

that the proposed amendment, which allocates the limited capacity of the OPRA system among the options markets during peak usage periods, is consistent with Rule 11Aa3-2 under the Act⁸ in that it will contribute to the maintenance of fair and orderly markets and remove impediments to, and perfect the mechanisms of, a national market system.

The Commission notes that the aggregate message traffic generated by the options exchanges is rapidly approaching the outside limit of, and at times surpasses, OPRA's systems capacity. OPRA estimates that its current plans to expand OPRA systems capacity will not be completed until September, 2000. Consequently, the Commission is concerned that, absent a program to allocate systems capacity among the options markets, systems queuing of options quotes may be the norm, to the detriment of all investors and other participants in the options markets. The Commission believes that the agreed-upon allocation plan is a reasonable means to account for the recent increase in message handling capacity of OPRA's processor and to address potential strains on capacity.

The Commission notes that the anticipated enhancements to the OPRA system should increase systems capacity to 8,000 mps. The Commission does not, however, believe that the enhancement will end the need for a capacity allocation⁹ as the imminent move to decimalization and the dissemination of quotations with size will continue to strain OPRA systems capacity.

The Commission finds good cause to accelerate effectiveness of the proposed OPRA Plan amendment prior to the date of publication in the **Federal Register**. The Commission notes that the proposed OPRA Plan amendment is intended to mitigate potential disruption to the orderly dissemination of options market information caused by the inability of the OPRA system to handle the anticipated quote message traffic. The Commission believes that approving the amendment will provide the options exchanges and OPRA with an immediate, short-term solution to a pressing problem, while giving the Commission and the options markets additional time to evaluate, and possibly implement, other quote mitigation strategies. In addition the limited time frame of this capacity allocation program provides the Commission and the options exchanges with greater flexibility to modify the program, as necessary, to ensure the

fairness of the allocation process to all of the options markets going forward. The Commission finds, therefore, that granting temporary effectiveness of the proposed OPRA Plan amendment is appropriate and consistent with Section 11A of the Act.¹⁰

V. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act¹¹ and Rule 11Aa3-2¹² thereunder, that the proposed OPRA Plan amendment (SR-OPRA-00-07) is effective on a temporary basis not to exceed 120 days.

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

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43062; File No. SR-CHX-00-07]

Self Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Examination Requirements for Floor Clerks Who May Accept Orders From Professional Customers for Execution on the Exchange's Trading Floor

July 21, 2000.

I. Introduction

On March 17, 2000, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(10) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4, thereunder,² a proposed rule change relating to the qualification requirements for Exchange floor clerks who may, among other functions, accept orders from professional customers³ for

execution on the Exchange's trading floor. The proposed rule change was published for comment in the **Federal Register** on June 12, 2000.⁴ On June 30, 2000, the CHX filed Amendment No. 1 to the proposal.⁵ No comments were received on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

Under Exchange rules, a floor clerk of a qualified floor member may accept orders from professional customers for execution on the Exchange's trading floor, so long as the floor clerk has successfully completed either the General Securities Registered Representative Examination ("Series 7 Examination") or the Series 7B Examination.⁶ The Exchange proposes to amend Interpretation .01(d) of CHX Article VI, Rule 3 by requiring Exchange floor clerks who may, among other functions, accept orders from professional customers for execution on the Exchange's trading floor, to successfully complete the Exchange's Floor Membership Examination⁷ and either the Series 7 Examination or the Series 7A Examination.⁸ The proposal

⁴ Securities Exchange Act Release No. 42891 (June 1, 2000), 65 FR 36857.

⁵ Letter from Kathleen M. Boege, Associate General Counsel, CHX, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission (June 30, 2000) ("Amendment No. 1"). In response to comments from Commission staff, the Exchange submitted Amendment No. 1 to make a grammatical correction to the language of the proposed rule. Amendment No. 1 also adds Section 6(c)(3)(B) of the Act to the Statutory basis of the proposed rule change. 15 U.S.C. 78f(c)(3)(B). Finally, Amendment No. 1 clarifies Item 8 of Form 19b-4 to reflect that the proposed rule change is based on a recent New York Stock Exchange, Inc. ("NYSE") proposal. See Securities Exchange Act Release No. 42092 (November 2, 1999), 64 FR 61375 (November 10, 1999) (order approving the elimination of the Series 7B Qualification Examination ("Series 7B Examination") and establishing the Series 7A Qualification Examination ("Series 7A Examination") as the appropriate qualification examination for NYSE floor clerks). This amendment is technical and therefore is not required to be published for notice and comment.

⁶ The NYSE implemented the Series 7B Examination in 1994 to serve as an alternative qualification examination to the Series 7 Examination. See Securities Exchange Act Release No. 34334 (July 8, 1994), 59 FR 35964 (July 14, 1994).

⁷ The Exchange adopted the Floor Membership Exam in 1996. See Securities Exchange Act Release No. 37690 (September 17, 1996), 61 FR 49803 (September 23, 1996).

⁸ The NYSE implemented the Series 7A Examination in 1993 to serve as an alternative qualification exam to the Series 7 Examination. See Securities Exchange Act Release No. 32698 (July 29, 1993), 58 FR 41539 (August 4, 1993). The Series 7A Examination and Series 7B Examination are identical except for an additional 25 questions on the Series 7B Examination that address floor rules and policies.

