

("Act"),¹ notice is hereby given that on July 23, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 proposed amendment would make retroactive, to January 1, 1996, the new fee schedule for Odd-Lot Equity Transaction Charges and the Specialist Odd-Lot Charge that was the subject of SR-NYSE-96-14 and was approved by the SEC by Release Number 34-37430 dated July 12, 1996.²

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 self-regulatory organization 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 self-regulatory organization 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

This rule change proposes to apply the recent reduction of odd-lot fees retroactively to January 1, 1996, thus conferring a benefit upon the members of the Exchange and responding to the needs of our constituents with respect to overall competitive market conditions.

¹ 15 U.S.C. 78s(b)(1).

² The Commission notes that, in File No. SR-NYSE-96-14, the NYSE incorporated odd-lot orders into its "no charge" policy for SuperDot equity public agency transactions, but excluded odd-lot orders of nonmember competing market makers from this policy. In addition, the NYSE lowered the Specialist Odd-Lot Charge from \$0.004 per share to \$0.00135 per share. See Securities Exchange Act Release No. 37430 (July 12, 1996), 61 FR 37784. See also Securities Exchange Act Release No. 37273 (June 4, 1996), 61 FR 29438 (allowing the NYSE to exclude the orders of nonmember competing market makers from its "no charge" policy).

2. Statutory Basis

The Exchange believes the basis under the Act for the proposed rule change is the requirement under Section 6(b) (4)³ that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers, and other persons during using its services.

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

The Exchange believes the proposed rule change will impose no burden on competition that is not necessary or appropriate in the 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

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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

Within 35 days of the 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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

³ 15 U.S.C. 78f(b)(4).

available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Also, copies of such filing will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-96-20 and should be submitted by August 27, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37507; File No. SR-NYSE-96-18]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Pilot for Entry of Limit-at-the-Close Orders

July 31, 1996.

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 July 1, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change and on July 31, 1996, filed Amendment No. 1 to the proposed rule change,³ 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, and simultaneously publishing an order granting accelerated approval of the proposed rule change.

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

The proposed rule change would extend the current pilot⁴ for the entry of limit-at-the-close ("LOC") orders to offset a published market-at-the-close ("MOC") order imbalance of 50,000

⁴ 17 C.F.R. 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from James E. Buck, Senior Vice President and Secretary, NYSE to Michael Walinskas, Senior Special Counsel, SEC, dated July 30, 1996.

⁴ See Securities Exchange Act Release No. 35854 (June 16, 1995), 60 FR 32723.

shares or more in all stocks for which MOC order imbalances are published.

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 self-regulatory organization 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 and is set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

A LOC order is one that is entered for execution at the closing price, provided that the closing price is at or within the limit specified. Currently, LOC orders may be entered only to offset published imbalances of market-on-close ("MOC") orders.⁵ On expiration days,⁶ MOC imbalances of 50,000 shares or more: (1) In the so-called "pilot" stocks;⁷ (2) in stocks being added to or dropped from an index; and (3) in any other stock with the approval of a Floor Official must be published on the tape as soon as practicable after 3:40 p.m.⁸ On non-expiration days, the same listed types of imbalances must be published as soon as practicable after 3:50 p.m. LOC orders must be entered between 3:40 and 3:55

⁵ A MOC order is a market order to be executed in its entirety at the closing price on the Exchange. See NYSE Rule 13.

⁶ The term "expiration days" refers to both (1) The trading day, usually the third Friday of the month, when some stock index options, stock index futures and options on stock index futures expire or settle concurrently ("Expiration Fridays") and (2) the trading day on which end of calendar quarter index options expire ("QIX Expiration Days").

⁷ The term "pilot stocks" refers to the Expiration Friday pilot stocks plus any additional QIX Expiration Day pilot stocks. Specifically, the Expiration Friday pilot stocks consist of the 50 most highly capitalized Standard & Poors ("S&P") 500 stocks and any component stocks of the Major Market Index ("MMI") not included therein. The QIX Expiration Day pilot stocks consist of the 50 most highly capitalized S&P 500 stocks, any component stocks of the MMI not included therein and the 10 highest weighted S&P Midcap 400 stocks.

