

impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by prohibiting wireless and RF interference and allowing the Exchange to manage wireless and RF transmissions on the floor of the Exchange.

#### *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.

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

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6) thereunder<sup>8</sup> because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest; and (4) Phlx provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date. 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 the furtherance of the purposes of the Act.

The Exchange has requested that the rule change be accelerated to become operative immediately, in order to address existing interference issues. According to the Exchange, the uncoordinated use of RF communications and other wireless equipment on the trading floor creates an unmanageable environment for both the Exchange and the members. Because the proposed policy helps to remove these impediments to and perfect the

mechanism of a free and open market by making more efficient the process by which members receive and execute orders on the floor of the Exchange,<sup>9</sup> the Commission finds that accelerating the operative date of the rule change is consistent with the protection of investors and the public interest, and thus designates May 25, 1999, the date of this notice, as the operative date of this filing.

### **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 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-PHLX-99-15 and should be submitted by June 23, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-13928 Filed 6-1-99; 8:45 am]

BILLING CODE 8010-01-M

### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-41450; File No. SR-PHLX-99-14]

#### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Adopting a Wireless Communications Policy Relating to the Use of the Wireless Telephone System on the Options Floor**

May 25, 1999.

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> notice is hereby given that on May 11, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 Exchange. 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**

Phlx proposes to adopt a policy and rule regarding the use of telephonic communications devices at Phlx. Specifically, proposed Rule 606(b)(1) will state that no member, member organization or person associated with a member organization shall establish or maintain any telephonic communication between the (index/equity) Options Floor and any other location, or between locations on the Options Floor, without the prior written approval of the Options Committee.<sup>3</sup> Rule 606, Supplementary Material .02, will state that the Exchange has established a Wireless Telephone System policy.<sup>4</sup> Violations of the Wireless Telephone System policy may result in disciplinary action by the Exchange.

Below is the text of the proposed rule change. Proposed additions are in *italics*, and deletions are in *brackets*.

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

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

<sup>3</sup> The Exchange also has filed a proposed rule change to adopt Rule 606(b)(2) and (d) respecting wireless and radio frequency interference on the Options Floor. See Securities Exchange Act Release No. 41451 (May 25, 1999) (SR-PHLX-99-15).

<sup>4</sup> The Wireless Telephone System policy comprises proposed Rule 606b(1), (c), and Supplementary Materials .02. Telephone conversation between John Dayton, Counsel, Phlx, and Kathy England, Assistant Director, Division of Market Regulation, SEC (May 18, 1999).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> C.f., Securities Exchange Act Release No. 40019 (May 21, 1998), 63 FR 29272 (May 28, 1998) (allowing the American Stock Exchange, LLC, to immediately terminate a member's ability to send wireless communications for failure to comply with the Wireless Communications Policy).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

Rule 606. [Connection with Non-members] *Communications and Equipment*

(a) No member or member organization shall establish or maintain any private wire connection, private radio, television or wireless system, between the Exchange Trading Floor and a non-member without application to and approval by the Committee.

Every such means of communication shall be registered with the Committee. Notice of the discontinuance of any such means of communication shall be promptly given to the Committee.

(b) (1) No member, member organization or person associated with a member organization shall establish or maintain any telephonic communication between the Options Floor and any other location, or between locations on the Options Floor, without the prior written approval of the Options Committee.

(c) The Exchange may remove any telephonic, electronic and wireless equipment that has not received written approval under subsection (b)(1) from any Exchange facility.

Supplementary Material

.01 Specialists on the Exchange's equity floor shall permit each NASDAQ System market maker telephone access to the specialist post in any NASDAQ/NMS Security for which the latter is the assigned specialist.

.02 The Exchange has established a Wireless Telephone System policy. Violations of the Wireless Telephone System policy may result in disciplinary action by the Exchange.

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

In its filing with the Commission, Phlx 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. Phlx 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**

The purpose of the proposed rule change is to adopt a wireless communications policy relating to the use of the Wireless Telephone System

on the Options Floor. The Exchange has arranged for Ericsson, Inc. to install a wireless telephone communication system on the Exchange's Options Floor. This system will allow only intra-floor telephone calls.<sup>5</sup>

The proposed policy will address restrictions on use of the Wireless Telephone System. The proposed rule also will address sanctions for violations of the policy. For example, all members wishing to use the Ericsson system will be required to sign an agreement prior to receiving their Ericsson phone system. This agreement contains provisions that deal with liability issues, specifically paragraphs 13, 14, and 15.<sup>6</sup> In addition, the policy will amend the Exchange's current prohibition against the use of any wireless voice communications on the equity option trading floor. The proposed policy will be included in a memorandum that will be distributed to all Options Floor members.

The Exchange believes that its customary floor surveillance procedures are sufficient to monitor the system. The Exchange's Wireless Telephone System is designed to allow only intra-floor telephone calls. Members will be allowed to dial only in-house four digit extension telephone numbers. These four digit telephone numbers are not enabled to place outside telephone calls. Therefore, a member will not be able to make outside calls from an Exchange wireless headset. In addition, all incoming and outgoing telephone calls will be captured on a monthly report and may be reviewed by the Exchange's Market Surveillance department.

<sup>5</sup> The system will also allow users to place a telephone call to another four-digit Phlx Complex telephone number.

