

whether the trading crowd will allow the cross to take place, and the Member Organization placing the order may withdraw it if the cross is not allowed by the crowd.⁵

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)⁶ of the Act, in general, and further the objectives of Section 6(b)(5),⁷ in particular, in that they are designed to promote just and equitable principles of trade, to enhance competition and to protect investors and the public interest.

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

The PCX 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.

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

No written comments were solicited or received with respect to the proposed rule change.

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 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 Exchange 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.

⁵ The Exchange notes that a substantially similar proposal of the Chicago Board Options Exchange ("CBOE") has been noticed for public comment in the **Federal Register**. See Securities Exchange Act Release No. 41610 (July 8, 1999), 64 FR 38495 (July 16, 1999). The PCX proposal differs from the CBOE proposal in two procedural respects: First, unlike the CBOE proposal, the PCX rule change will require that the floor broker disclose, prior to the transaction, the name of the clearing member or members through whom the transaction will clear. This is the same information that floor brokers must currently "give up" pursuant to PCX Rule 6.66(a). See proposed PCX Rule 6.47(d). Second, the PCX proposal covers orders that are to be executed in whole, while the CBOE proposal covers orders that are to be executed in whole or in part. See proposed PCX Rule 6.62(c)(3).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

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. In particular, the Commission seeks comment on whether the proposed rule change will result in fair executions for the various orders and parties represented in the crossing transaction. Also, commenters are requested to provide their views on this rule revision in light of the proposed rule change contained in SR-PCX-99-18, relating to facilitation crosses.⁸ 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 in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal offices of the Exchange. All submissions should refer to File No. SR-PCX-99-31 and should be submitted by November 16, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-27892 Filed 10-25-99; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42028; File No. SR-Phlx-99-31]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Require Exchange Members and Member Organizations to Provide Reports and Other Information Relating to Year 2000

October 18, 1999.

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 August 25, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. On October 1, 1999, the Phlx filed Amendment No. 1 to the proposal with the Commission.³ The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval to the proposed rule change.

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

The Phlx proposes to amend Exchange Rule 650, Mandatory Participation in Year 2000 Testing, to require members and member organizations to submit all reports, documents or other information relating to Year 2000 readiness or to the century date change as the Exchange may request. Currently, the rule mandates that members and member organizations are to participate in Year 2000 related testing and are to provide to the Exchange reports related to such testing.

The new clause in Phlx Rule 650 would also require members and member organizations to provide all reports and other documents relating to the Year 2000 century date change as requested by the Exchange. It would thus permit the Exchange to sanction, where appropriate, members and member organizations who do not respond reasonably promptly to

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Letter from Richard S. Rudolph, Counsel, Phlx, to Heidi E. Pilpel, Special Counsel, Division of Market Regulation, Commission, dated October 1, 1999 (Amendment No. 1). The substance of Amendments No. 1 is incorporated into the notice and order.

⁸ See Securities Exchange Act Release No. 41867 (September 13, 1999), 64 FR 51171 (September 21, 1999).

⁹ 17 CFR 200.30-3(a)(12).

requests for reports, such as, for example, Year 2000 Readiness Disclosures, updates on the member or member organization's efforts to become Year 2000 ready, and any other related information requested by the Exchange. Violations of Phlx Rule 650 would be referred to the Exchange's Business Conduct Committee. Below is the text of the proposed rule change. Proposed new language is in *italics*.

* * * * *

Mandatory Participation in Year 2000 Testing

Rule 650. Each member and member organization shall participate in testing of computer and computer related systems designed to prepare for the Year 2000 century date change in a manner and frequency prescribed by the Exchange, and shall provide to the Exchange reports related to such testing, *and any such reports, documents, or other information relating to Year 2000 readiness or to Year 2000 century date change as the Exchange may require*, in a reasonably prompt fashion as requested by the Exchange. Any member or member organization which is subject to this rule and determined by the Exchange to be in violation of this rule may be subject to disciplinary action pursuant to the Exchange's rules.

Commentary

01. The Exchange may exempt a member or member firm from this requirement if that member cannot be accommodated in the testing schedule by the organization conducting the test or if the member does not employ computers in its business or for other good reasons determined 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, the 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. The 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 Exchange proposes to add a clause to Exchange Rule 650 which would require Exchange members and member firms to submit reports, documents or other information relating to the Year 2000 readiness or to the Year 2000 century date change as the Exchange may request.

Currently, Exchange Rule 650 mandates that members and member firms participate in testing related to Year 2000 issues, and to submit reports relating to such testing to the Exchange as requested.⁴ The new clause in Phlx Rule 650 would broaden the rule to require Exchange members and member organizations to submit all Year 2000 related reports, documents or other information relating to Year 2000 readiness or to the Year 2000 century date change requested by the Exchange, rather than those relating to testing only. The proposed rule is intended to require members and member organizations to provide to the Exchange, upon request, reports, documents, contingency plans, and other information and representations regarding Year 2000 readiness, including, but not limited to, information similar to that required by Commission temporary-rules 15b7-3T and 17a-9T under the Act, which were recently adopted by the Commission.⁵

The proposal is not intended to require the Exchange to request certain reports and information relating to Year 2000 readiness from members and member organizations. Rather, it is intended as a measure through which the Exchange may require the submission of certain reports and information, and as an enforcement mechanism in the event that members and member organizations fail to comply with such a request.

