

different dates and hence potentially different index values for fixing the final settlement values for options and futures on the same index creates uncertainty and risk.⁷ Therefore, OCC is amending its By-Laws so that if the primary market(s) for one or more component securities of an index does not open for trading on the last trading day before expiration of a series of options on the index, an adjustment panel acting pursuant to Article XVII may fix the exercise settlement amount for such options by using the opening prices of the affected security or securities when the primary market reopens.

OCC also is amending Article XVII to make clear that (1) OCC has the discretion to determine which market is a security's primary market and (2) when OCC fixes a settlement price based on an index level at the close of trading, the price will be fixed based on the index level at the close of regular trading hours, as determined by OCC.

II. Discussion

In Section 17A, Congress stated its finding that the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors. Congress then directed the Commission to facilitate the establishment of coordinated facilities for the clearance and settlement of transactions in securities, securities options, futures, and options on futures.⁸ The Commission believes that the approval of OCC's rule change is in line with this finding and directive of Congress. The current practice of using different dates and hence potentially different index values for fixing the final settlement values for options and futures on the same index has the potential to create uncertainty and risks for many market participants. This risk should be minimized by OCC's new procedure which will allow OCC to conform its method of establishing the expiration settlement value for index options with that used for establishing the final settlement price for related index futures and options on index futures.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal 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.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-00-01) be and hereby is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-12134 Filed 5-12-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42764; File No. SR-PHLX-00-06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Giving Preference to Options Specialist Units Which Resign From Option Trading Privileges in the Best Interest of the Exchange in Future Allocation Decisions Regarding Such Options

May 8, 2000.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,¹ notice is hereby given that on February 1, 2000, 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 and II 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. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

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

Phlx proposes new Rule 513, Voluntary Resignation of Options Privileges, which provides that when an option specialist unit voluntarily resigns from trading privileges in an option in the best interest of the Exchange, the option specialist unit which last traded that option will be given preference in

any future allocation decision regarding that option, barring any performance or disciplinary issues. The text of the proposed rule is as follows:

Voluntary Resignation of Options Privileges

Rule 513. (a) If an option specialist unit voluntarily resigns from registration in a particular option and the Committee determines such resignation to be in the best interest of the Exchange, and that option is subsequently delisted, barring any specialist performance or disciplinary issues, the option specialist unit which last traded that option will be given preference in any future allocation decision regarding that option.

(b) The preference set forth in Section (a) of this rule shall be in effect for a period of one year from the date of resignation from trading privileges by the specialist unit.

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 III 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

Currently, the Exchange and the Options Price Reporting Authority ("OPRA") have serious concerns regarding mitigation of quote traffic and maximizing computer capacity. To address those concerns, proposed Rule 513 is intended to provide incentive for options specialists to create more computer capacity by resigning from relatively low volume/high quote traffic options. To provide that incentive, proposed Rule 513 states that the specialist unit which last traded that option will be given preference in any future allocation decision regarding that option.

Mitigation of excessive quote traffic and concomitant preservation of computer capacity is currently an industry-wide concern, and the Exchange believes that a preference provision such as the one contemplated

⁷ For example, many market participants use trading strategies whereby they trade index options and index futures based on the expectation that the settlement values will have a predictable relationship.

⁸ 15 U.S.C. 78q-1(a)(1)(D).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

in the proposed rule addresses this concern. In this context, the “best interest of the Exchange” is served by specialist units that voluntarily resign from trading privileges in options that trade at a relatively low volume, but which generate a high number of quotes to be disseminated from, and received by, the Exchange.

