

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 NASD. All submissions should refer to the File Number SR-NASD-99-59 and should be submitted by December 3, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-29602 Filed 11-10-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42093; International Series Release No. 1209; File No. SR-Phlx-99-30]

Self-Regulatory Organizations; Notice of Filing of the Proposed Rule Change and Order Granting Partial Accelerated Approval of Amendment No. 1 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Non-Customized Cross-Rate Foreign Currency Options Margin Levels

November 3, 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 5, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" and "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Item I, II, and III below which Items have been prepared by the Exchange. On October 26, 1999, the Exchange filed Amendment No. 1 to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant partial accelerated approval to permit the continued use of the existing four percent add-on margin for non-customized Cross-Rate FCOs until February 4, 2000.

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

The Exchange proposed to amend Phlx Rule 722(d) to determine the add-on margin levels for non-customized cross-rate foreign currency options ("Cross-Rate FOCs") using the

methodology outlined in Commentary .16 to that Rule, in lieu of the fixed four percent rate that the Exchange currently uses. In the interim, the Exchange requests that the Commission approve, on an accelerated basis, the continued use of the existing four percent add-on margin for non-customized Cross-Rate FCOs until February 4, 2000.⁴

The text of the proposed rule change follows. Proposed new language is *italicized*; proposed deletions are in [brackets].

Margin Accounts

Rule 722 (a)-(c)—No change.

(d) 1-2—No change.

3. Short Positions—Listed Options and Currency, Currency Index or Stock Index Warrants. Subject to the exceptions set forth below, the margin on any put or call option listed or traded on a registered national securities exchange or association and issued by a registered clearing corporation or any currency warrant, currency index warrant or stock index warrant which is issued, guaranteed or carried "short" in a customer's account shall be 100% of the current market value of the option or warrant plus the percentage of the current market value of the underlying security, foreign currency or index specified in column II below.

Notwithstanding the margin required below, the minimum margin on any put or call or any warrant issued, guaranteed or carried "short" in a customer's account may be reduced by any "out-of-the-money-amount" (as defined below), but shall not be less than 100% of the current market value of the option or warrant plus the percentage of the current market value of the underlying security, foreign currency or index specified in column III below with the exception that the minimum margin required on each such put option contract shall not be less than the current option market value plus the minimum percentage set forth in column III of the option's aggregate exercise price amount.

I Type of option	II Initial and/ or maintenance margin required (percent)	III Minimum margin re- quired(percent)	IV Underlying component value
(1) Stock	20	10	The equivalent number of shares at current market prices.
(2) Industry Index Stock Group	20	10	The product of the current index group value and the applicable index multiplier.
(a) Super Cap Index	20	10	The product of the current index group value and the applicable index multiplier.
(3) Broad Index stock group	15	10	The product of the current index group value and the applicable index multiplier.
(4) Foreign Currencies	¹	³ / ₄	The product of Units per foreign currency contract and the closing spot price.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ In Amendment No. 1, the Exchange requested accelerated approval from the Commission to temporarily extend the 4% add-on margin for all

non-customized cross-rate foreign currency options until February 4, 2000; provided statistical data to substantiate the proposed rule change; and made substantive rule changes to the proposed rule text. See Letter from Nandita Yagnik, Counsel, Phlx, to Hong-anh Tran, Attorney, Division of Market

Regulation ("Division"), Commission, dated October 25, 1999 ("Amendment No. 1").

⁴ See Amendment No. 1, *supra* note 3. Non-customized options carry specific contract terms for features such as contract size, strike price intervals, expiration date, price quoting and premium settlement.