⁸ 17 CFR 240.11Aa3-2.

⁹ See *supra* note 6.

¹⁰ 15 U.S.C. 78k-1.

¹¹ 15 U.S.C. 78k-1.

¹² 17 CFR 240.11 Aa3-2.

¹³ 17 CFR 200.30-3(a)(29).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The proposed rule change defines the term "professional customer" to include a bank; trust company; insurance company; investment trust; a state or political subdivision thereof; a charitable or nonprofit education institution regulated under the laws of the United States, or any state; a pension or profit sharing plan subject to ERISA, or of any agency of the United States or of a state or political subdivision thereof; or any person (other than a natural person) who has, or who has under management, net tangible assets of at least sixteen million dollars.

would eliminate the Series 7B Examination as an alternate requirement for floor clerks. The CHX's Floor Membership Examination addresses the rules and practices of other Exchange's trading floor but has broader coverage than the Series 7B Examination.⁹

III. Discussion

The Commission finds that the Exchange's proposal is consistent with the requirements of Section 6 of the Act,¹⁰ and particularly Sections 6(c)(3)(A) and (B)¹¹ thereunder. Section 6(c)(3)(A) of the Act¹² provides that a national securities exchange may deny membership to, or condition the membership of, registered broker-dealer if any natural persons associated with such broker or dealer do not meet such standards of training, experience and competence as are prescribed by the rules of the exchange.¹³

Under Section 6(c)(3)(B) of the Act,¹⁴ a national securities exchange may bar a natural person from becoming associated with a member if the person does not meet the exchange's standards of training, experience, or competence, or if the person has engaged and there is a reasonable likelihood the person will engage again in acts or practices inconsistent with just and equitable principles of trade. Under these statutory provisions, the various national securities exchange, including the CHX, are empowered to implement rules establishing the prerequisites to qualify and approve persons associated with members to engage in securities activities.

The Commission finds that the proposed rule change is consistent with the Act because the proposed rule change will help the Exchange to ensure that floor clerks satisfy prescribed standards of training, experience, and competence. Although the proposed rule change would eliminate the Series 7B Examination for floor clerks who may accept orders from professional customers for execution on the Exchange's trading floor, the subject matter included in the Series 7B Examination is covered, in part, by the

recently implemented CHX Floor Membership Examination. The Commission believes that successful completion of the Floor Membership Examination and Series 7A Examination would help to ensure that floor clerks who may accept orders from professional customers for execution on the Exchange's trading floor are sufficiently familiar with the rules and practices of the Exchange's trading floor.

Moreover, the Commission previously approved a virtually identical proposal by the NYSE.¹⁵ The NYSE recently eliminated the Series 7B Examination and now requires its floor clerks to pass a new Trading Assistant Examination ("Series 25 Examination")¹⁶ and either the Series 7 Examination or the Series 7A Examination before becoming eligible to accept professional orders.¹⁷ Like the CHX's Floor Membership Examination, the NYSE's new Trading Assistant Examination contains questions relating to its floor rules and policies and, according to the NYSE, has broader coverage than the questions formerly included in the Series 7B Examination.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change, SR-CHX-00-07, as amended, be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43064; File No. SR-Phlx-00-55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Amending Its Rules To Mandate Decimal Pricing Testing

July 21, 2000.

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 July 11, 2000, 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, II, and III below, which Items have been prepared by the Phlx. The Phlx has designated this proposal as one concerned solely with the administration of the Phlx under Section 19(b)(3)(A)(iii) of the Act,³ which renders the proposal effective upon filing with the Commission. 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

The Exchange proposes to amend Phlx Rule 650 (currently titled "Mandatory Participation in Year 2000 Testing")⁴ to require members and member organizations to participate in computer systems tests designed to prepare for the securities industry's conversion to decimal pricing. The Exchange proposes to change the title of Phlx 650 to "Mandatory Participation in Decimalization Testing."

The text of the proposed rule change is available upon request from the Phlx or the Commission.

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

⁹ Telephone conversation between Michael Cardin, Market Regulation Department, CHX and Susie Cho, Attorney, Division, Commission, on April 5, 2000.

¹⁰ 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).

¹¹ 15 U.S.C. 78f(c)(3)(A) and (B).

¹² 15 U.S.C. 78d(c)(3)(A).

¹³ Under Section 15(b)(8) of the Act, all registered brokers or dealers must be members of an SRO—either a securities association or a national securities exchange. 15 U.S.C. 78o(b)(8).

¹⁴ 15 U.S.C. 78f(c)(3)(B).

¹⁵ See Securities Exchange Act Release No. 42092 (November 2, 1999), 64 FR 61375 (November 10, 1999).

¹⁶ See Securities Exchange Act Release No. 40943 (January 13, 1999), 64 FR 3330 (January 21, 1999) (order approving the Series 25 Examination).

¹⁷ See Securities Exchange Act Release No. 42092 (November 2, 1999), 64 FR 61375 (November 10, 1999) (order approving the elimination of the Series 7B Examination and establishing the Series 7A Examination as the appropriate qualification examination for NYSE floor clerks).

¹⁸ *Id.*

¹⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ Testing in connection with the Year 2000 date change has been completed and the current requirements of the rule are no longer necessary. Telephone conversation between Jurij Trypupenko, Counsel, Phlx, and Matthew Boesch, Division of Market Regulation, Commission, on July 14, 2000.