The proposed rule change would allow the Exchange to ascertain the readiness of its members and member organizations for the Year 2000 century date change, and to determine what measures and contingency plans, policies and procedures have been put in place by those members and member organizations. Such members and member organizations who fail to

respond to Exchange requests for Year 2000 reports and documents would be subject to disciplinary action by the Exchange.⁶

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(5)⁷ of the Act in that it is designed to perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, and to reduce the risks of the Year 2000 century date change posed to investors and the securities markets, by requiring members and member firms to report to the Exchange their Year 2000 readiness, contingency plans, policies and procedures, and other related reports and documents requested by the Exchange.

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

The Phlx 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.

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

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

III. 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, with the requirements of Sections 6(b)(1)⁸ and 6(b)(5)⁹ of the Act. Section 6(b)(1) of the Act requires that an exchange be organized and have capacity to enforce compliance by its members with the provisions of Title 15 U.S.C., the rules and regulations thereunder, and the rules of the Exchange.¹⁰ Section 6(b)(5) of the Act requires, among other things,

⁶ Phlx Rule 650 specifically states that any member or member organization determined by the Exchange to be in violation of the rule may be subject to disciplinary action pursuant to the Exchange's rules. While disciplinary action is implied as a consequence of any Exchange rule violation, the rule includes this clause in order to remain consistent with similar rules promulgated by other exchanges, on which Exchange Rule 650 is based.

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(1).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78f(b)(1).

⁴ See Securities Exchange Act Release No. 40870 (December 31, 1998), 64 FR 1263 (January 8, 1999), File SR-Phlx-99-53 (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1).

⁵ See Securities Exchange Act Release No. 41661 (July 27, 1999), 64 FR 42012 (August 3, 1999), File S7-8-99.

that the rules of the exchange be 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.¹¹

Securities market participants will soon face a critical test of their automated systems with the upcoming Year 2000; and the Commission believes that the support of the self-regulatory organizations is necessary to minimize the risks resulting from the century date change. Currently, the Phlx is entitled to receive, upon request, only the Year 2000 testing reports of its members and member organizations. Under the Exchange's proposal, the Phlx has authority to require members and member organizations to submit additional information regarding their Year 2000 readiness. The Commission believes that this information will assist the Phlx in evaluating its members' Year 2000 readiness. With more complete information, the Commission believes that the Phlx will be better able to monitor its members and member organizations to ensure their compliance with federal securities laws and the Exchange's rules. Therefore, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act.

The Commission also believes that the Phlx's proposed rule change should help reduce the risks posed to investors and the securities markets by broker-dealers that have not adequately prepared their computer systems for the century date change. The Commission finds that the Phlx's proposed rule change should facilitate transactions in securities and protect investors and the public interest and is therefore consistent with Section 6(b)(5) of the Act.

The Commission finds good cause for approving the proposal prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval will permit the Exchange to obtain reports, documents, and other information related to the Year 2000 immediately, allowing the maximum amount of time possible to identify, assess, and remediate Year 2000 problems. Accordingly, the Commission

believes that good cause exists, consistent with Section 6(b)(5) and Section 19(b)(2) of the Act, to grant accelerated approval to the proposal.¹²

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 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-99-31 and should be submitted by [insert date 21 days from date of publication].

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹³ that the proposed rule change (SR-Phlx-99-31) is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-27888 Filed 10-25-99; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

Senior Executive Service: Performance Review Board; Membership

AGENCY: Social Security Administration.

ACTION: Notice of Senior Executive Service Performance Review Board Membership.

Title 5, U.S. Code, Section 4314(c) (4) of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review

Board members be published in the **Federal Register**.

The following persons will serve on the Performance Review Board which oversees the evaluation of performance appraisals of Senior Executive Service members of the Social Security Administration:

Andria Childs
Eli N. Donkar
Glennalee K. Donnelly
Keith J. Fontenot
Philip A. Gambino
Diane B. Garro
Richard J. Gonzalez
Charlotte A. Hardnett
W. Burnell Hurt
Carmen M. Keller
Carolyn J. Shearin-Jones
Miguel A. Torrado
Judy Ziolkowski

Dated: September 23, 1999.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc. 99-27844 Filed 10-25-99; 8:45 am]

BILLING CODE 4190-29-P

SOCIAL SECURITY ADMINISTRATION

[Social Security Acquiescence Ruling 99-4 (11)]

Bloodsworth v. Heckler; Judicial Review of an Appeals Council Dismissal of a Request for Review of an Administrative Law Judge Decision—Titles II and XVI of the Social Security Act

AGENCY: Social Security Administration.

ACTION: Notice of Revised Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(2), the Commissioner of Social Security gives notice of a revision to Social Security Acquiescence Ruling 92-4(11) by issuing Social Security Acquiescence Ruling 99-4 (11).
EFFECTIVE DATE: October 26, 1999.

FOR FURTHER INFORMATION CONTACT: Wanda D. Mason, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-5044.

SUPPLEMENTARY INFORMATION: We are rescinding Social Security Acquiescence Ruling 92-4(11) and publishing this revised Acquiescence Ruling in accordance with 20 CFR 402.35(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

¹¹ In approving the proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b)(5) and 78s(b)(2).

¹³ 15 U.S.C. 78s(b)(2).

¹⁴ 17 CFR 200.30-3(a)(12).