I Type of option	II Initial and/ or maintenance margin required (percent)	III Minimum margin re- quired(percent)	IV Underlying component value
(5) Cross-Rate	² [4%]	$\frac{3}{4}$	The product of Units per cross-rate contract and the closing spot price.
(6) Tier I Customized Cross-rate currency options	4	$\frac{3}{4}$	The product of Units per cross-rate contract and the closing spot price.
(7) Tier II Customized Cross-rate currency options	6	$\frac{3}{4}$	The product of Units per cross-rate contract and the closing spot price.
(8) Tier III Customized Cross-rate currency options	7	$\frac{3}{4}$	The product of Units per cross-rate contract and the closing spot price.
(9) Tier IV Customized Cross-rate currency options	17	$\frac{3}{4}$	The product of Units per cross-rate contract and the closing spot price.
(10) Broad Stock Index Warrant	15	10	The stock index group value.
(11) Industry Stock Index Warrant	20	10	The stock index group value.
(12) Currency Warrant			The product of units of underlying currency per warrant and the closing spot price for each of the currencies below.
Australian dollar	4	$\frac{3}{4}$	
British pound	4	$\frac{3}{4}$	
Canadian dollar	4	$\frac{3}{4}$	
German mark	4	$\frac{3}{4}$	
ECU	4	$\frac{3}{4}$	
French franc	4	$\frac{3}{4}$	
Japanese yen	4 ³	$\frac{3}{4}$	
Swiss franc	4	$\frac{3}{4}$	
(13) Currency Index Warrant	**	**	The currency index group value.

¹ The margin requirement for foreign currency options will be determined pursuant to Commentary .16 of this Rule 722.

² The margin requirement for non-customized cross-rate foreign currency options will be determined pursuant to Commentary .16 of this Rule 722.

³ Currency index warrant margin will be determined on a case-by-case basis as approved by the Securities and Exchange Commission.

For purposes of this sub-section (d)(3), "out-of-the-money amounts" are determined as follows:

Option Issue—no change.

4.5—No change.

(e)—(i) No change.

Commentary .01—15 No change.

Commentary .16:

.16—The margin requirement for any foreign currency put or call option listed or traded on the Exchange and issued by a registered clearing corporation which is issued, guaranteed or carried "short" in a customer's account, [except for cross-rate currency options,] shall be the amount provided in paragraph (d)(3) of this Rule 722 and shall be calculated as follows:

(a) The Exchange will review five day price movements *comparing base currency against the underlying currency* over the most recent three year period for each foreign currency *pair* underlying options traded on the Exchange and will set a margin level which would have covered the price changes over the review period at least 97.5% of the time ("confidence level").

(b) Subsequent reviews of five day price changes over the most recent three year period will be performed quarterly on the 15th of January, April, July and October of each year.

(c) If the results of subsequent reviews show that the confidence level for any currency has fallen below 97%, the Exchange will increase the margin requirement for that currency up to a 98% confidence level. If the results show a confidence level between 97% and 97.5%, the currency will be monitored monthly until the confidence level exceeds 97.5% for two consecutive months. If the

results of a monthly review show that the confidence level has fallen below 97%, the margin requirement will be increased to a 98% confidence level. If the results of any review show that the confidence level has exceeded 98.5%, the margin level would be reduced to a level which would provide a 98% confidence level.

(d) The Exchange will also review each currency *pair* for large price movements outside the margin level ("extreme outlier test"). If the results of any review show a price movement, either positive or negative, of greater than two times the current margin level, the margin requirement for that currency *pair* will be increased to a confidence level of 99%.

(e) Pursuant to paragraph (i)(8) of this Rule 722, the Exchange may also conduct reviews of currency margin levels at any time that market conditions warrant.

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 V 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

In 1991, the Commission approved the Exchange's proposal to list and trade three non-customized Cross-Rate FCOs—German mark/Japanese yen, British pound/German mark and British pound/Japanese yen options.⁵ The Commission's 1991 order approved the proposed four percent add-on margin level for the Cross-Rate FCOs for a one-year period only, because FCOs were new products and the Commission was concerned that the volatility in the underlying currencies could change significantly. The Commission also stated that the Exchange should further analyze the add-on margin adequacy and, within nine months, submit the analysis along with a proposed rule change to retain the margin level or establish a new level.

