's 500 Index (''SPDRs'').[7] On September 4, 2002 (the effective date of the ITS Exemption) the Exchange filed a proposed rule change for immediate effectiveness to adopt an exemption from the first paragraph of Phlx Rule 229.10(a)(iii) beginning September 4, 2002 for a period of 30 days ending on October 4, 2002.[8] This exemption was intended correlate with the ITS Exemption.

Phlx Rule 229.10(a)(iii) requires a Phlx specialist to execute certain orders that are traded-through by another market center. Previously, although the specialist had this obligation the specialist was, in turn, entitled to ''satisfaction'' of those orders pursuant to section 8(d) of the ITS Plan. Now, where trading through is no longer prohibited by the ITS Plan, as enumerated in the ITS Exemption, the specialist does not have recourse to seek ''satisfaction'' for these orders and is alone responsible for those executions. Thus, the Phlx believes that its provision guaranteeing an execution no longer makes sense. Moreover, the provision now unduly burdens the specialist by requiring the specialist to execute orders in situations where the specialist does not have access to trading at that price. Thus, the Exchange is proposing that the existing exemption from the requirements of the first paragraph of Rule 229 Supplementary Material Section 10(a)(iii), which expires on October 4, 2002, remain in effect so long as the ITS Exemption remains in effect, including by any extensions the Commission may determine to provide.

2. Statutory Basis

The proposed rule change is consistent with section 6(b) of the Act [9] in general and furthers the objectives of section 6(b)(5) [10] in particular in that it is designed to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, 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; and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. By adopting the proposed exemption, the Exchange avoids burdening specialists beginning October 4, 2002, with the obligation to fill an order in circumstances where an external event triggered the execution obligation and the specialist could not access trading at that price.

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

The Phlx 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other 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

[5] PACE Quote is defined in Rule 229 as the best bid/ask quote among the American, Boston, Cincinnati, Chicago, New York, Pacific or Philadelphia Stock Exchange, or the Intermarket Trading System/Computer Assisted Execution System (''ITS/CAES'') quote, as appropriate.

[6] To be understood, Section .10(a)(iii) must be read in conjunction with the preceding Section of the PACE Rule. Supplementary Material Section .10(a)(ii) provides as follows:

Non-Marketable Limit Orders—Unless the member organization entering orders otherwise elects, round-lot limit orders up to 500 shares and the round-lot portion of PRL limit orders up to 599 shares which are entered at a price different than the PACE Quote will be executed in sequence at the limit price when an accumulative volume of 1000 shares of the security named in the order prints at the limit price or better on the New York market after the time of entry of any such order into PACE. For each accumulation of 1000 shares which have been executed at the limit price on the New York market, the specialist shall execute a single limit order of a participant up to a maximum of 500 shares for each round-lot limit order up to 500 shares or the round-lot portion of a PRL limit order up to 599 shares.

[7] The Exchange does not currently trade DIAMONDs or SPDRs but may determine to do so in the future. The Exchange does trade QQQs. The Nasdaq-100®, Nasdaq-100 Index®, Nasdaq®, The Nasdaq Stock Market® Nasdaq-100 Shares, SM, Nasdaq-100 TrustSM, Nasdaq-100 Index Tracking StockSM, and QQQSM are trademarks or service marks of The Nasdaq Stock Market, Inc. (*Nasdaq*) and have been licensed for use for certain purposes by the Philadelphia Stock Exchange pursuant to a License Agreement with Nasdaq. The Nasdaq-100 Index® (the *Index*) is determined, composed, and calculated by Nasdaq without regard to the Licensee, the Nasdaq-100 TrustSM, or the beneficial owners of Nasdaq-100 SharesSM. Nasdaq has complete control and sole discretion in determining, comprising, or calculating the Index or in modifying in any way its method for determining, comprising, or calculating the Index in the future.