⁸ In Securities Exchange Act Release No. 36404 (October 20, 1995), 60 FR 55071, the Commission approved an amendment to the pilot program relating to MOC orders to allow imbalance publications of 50,000 shares or more to be made not only in the pilot stocks, but also in stocks being added to or dropped from an index, and in any other stock with the approval of a Floor Official. Telephone conversation between Donald Siemer, Director of Market Surveillance, NYSE, and Elisa Metzger, Special Counsel, SEC, on July 29, 1996.

p.m. on expiration days and between 3:50 and 3:55 p.m. on non-expiration days. On expiration days, LOC orders are irrevocable once entered, except in the case of legitimate error.⁹ On non-expiration days LOC orders are irrevocable after 3:55 p.m., except in the case of legitimate error.¹⁰

In June 1995, the permitted use of LOCs was expanded from five stocks to all stocks that have published MOC order imbalances of 50,000 shares or more in the hope that this would stimulate use of this order type.¹¹ LOCs were approved by the SEC on a pilot basis, and the pilot is scheduled to expire at the end of July. To date, the use of LOCs has remained limited. LOCs are restricted by time of entry and by the fact that they must offset published MOC imbalances. The Exchange is proposing to extend the LOC pilot for an additional year.¹² The Exchange continues to believe that the LOC order type may prove to be a useful means to help address the prospect of excess market volatility that may be associated with an imbalance of MOC orders at the close.¹³

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(5) that an Exchange have rules that are designed 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.

⁹ Telephone conversation between Donald Siemer, Director of Market Surveillance, NYSE, and Elisa Metzger, Special Counsel, SEC, on July 29, 1996.

¹⁰ *Id.*

¹¹ Telephone conversation between Betsy Minkin, Regulatory Development Project Manager, NYSE, and Elisa Metzger, Special Counsel, SEC, on July 31, 1996.

¹² Amendment No. 1 withdrew a proposed amendment to the LOC pilot which would permit the entry of LOC orders at any time during the trading day up to 3:40 p.m. on expiration days, and 3:50 p.m. on non-expiration days.

¹³ The NYSE modified its electronic display book, such that LOC orders are prioritized relative to other LOC orders by time of entry, but are required to yield priority to all conventional limit orders on the specialist's book at the same price. Telephone conversation between Donald Siemer, Director of Market Surveillance, NYSE, and Elisa Metzger, Special Counsel, SEC, on July 29, 1996.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. 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 at 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR-NYSE-96-18 and should be submitted by August 27, 1996.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6¹⁴ and the rules and regulations thereunder. Specifically, the Commission finds that the proposed rule change is consistent with the Section 6(b)(5)¹⁵ requirements that the rules of an exchange be designed to promote just and equitable principals 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.

As noted in the Commission's approval of the current pilot, the self-regulatory organizations have instituted certain safeguards to minimize excess market volatility that may arise from the

¹⁴ 15 U.S.C. 78f.

¹⁵ 15 U.S.C. 78f(b)(5).

liquidation of stock positions related to trading strategies involving index derivative products. For instance, since 1986, the NYSE has utilized auxiliary closing procedures on expiration days. These procedures allow NYSE specialists to obtain an indication of the buying and selling interest in MOC orders at expiration and, if there is a substantial imbalance on one side of the market, to provide the investing public with timely and reliable notice thereof and with an opportunity to make appropriate investment decisions in response.

The NYSE auxiliary closing procedures have worked relatively well and may have resulted in more orderly markets on expiration days. Nevertheless, both the Commission and the NYSE remain concerned about the potential for excess market volatility, particularly at the close on expiration days. Although, to date, the NYSE has been able to attract sufficient contra-side interest to effectuate an orderly closing, adverse market conditions could converge on an expiration day to create a market dislocation which could make member firms and their customers unwilling to acquire significant positions.

