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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–43055; File No. SR–Phlx–98–43)]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 4 to the Proposed Rule Change Amending Its Procedures Regarding Stop Order Bans and Requiring the Use of Account Identifiers for PACE Users

July 19, 2000.

1. Introduction

On November 18, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''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 its procedures regarding stop order and stop limit order bans and require the use of account identifiers for PACE users. On December 9, 1998, February 2, 1999, and July 14, 1999, respectively, the Exchange filed Amendments 1, 2, and 3 to the proposal with the Commission.[3]

The proposed rule change, including Amendments 1, 2, and 3, was published for comment in the **Federal Register** on September 1, 1999.[4] On July 17, 2000, the Exchange filed Amendment No. 4 to the proposal with the Commission.[5] No comments were received on the proposal. This notice and order approves the proposed rule change, as amended, and seeks comment from interested persons on Amendment No. 4.

II. Description of the Proposal

The Exchange has previously adopted circuit breaker rules, paralleling the rules of other exchanges.[6] At this time, the Exchange proposes, like other exchanges, to prohibit the entry of stop and stop limit orders during times of market stress.[7]

Proposed Rule 134 will establish a procedure prohibiting the entry of stop orders and stop limit orders whenever the primary market for a stock admitted to dealings on the Exchange institutes a stop and stop limit order ban. When the primary market institutes a stop and stop limit order ban, the Exchange will also ban such orders in the stock (or stocks) until such time as the ban in the primary market is lifted.

The Exchange will use the following procedures to implement a stop order ban. Following notice from the Consolidated Tape, the Exchange will announce to the floor and to PACE users that a stop order ban is in effect in a particular issue (or issues). the entry of stop and stop limit orders on the Phlx would be prohibited until the ban in the primary market is lifted and that information is disseminated on the Consolidated Tape. Any stop or stop limit orders residing on the specialist's book when a ban goes into effect for a stock that is subject to the ban may [8] be canceled by the Exchange with the approval of two Floor Officials and a market regulation officer.[9]

The Exchange believes that it is appropriate to ban stop orders and stop limit orders when the primary market institutes a ban because, in a violatile market, stop orders can accumulate at various prices and, if triggered, the stop orders may increase price fluctuations. Because other exchanges have adopted stop order ban procedures, Phlx is concerned that a migration of stop and stop limit orders to the Phlx could occur, thus causing a burden on Phlx specialists.

The Exchange also proposes requiring PACE [10] users to attach account identifiers on orders submitted through PACE. Among other things, this will allow the system to distinguish orders for the account of an individual investor from other orders. Specifically, Rule 229, Commentary .20 will require that all orders sent through PACE shall include the appropriate account designator. The following are acceptable account types: ''P''—principal order; [11] ''A''—agency; ''I''—individual investor; ''D''—program trade, non-index arbitrage for member/member organization; ''J''—program trade, index arbitrage for individual customers; ''K''—program trade, non-index arbitrage for individual customer; ''U''—program trade, index arbitrage for other agency; and ''Y''—program trade, non-index arbitrage for other agency. Orders for less than 2,099 shares with the account identifier of ''I'' would still be able to be entered during the duration of the ban. Other orders will be automatically rejected by the PACE System.

The Exchange believes that the proposed account identifiers will enhance efficiency and accuracy of audit trail information and will facilitate surveillance investigations by readily identifying a member's proprietary trades. More accurate audit trail information should also increase the effectiveness of the Exchange's surveillance procedures.[12] Member firms will be given notice following the approval of the proposal to enable them to comply with new order identification requirements.

The purpose of the proposed rule is to reduce selling pressure by preventing market professionals from entering stop and stop limit orders during a market sell-off as well as enhance market coordination of the circuit breaker rules. In turn, the Phlx believes that the proposal should help reduce market volatility. In addition, proposed Phlx Rule 134 should prevent the migration to stop orders from the primary markets to the Phlx in the case of extraordinary

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19B–4.

[3] *See* letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division of Market Regulation (''Division''), Commission, dated December 8, 1998 (''Amendment No. 1''); letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Deputy Associate Director, Division, Commission, dated February 1, 1999 (''Amendment No. 2''); and letter from Nandita Yagnik, Counsel, Phlx, to Michael Walinskas, Associate Director, Division, Commission, dated July 13, 1999 (''Amendment No. 3'').

[4] Securities Exchange Act Release No. 41789 (August 25, 1999), 64 FR 47885.

[5] *See* Letter from Nandita Yagnick, Counsel, Phlx, to David Sieradzki, Special Counsel, Commission, dated July 14, 2000 (''Amendment No. 4''). The Commission has approved a proposed rule change (SR–NYSE–98–45) to eliminate the stop and stop limit order banunder Rule 80A. *See* Securities Exchange Act Release No. 41041 (Feb. 11, 1999), 64 FR 8424 (Feb. 19, 1999). As a result, in amendment No. 4, the Exchange eliminates references to stop and stop limit order bans occurring pursuant to NYSE Rule 80A.