<sup>6</sup> Paragraph 13 states that Phlx shall not be liable to the Subscriber for any consequential, indirect, special, or incidental damages whatsoever (including, without limitation, any damages claimed for loss of revenues, good will, or profits or claims by third parties) arising from or related to this Agreement. Phlx's sole liability to the Subscriber for any damages claimed under this Agreement shall be limited to the amount of charges actually assessed against the Subscriber by Phlx for the specific time period of the incident(s) for which damages are claimed, and the Subscriber's sole remedy against Phlx in the event of such claims shall be the recovery of an appropriate billing credit. Paragraph 14 states that Phlx assumes no liability to Members or Member firms due to conflicts between handsets in use on the Trading Floor or due to electronic interference problems resulting from the use of the intra-floor handsets on the Trading Floor. Finally, paragraph 15 states that the Subscriber shall indemnify Phlx and hold it harmless from and against any claim, damage, liability or expense referred to in the foregoing paragraphs.

**2. Statutory Basis**

Phlx believes that the proposed rule change is consistent with Section 6<sup>7</sup> of the Act in general and furthers the objectives of Section 6(b)(5)<sup>8</sup> in particular, because it removes impediments and perfects the mechanism of a free and open market and protects investors and the public interest by expediting and making more efficient the process by which members receive and execute orders on the floor of the Exchange.

**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.

**C. Self-Regulatory Organization's Statement on Comments or 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder<sup>10</sup> because the proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) does not become operative for 30 days from the date of filing, or such shorter time that the Commission may designate if consistent with the protection of investors and the public interest; and (4) Phlx provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date. 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 the furtherance of the purposes of the Act.

The Exchange has requested that the rule change be accelerated to become operative immediately to allow for immediate use and enforcement of the Wireless Telephone System policy.

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6). In reviewing this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

Because the proposed policy helps to remove impediments to and perfect the mechanism of a free and open market by making more efficient the process by which members receive and execute orders on the floor of the Exchange, the Commission finds that accelerating the operative date of the rule change is consistent with the protection of investors and the public interest. The Commission also finds that the proposal is sufficiently similar to a previously approved policy of the American Stock Exchange LLC.<sup>11</sup> Thus, the Commission designates May 25, 1999, the date of this notice, as the operative date of this filing.

#### IV. Solicitation 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, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-99-14 and should be submitted by June 23, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-13929 Filed 6-1-99; 8:45 am]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41440; File No. SR-Phlx-98-09]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change to Amend Exchange Rule 1101A and Revise the Intervals Between Index Option Strike Prices

May 24, 1999.

#### I. Introduction

On February 5, 1998, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") 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 that would revise Exchange Rule 1101A(a) to modify the strike price intervals for index options. The proposed rule change was published for comment in the **Federal Register** on May 13, 1998.<sup>3</sup> The Commission did not receive any comments on the proposal. This order approves the proposed rule change.

#### II. Description of the Proposal

During recent years, the number of new option products and total series listed by the national securities exchanges has significantly risen. This growth in new options products has increased the number of continuous quote changes disseminated by the exchanges to the Options Price Reporting Authority ("OPRA")<sup>4</sup> and by OPRA to securities information vendors. In an effort to curb the growth of strike price dissemination and to more accurately reflect the strike prices currently being listed, the Exchange proposes to amend Exchange Rule 1101A(a), "Terms of Options Contracts," to revise the intervals between index option strike (exercise) prices. The Exchange believes the revisions will facilitate the prompt dissemination of quote information and more accurately reflect the strike prices currently being listed.

<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. 39964 (May 6, 1998), 63 FR 26667 (May 13, 1998).

<sup>4</sup> OPRA is a National Market System Plan under Section 11A of the Act that provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchange markets that are members of the OPRA Plan are the American Stock Exchange, Chicago Board Options Exchange, New York Stock Exchange, Pacific Exchange, and Phlx.

Presently, Exchange Rule 1101A(a) establishes a formula for strike price intervals which takes into consideration the index value and time remaining until expiration. The Rule establishes a strike price interval of \$5, except: (i) Where the strike price exceeds \$500, the strike price interval may be \$10; and (ii) where the strike price exceeds \$1,000, the interval may be \$20. The Exchange may also determine to list strike prices at wider intervals in "out-of-the money" for far term series, generally \$25, except: (i) Where the strike price exceeds \$500, the interval may be \$50; and (ii) where the strike price exceeds \$1,000, the interval may be \$100. Furthermore, where strike price intervals would be greater than \$5, the Exchange may list additional strike prices at alternative \$5 intervals in response to demonstrated customer interest or specialist request.

The current version of Exchange Rule 1101A(a) was adopted in 1996,<sup>5</sup> and was intended to improve the Exchange's strike price dissemination policy. Based on its experience implementing Rule 1101A(a), the Exchange has determined to revise and simplify the Rule for easier administration. The Exchange believes the revised Rule will more accurately reflect the needs of the marketplace. The Exchange has concluded that basing the strike price interval on an option's value (in the case of options greater than \$500 or \$1000) has not proven useful. The Exchange believes that widening the interval in far-term series should help to reduce the number of outstanding series listed.

The Exchange's proposed rule change would establish new strike price intervals of: (i) \$5 for the three consecutive near-term months; (ii) \$10 for the fourth month; and (iii) \$30 for the fifth month. However, the Exchange would retain the ability to list additional strike prices at alternative \$5 intervals in response to demonstrated customer interest or specialist request. The Exchange believes the continued ability to add strike prices at alternative \$5 intervals in response to customer interest will maintain flexibility in the marketplace and preserve specific trading opportunities.

The Exchange believes that listing far-term series at wider strike price intervals should improve the efficiency of quotation dissemination and facilitate speedy pricing by reducing the number of listed strike prices. The Exchange predicts the immediate effect should be a reduction in the number of index option strike prices. Furthermore, the Exchange believes it will experience a

<sup>5</sup> See Securities Exchange Release No. 37003 (Mar. 21, 1996), 61 FR 13913 (Mar. 28, 1996).

<sup>11</sup> See Securities Exchange Act Release No. 37728 (September 26, 1996), 61 FR 51476 (October 2, 1996).

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