The Commission continues to believe preliminarily that LOC orders should provide the NYSE with an additional means of attracting contra-side interest to help alleviate MOC order imbalances both on expiration and non-expiration days. As a practical matter, the Commission believes that LOC orders will appeal to certain market participants who otherwise might be reluctant to commit capital at the close. Specifically, unlike a MOC order, which results in significant exposure to adverse price movements, a LOC order will allow each investor to determine the maximum/minimum price at which he or she is willing to buy/sell. To the extent that such risk management benefits encourage NYSE member firms and their customers to enter orders to offset MOC order imbalances of 50,000 shares or more, thereby adding liquidity to the market, the Commission agrees with the NYSE that LOC orders could become a useful investment vehicle for curbing excess price volatility at the close.¹⁶

The Commission also finds that the NYSE has established appropriate procedures for the handling of LOC orders and that the NYSE's existing surveillance should be adequate to

monitor compliance with those procedures. Because LOC orders will be required to yield priority to conventional limit orders at the same price, the Commission is satisfied that public customer orders on the specialist's book will not be disadvantaged by this proposal. In addition, the Commission believes that the proposed 3:55 p.m. deadline for LOC order entry strikes a reasonable balance between the need to effectuate an orderly closing and the need to avoid unduly infringing upon legitimate trading strategies. Similarly, in the Commission's opinion, the prohibition on canceling LOC orders is consistent with the Exchange's auxiliary closing procedures and, like those procedures, should allow specialists to make a timely and reliable assessment of order flow and its potential impact on the closing price.

The Commission is approving LOC order entry for all stocks for which MOC order imbalances are published on a pilot basis contingent on the extension or permanent approval of the MOC procedures.¹⁷ During the pilot program, the Commission expects the NYSE to monitor the effectiveness of its LOC order procedures.

The Commission therefore requests that the NYSE submit a report to the Commission, by May 31, 1997, describing its experience with the pilot program. At a minimum, this report should contain the following data for each expiration day: (1) for all stocks which had a MOC order imbalance of 50,000 shares or more at 3:40 p.m., the names of those stocks and the size of the imbalance; (2) for each stock listed in (1) above, the size of the MOC order imbalance at 4:00 p.m. and an appropriate measure of the size of conventional limit order and LOC order interest, on the opposite side of the market from the imbalance, at 4:00 p.m.; (3) for each stock listed in (1) above, (i) the price of the transaction effected closest in time to 3:40 p.m., the price of the last regular way trade and the closing price, (ii) the change in price of the closing transaction, measured as a percentage, from the last regular way trade and from the transaction effected closest in time to 3:40 p.m., (iii) historical data analyzing price volatility for the same stock on expiration days prior to the implementation of this pilot program; and (4) the average price volatility for all stocks listed in (1) above. The NYSE report also should contain, for one week per calendar

quarter (including at least one week with no expiration days) the data described herein, as modified to reflect the MOC procedures for non-expiration days. Any requests to modify this pilot program, to extend its effectiveness or to seek permanent approval for the pilot procedures also should be submitted to the Commission, by May 31, 1997, as a proposed rule change pursuant to Section 19(b) of the Act.

V. Conclusion

The Commission finds good cause for approving the rule filing prior to the thirtieth day after the date of publication of the notice of filing thereof in the Federal Register, in that accelerated approval is appropriate to extend the pilot program until July 31, 1997 without interruption.

It is therefore ordered, pursuant to Section 19(b)(2)¹⁸ of the Act, the proposed rule change, including Amendment No. 1, extending the pilot for the entry of LOC orders until July 31, 1997, be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37497; File No. SR-Phlx-96-21]

Self-Regulatory Organizations; Order Granting Approval to 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 Index Options Exercise Advices

July 30, 1996.

I. Introduction

On July 7, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") 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 to amend Exchange Rule 1042A, Exercise of Option Contracts, and Floor Procedure Advice ("Advice") G-1, to be retitled Index Option Exercise Advice Forms, requiring the submission of an index option exercise advice form for all

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² 17 CFR 240.19b-4.

¹⁶ Furthermore, the Commission notes that LOC orders could allow the NYSE to accomplish this goal without diminishing any benefit to investors from trading strategies that rely on MOC orders to guarantee a fill at the closing price.

¹⁷ The pilot program for MOC procedures expires on October 31, 1996. See Securities Exchange Act Release No. 36404 (October 20, 1995), 60 FR 55071.