[6] *See* Securities Exchange Act Release No. 39846 (April 9, 1998), 63 FR 18477 (April 15, 1998) (Order approving SR–PHLX–98–15).

[7] *See* Boston Stock Exchange Rules Chapter II, Section 35(b); and Chicago Stock Exchange Chapter IX, Rule 10B, .01(ii).

[8] *See* Amendment No. 2, *supra* note 3. The Commission notes that, pursuant to Boston Stock Exchange Rules Chapter II, Section 35 (b), any stop or stop limit orders residing on the specialist's book when a ban goes into effect for an individual stock will be canceled by the Exchange.

[9] *See* Amendment No. 2, *supra* note 3. In Amendment No. 3, the Exchange amended Rule 134(c)(iii) to codify factors to be considered in determining whether stop and stop limit orders on the book would be cancelled in the event that the Exchange institutes a stop order ban in an individual stock. These factors include: (1) If the primary market cancels stop orders residing on their book; on (2) other unusual conditions or circumstances. *See* Amendment No. 3, *supra,* note 3.

[10] PACE is an electronic order entry, delivery, and execution system which operates on the equity floor pursuant to Phlx Rule 229.

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

[12] Telephone conversation between Nandita Yagnik, Counsel, Phlx, and David Sieradzki, Special Counsel, Division, Commission, on July 21, 1999.

market volatility, which should prevent the transfer of market volatility to the Phlx. Thus, the Exchange believes that the proposal represents a reasonable effort and coordinated means to address potential strain on the market that may develop should the Exchange become inundated with such orders.

III. Discussion

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).[13] Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5) [14] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.[15]

The Exchange represents that proposed Rule 134 should prevent the migration of stop orders from the primary markets to the Exchange in the case of extraordinary market volatility, which should prevent the transfer of market volatility to the Phlx. The Commission believes that, by preventing the entry of stop and stop limit orders on the Phlx when such orders are prohibited on the primary market, the proposal may help to alleviate market volatility during times of market stress. As a result, the Commission finds that it is reasonable for the Exchange to ban the entry of stop and stop limit orders when the primary Exchange has issued a ban on such orders. In determining to approve the proposal, the Commission notes that, as amended, the proposed rule is substantially similar to the rules of the Boston Stock Exchange regarding stop and stop limit order bans.[16]

Regarding the use of account identifiers for PACE users, the Commission finds that the proposed identification codes may help to prevent fraudulent and manipulative acts by improving the accuracy and efficiency of audit trail information. Specifically, the Commission believes that the use of identifier codes should facilitate surveillance investigations by clearly identifying a members's own proprietary trading. In addition, more accurate audit trail information should increase the effectiveness of the Exchange's automated surveillance procedures and provide Exchange staff with a more comprehensive reconstruction of trading activity. Accordingly, the Commission finds that the proposed mandatory use of audit trail identifiers for orders sent through PACE is reasonable and consistent with the Act.

The Commission finds good cause for approving Amendment No. 4 prior to the thirtieth day after the date of publication of notice in the **Federal Register**. Amendment No. 4 simply eliminates references to stop and stop limit order bans pursuant to NYSE Rule 80A. As noted above, NYSE Rule 80A has been amended and no longer requires stop and stop limit order bans. As a result, the amendment does not raise any significant regulatory issues. Accordingly, the Commission finds good cause, consistent with Sections 6(b)(5) [17] and 19(b)(2) [18] of the Act, to approve Amendment No. 4 to the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether Amendment No. 4 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–98–43 and should be submitted by August 16, 2000.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–Phlx–98–43) as amended, is approved and Amendment No. 4 to the proposed rule change is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Jonathan G. Katz,

Secretary.

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[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

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

[16] *See supra* note 8.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(2).

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3271]

State of Minnesota; Amendment #2

In accordance with a notice from the Federal Emergency Management Agency, dated July 12, 2000, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on May 17, 2000 and continuing through July 12, 2000.

All other information remains the same, *i.e.,* the deadline for filing applications for physical damage is August 29, 2000 and for economic injury the deadline is March 30, 2001.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 2000.

Allan I. Hoberman,

Acting Associate Administrator for Disaster Assistance.

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SMALL BUSINESS ADMINISTRATION

Region V Advisory Council Meeting; Public Meeting

The Midwestern States, Regulatory Fairness Board will hold a public hearing on September 11, 2000, 10:00 a.m., at Rock Valley College, Performing Art Center, located at 3301 North Mulford Road, Rockford, Illinois to receive comments and testimony from small businesses and representatives of trade associations concerning regulatory enforcement or compliance actions taken by federal agencies. Transcripts of these proceedings will be posted on the Internet. These transcripts are subject only to limited review by the National Ombudsman. For further information, call Elestine Harvey (312) 353–1744.

Bettie Baca,

Counselor to the Administrator/Public Liaison.

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