The rule does not provide an absolute guarantee that the specialist unit that last traded the option will be allocated the option in the event that it is certified and resolicited to the Exchange’s options specialist units. All options specialist units will be allowed to apply for trading privileges in relisted options, and all applications will be considered by the Exchange’s Allocation, Evaluation and Securities Committee (“Committee”).³ The proposed rule contemplates that the Committee may review the performance of a specialist unit that applies for an option from which it had previously resigned (“applicant”). In order to qualify for preferential treatment in the allocation of a relisted option, the performance of the applicant must be consistent with the standards set forth in the Exchange’s rules.⁴ The Committee will also take into account the disciplinary record of the applicant when considering the application, and preferential treatment of the specialist unit applicant will not be given if the applicant demonstrates the inability to adhere to the Exchange’s disciplinary rules and those of the Commission.

In approving Rule 513 for filing with the Commission, the Exchange’s Board of Governors has determined that specialist units would be more willing to resign from trading privileges in options in order to mitigate quote traffic and to conserve computer capacity on the Exchange, if they are given some form of preference in the event that the options from which they have resigned in the best interest of the Exchange are to be relisted on the Exchange in the future.

Over time, material changes in the composition, personnel, capitalization, and other aspects of specialist units which resign from option trading privileges may occur, which would affect the Committee’s decisions regarding future allocations to those specialist units. For this reason, the proposed rule limits the Committee’s preference in such future allocations to one year.

³ See Phlx Rule 506. This rule provides that the Committee will solicit applications from all eligible specialist units.

⁴ See Phlx Rules 511 and 515.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,⁵ in general, and Section 6(b)(5) of the Act,⁶ in particular, 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. By giving Exchange option specialists incentive to resign from trading privileges in certain high quote/low volume options, the Exchange will continue to serve the investing public and its markets by mitigating quote traffic and, thus, providing the most current quote and execution information possible.

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

Phlx does not believe that the proposed rule change will result in any burden on competition.

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

Phlx 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, 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 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–00–06 and should be submitted by June 5, 2000.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

IV. Commission’s Findings and Order Granting Accelerated Approval of the 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 Section 6(b).⁷ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)⁸ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and to perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.⁹

The Commission has previously noted that the aggregate message traffic generated by the options exchanges is rapidly approaching the outside limit of OPRA’s systems capacity.¹⁰ OPRA’s processor has informed the Commission that current plans to enhance OPRA’s systems are not expected to be completed before the end of the second quarter of this year, at the earliest. Accordingly, proposals that may mitigate quote traffic and conserve computer capacity, such as proposed Phlx Rule 513, should benefit investors and other participants in the options markets.

Pursuant to Section 19(b)(2),¹¹ the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will allow Phlx to expeditiously implement the incentive program without any unnecessary delay.

It Is Therefore Ordered, pursuant to Section 19(b)(2)¹² of the Act, that the proposed rule change (SR–Phlx–00–06) is approved on an accelerated basis.

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(5).

⁹ In approving this rule, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁰ See Securities Exchange Act Release No. 42493 (March 3, 2000), 65 FR 12597 (March 9, 2000).

¹¹ 15 U.S.C. 78s(b)(2).

¹² *Id.*

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-12135 Filed 5-12-00; 8:45 am]

BILLING CODE 8010-01-M

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 00-3p. Titles II and XVI: Evaluation of Obesity

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 00-3p. This Ruling provides guidance on the evaluation of disability claims involving obesity following our deletion of listing 9.09, Obesity, from the Listing of Impairments. The final rule deleting listing 9.09 was effective on October 25, 1999 (64 FR 46122 (1999)).

EFFECTIVE DATE: May 15, 2000.

FOR FURTHER INFORMATION CONTACT:

Bonnie Davis, Office of Disability, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-4172.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Programs 96.001 Social Security—

Disability Insurance; 96.006 Supplemental Security Income)

Dated: May 3, 2000.

Kenneth S. Apfel,

Commissioner of Social Security.

Policy Interpretation Ruling Titles II and XVI: Evaluation of Obesity

Purpose

To provide guidance on SSA policy concerning the evaluation of obesity in disability claims filed under titles II and XVI of the Social Security Act (the Act).