Based on the 1991 Order, the Exchange's customer margin requirements for short positions for non-customized Cross-Rate FCOs equaled the add-on margin of four percent of the

⁵ See Securities Exchange Act Release No. 29919 (November 7, 1991), 56 FR 58109 (November 5, 1991) ("1991 Order"). The Exchange received approval to list the British pound/Japanese yen Cross-rate FCO, but it has not listed such a contract.

current market value of the underlying FCO contract, plus 100 percent of the current market value of the option's premium, adjusted for "out-of-the-money-amounts,"⁶ not to be less than 100 percent of the current options premium, plus a "minimum add-on margin amount."⁷ The Exchange represented at the time that this add-on margin level was sufficient to cover each cross-rate product's historical price volatility over seven-day intervals (for the July 30, 1990 to July 30, 1991 time period) with a confidence level of at least 96 percent.

Due to an oversight, the Exchange did not file the required analysis of the adequacy of the add-on margin or the proposed rule change within nine months of the 1991 Order. Following this discovery, the Exchange filed, in 1999, a proposed rule change codifying the four percent add-on margin level for a three-month period while it considered a method of determining add-on margin, on a permanent basis, for all Cross-Rate FCOs.⁸ The Commission's 1999 Order permitted the Exchange to apply a four percent add-on margin level for all Cross-Rate FCOs for a six-month period until November 4, 1999.

On August 5, 1999, the Exchange filed the current proposed rule change to determine the add-on margin levels for Cross-Rate FCOs using the methodology outlined in Commentary .16 to Phlx Rule 722, in lieu of the four percent rate that the Exchange currently uses. To apply the Commentary .16 methodology to each currency pair of a Cross-Rate FCO, the Exchange proposes to review five day price movements of the base currency relative to the underlying currency⁹ over the most recent three year period and would set an add-on margin level sufficient to cover those price changes at least 97.5 percent of the time. If subsequent quarterly reviews

show that the existing add-on margin level for any cross-rate FCO currency pair provides a confidence level below 97 percent, the Exchange would increase the add-on margin requirement for that currency pair to a level that would have covered those price movements at a 98 percent confidence level. If a subsequent quarterly review shows a confidence level between 97 percent and 97.5 percent, the add-on margin level would remain the same but would be subject to monthly follow-up reviews until the confidence level exceeds 97.5 percent for two consecutive months (then the Exchange would put it back on the quarterly review cycle). If a monthly follow-up review showed that the confidence level dropped below 97 percent, the Exchange proposes to increase the add-on margin level to a 98 percent confidence level. Generally, if any review shows that the confidence level exceeds 98.5 percent, the Exchange would reduce the add-on margin level to a 98 percent confidence level. To account for the possibility of unexpectedly large price movements, if any review show that a Cross-Rate FCO currency pair had a five-day price movement, either positive or negative, greater than two times the existing add-on margin level, the Exchange would set the add-on margin requirement for that currency pair to a 99 percent confidence level ("Extreme Outlier Test").

In addition to the routine reviews described above, the Exchange would continue to have authority to impose a higher margin level at any time, if market conditions so warrant.¹⁰

Following the quarterly reviews described above and at any time that a particular add-on margin level changes, the Exchange proposes to distribute memoranda to FCO participants announcing the add-on margin levels derived pursuant to the proposed methodology since the actual add-on margin requirements for all Cross-Rate FCOs would no longer be stated in Phlx Rule 722.

The Exchange subsequently filed on October 26, 1999 an amendment to the proposed rule change requesting that the Commission approve the extension of the use of a four percent add-on margin for all non-customized Cross-Rate FCOs until February 4, 2000, to provide additional time for the Commission to consider the proposed rule change.¹¹ The Exchange requests that the Commission approves the interim extension of the existing four percent rate, on an accelerated basis, to

ensure that trading of these products may continue following November 4, 1999, when the existing four percent add-on margin expires.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act¹² in general, and in particular, with Section 6(b)(5),¹³ in that it is designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by providing a margin level which is directly related to the currency risk incurred by customers trading these Cross-Rate FCO products. In particular, the Exchange believes that the proposal is identical with the method of determining margin calculation for non-customized foreign currency options where the base currency is denominated in U.S. dollars ("non-customized dollar-based FCOs"). The Exchange believes that this margin methodology, coupled with the extreme outlier test, should ensure adequate margin requirements for Cross-Rate FCOs.