[8] *See* Securities Exchange Act Release No. 46481 (September 10, 2002), 67 FR 58669 (September 17, 2002) (SR–Phlx–2002–48).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5)

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–2002–49 and should be submitted by October 23, 2002.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02–25006 Filed 10–1–02; 8:45 am]

**BILLING CODE 8010–01–P**

[11] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3447]**

### State of Indiana

As a result of the President's major disaster declaration on September 25, 2002, I find that Bartholomew, Blackford, Brown, Daviess, Decatur, Delaware, Fayette, Franklin, Gibson, Grant, Greene, Hamilton, Hancock, Hendricks, Henry, Jay, Johnson, Knox, Lawrence, Madison, Marion, Monroe, Morgan, Owen, Pike, Posey, Randolph, Rush, Shelby, Sullivan, Tipton and Vanderburgh in the State of Indiana constitute a disaster area due to damages caused by severe storms and tornadoes occurring on September 20, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 25, 2002 and for economic injury until the close of business on June 25, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

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: Adams, Boone, Clay, Clinton, Dearborn, Dubois, Howard, Huntington, Jackson, Jennings, Martin, Miami, Montgomery, Orange, Putnam, Ripley, Union, Vigo, Wabash, Warrick, Washington, Wayne and Wells in the State of Indiana; Clark, Crawford, Gallatin, Lawrence, Wabash and White counties in the State of Illinois; Henderson and Union counties in the State of Kentucky; and Butler, Darke, Hamilton and Mercer counties in the State of Ohio.

The interest rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners with credit available elsewhere | 6.625 |
| Homeowners without credit available elsewhere | 3.312 |
| Businesses with credit available elsewhere | 7.000 |
| Businesses and non-profit organizations without credit available elsewhere | 3.500 |
| Others (including non-profit organizations) with credit available elsewhere | 6.375 |
| For Economic Injury: | |
| Businesses and small agricultural cooperatives without credit available elsewhere | 3.500 |

The number assigned to this disaster for physical damage is 344711. For economic injury the number is 9R7600 for Indiana; 9R7700 for Illinois; 9R7800 for Kentucky; and 9R7900 for Ohio.

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

Dated: September 26, 2002.

**S. George Camp,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 02–24995 Filed 10–1–02; 8:45 am]

**BILLING CODE 8025–01–P**

## OFFICE OF SPECIAL COUNSEL

### Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by the Office of Special Counsel (OSC)

**AGENCY:** Office of Special Counsel

**ACTION:** Final Agency Guidelines

**SUMMARY:** Pursuant to guidance issued by the Office of Management and Budget (OMB), the U.S. Office of Special Counsel (OSC) published a *Federal Register* (FR) notice on April 30, 2002, inviting public comment on its draft report to OMB with proposed OSC guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of certain information disseminated to the public (''information quality guidelines''). 67 FR 21316. This notice describes comments received, and announces the availability of OSC's final information quality guidelines.

**DATES:** Final OSC information quality guidelines become effective on October 2, 2002

**FOR FURTHER INFORMATION CONTACT:** Sharyn Danch, by mail (Planning and Advice Division, Office of Special Counsel, 1730 M Street, NW., (Suite 201), Washington, DC 20036–4505), or electronic mail (*info_quality@osc.gov*). OSC's final information quality guidelines are available on the agency Web site (*http://www.osc.gov*, at the ''Reading Room'' link).

**SUPPLEMENTARY INFORMATION:** OMB guidelines, issued to Federal agencies under section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554, 114 Stat. 2763), provide that each agency should: (1) develop information resources management procedures and issue agency guidelines to ensure the quality, objectivity, utility and integrity of information disseminated by the agency to the public; (2) establish administrative mechanisms for affected persons to seek and obtain the correction of disseminated information that does not comply with the OMB or agency guidelines; and (3) report annually to OMB on requests for correction received by the agency and the resolution of those requests. OMB advises agencies to use common sense in adapting its guidelines to information disseminated to the public, taking into account the nature and importance of the information involved. Finally, OMB encourages agencies to incorporate standards and procedures required by its guidelines into existing agency information management and administrative practices, under applicable laws and OMB circulars.

On April 30, 2002, pursuant to the OMB guidelines, OSC published its draft report to OMB with proposed OSC information quality guidelines, and invited public comment on or before June 1, 2002. OSC received one response, from the Center for Regulatory Effectiveness (CRE), on May 30th, 2002. On June 6, 2002, OMB gave agencies an extension of time (to August 1, 2002) in which to submit their reports with proposed guidelines to OMB, and suggested that agencies consider extending the public comment period on their guidelines. 67 FR 40755. On July 8, 2002, OSC published a notice extending the public comment period to July 10, 2002. 67 FR 45168. A second response, received from Citizens for Sensible Safeguards (CSS) on June 14, 2002, was deemed to have been received during the comment period, as