Citations

Sections 216(i), 223(d), 223(f), 1614(a), and 1614(c) of the Act, as amended; Regulations No. 4, subpart P, sections 404.1502, 404.1508, 404.1509, 404.1512, 404.1520, 404.1521, 404.1523, 404.1525, 404.1526, 404.1528, 404.1529, 404.1530, 404.1545, 404.1546, 404.1561, 404.1594, and appendix 1; and Regulations No. 16, subpart I, sections 416.902, 416.908, 416.909, 416.912, 416.920, 416.921, 416.923, 416.924, 416.925, 416.926, 416.926a, 416.928, 416.929, 416.930, 416.933, 416.945, 416.946, 416.961, 416.994, and 416.994a.

Introduction

On August 24, 1999, we¹ published a final rule in the **Federal Register** deleting listing 9.09, *Obesity*, from the Listing of Impairments in 20 CFR, subpart P, appendix 1 (the listings). The final rule was effective on October 25, 1999. 64 FR 46122 (1999).

We stated in the preamble to the final rule that we deleted listing 9.09 because our experience adjudicating cases under this listing indicated that the criteria in the listing were not appropriate indicators of listing-level severity. In our experience, the criteria in listing 9.09 did not represent a degree of functional limitation that would prevent an individual from engaging in any gainful activity.

However, even though we deleted listing 9.09, we made some changes to the listings to ensure that obesity is still addressed in our listings. In the final rule, we added paragraphs to the prefaces of the musculoskeletal, respiratory, and cardiovascular body system listings that provide guidance about the potential effects obesity has in causing or contributing to impairments in those body systems. See listings

sections 1.00F, 3.00I, and 4.00F. The paragraphs state that we consider obesity to be a medically determinable impairment and remind adjudicators to consider its effects when evaluating disability. The provisions also remind adjudicators that the combined effects of obesity with other impairments can be greater than the effects of each of the impairments considered separately. They also instruct adjudicators to consider the effects of obesity not only under the listings but also when assessing a claim at other steps of the sequential evaluation process, including when assessing an individual's residual functional capacity.

In response to public comments, we stated that we would provide additional guidance in a Social Security Ruling (SSR). (64 FR at 46126) This SSR provides that additional guidance by discussing how we evaluate obesity in disability claims filed by adults and children under titles II and XVI of the Act.

Policy Interpretation

General

1. What Is Obesity?

Obesity is a complex, chronic disease characterized by excessive accumulation of body fat. Obesity is generally the result of a combination of factors (e.g., genetic, environmental, and behavioral).

In one sense, the cause of obesity is simply that the energy (food) taken in exceeds the energy expended by the individual's body. However, the influences on intake, the influences on expenditure, the metabolic processes in between, and the overall genetic controls are complex and not well understood.

The National Institutes of Health (NIH) established medical criteria for the diagnosis of obesity in its *Clinical Guidelines on the Identification, Evaluation, and Treatment of Overweight and Obesity in Adults* (NIH Publication No. 98-4083, September 1998). These guidelines classify overweight and obesity in adults according to Body Mass Index (BMI). BMI is the ratio of an individual's weight in kilograms to the square of his or her height in meters (kg/m²). For adults, both men and women, the *Clinical Guidelines* describe a BMI of 25-29.9 as "overweight" and a BMI of 30.0 or above as "obesity."

The *Clinical Guidelines* recognize three levels of obesity. Level I includes BMIs of 30.0-34.9. Level II includes BMIs of 35.0-39.9. Level III, termed "extreme" obesity and representing the greatest risk for developing obesity-

¹ The terms *we* and *us* in this Social Security Ruling have the same meaning as in 20 CFR 404.1502 and 416.902. *We* or *us* refers to either the Social Security Administration or the State agency making the disability or blindness determination; i.e., our adjudicators at all levels of the administrative review process and our quality reviewers.

¹³ 17 CFR 200.30-3(a)(12).