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

The Exchange believes that the proposed rule change does not 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 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 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.

⁶ For foreign currency put options, "out-of-the-money-amounts" equal the aggregate exercise price of the option minus the product of units per foreign currency contract and the closing spot price. See Phlx Rule 722(d).

For foreign currency call options, "out-of-the-money-amounts" equal the product of units per foreign currency contract and the closing spot price minus the aggregate exercise price of the option. See *id.*

⁷ The minimum add-on margin on any call carried "short" in a customer's account is equal to 3/4% of the current market value of the underlying FCO contract; the minimum add-on margin on any such put option contract is equal to 3/4% of the option's aggregate exercise price amount. See *id.*

⁸ See Securities Exchange Act Release No. 41365 (May 4, 1999), 64 FR 25946 (May 13, 1999) (SR-Phlx-99-12) ("1999 Order").

⁹ The underlying currency is the currency in which a foreign currency option settles. The base currency is the currency in which premiums are quoted and paid.

¹⁰ See Phlx Rule 722(i)(8).

¹¹ See Amendment No. 1, *supra* note 3.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

IV. Commission Findings and Order Granting Accelerated Approval of the Temporary Extension of the Add-On Margin

The Exchange requested that the Commission approve the extension of the four percent add-on margin for non-customized Cross-Rate FCOs until February 4, 2000, prior to the thirtieth day after the publication of the notice of this proposal in the **Federal Register**. The Exchange requested this extension to ensure that trading of these products may continue following November 4, 1999, when the existing four percent add-on margin expires. The Commission finds that the Exchange's request to extend the use of the four percent add-on margin for all non-customized Cross-Rate FCOs until February 4, 2000 is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁴ Specifically, the Commission finds that the proposal to temporarily continue to use the four percent add-on margin for all non-customized Cross-Rate FCOs is consistent with Section 6(b)(5) of the Act¹⁵ because it will facilitate transactions in securities, promote just and equitable principles of trade, and protect investors and the public interest. The Exchange has used the existing four percent add-on rate since 1991 to trade Cross-Rate FCOs. The Exchange has recently provided the commission statistical data that indicates that the existing four percent margin has been adequate to cover five-day fluctuations for both currently listed Cross-Rate FCO currency pairs over 97 percent of the time over the past three years. This extension will also provide the Commission with additional time to consider the proposed rule change, while permitting the Exchange to trade these cross-rate FCOs products following November 4, 1999. For these reasons, the Commission finds good cause for approving the request for interim extension of the existing four percent add-on margin prior to the thirtieth day after the publication of notice thereof in the **Federal Register**.

V. 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 Phix. All submissions should refer to File No. SR-Phix-99-30 and should be submitted by December 3, 1999.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁶ that the continued use of the existing four percent add-on margin for all non-customized Cross-Rate FCOs until February 4, 2000 is hereby approved on an accelerated basis.¹⁷

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 3156]

Amendment to Culturally Significant Objects Imported for Exhibition; Determinations: "A Painting in Focus: Nicolas Poussin's Holy Family on the Steps"

DEPARTMENT: United States Department of State.

ACTION: Notice.

This is an amendment to the Notice, Culturally Significant Objects Imported for Exhibition Determinations: "A Painting in Focus: Nicolas Poussin's Holy Family on the Steps," **Federal Register** Doc. 99-28091, 64 FR 57920 (October 27, 1999). The dates of exhibition at the Cleveland Museum of Art are amended to be from on or about

November 14, 1999, to on or about January 23, 2000.

Dated: November 3, 1999.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, U.S. Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use a Passenger Facility Charge (PFC) at San Jose International Airport, San Jose, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at San Jose International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). **DATES:** Comments must be received on or before December 13, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Ralph G. Tonseth, Director of Aviation, city of San Jose, Airport Department, at the following address: 1732 N. First Street, San Jose, CA 95112. Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of San Jose under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010-1303, Telephone: (650) 876-2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose

¹⁴ In approving the temporary extension of the add-on-margin, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁵ 15 U.S.C. 78f(b)(5).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ In approving the proposal, the Commission has considered the rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁸ 17 CFR 200.30-3(a)(12).