

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

Because the foregoing proposed rule: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days or such shorter time as the Commission may designate, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸ At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission notes that under Rule 19b-4(f)(6)(iii),⁹ the proposal does not become operative for 30 days after date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission designate that the proposed rule change become operative immediately, which the Phlx believes is consistent with investor protection and the public interest. In particular, because the proposed rule change is significantly similar to the rules of another self-regulatory organization already approved by the Commission,¹⁰ the Exchange requests that Commission accelerate the operative date to promptly begin eligibility of modified capital weighted indexes for option trading.

The Commission believes that it is consistent with the protection of investors and the public interest to designate the proposal immediately operative.¹¹ Accelerating the operative date will permit the Exchange to implement Phlx Rule 1009(b) without undue delay. For this reason, the Commission finds good cause to designate that the proposal become operative immediately.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 Section. 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-2002-14 and should be submitted by April 19, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-7567 Filed 3-28-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45629; File No. SR-Phlx-2001-89]

Self-Regulatory Organizations; Order Granting Approval to a Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to an Increase in the Maximum Guaranteed Size for AUTO-X Eligible Orders in Options on the Nasdaq-100 Index Tracking Stock ("QQQ") from 100 Contracts to 250 Contracts

March 22, 2002.

I. Introduction

On September 27, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("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 increase its automatic execution guarantee for options overlying the QQQ from 100 contracts to 250 contracts. On October 9, 2001, the Phlx filed Amendment No. 1 to the proposed rule change.³ On November 15, 2001, the proposed rule change and Amendment No. 1 were published for public comment in the **Federal Register**.⁴ The Commission received no comments on the proposed rule change, as amended. This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Exchange proposes to increase the maximum order size eligibility for its automatic execution system ("AUTO-X") in QQQ options from 100 contracts to 250 contracts. Under the rules of the Phlx, through AUTOM,⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Richard S. Rudolph, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated October 5, 2001 ("Amendment No. 1"). In Amendment No. 1, the Phlx changed the status of the proposal from a filing made pursuant to Section 19(b)(3)(A) of the Act to a filing made pursuant to Section 19(b)(2) of the Act.

⁴ See Securities Exchange Act Release No. 45046 (November 7, 2001), 66 FR 57500.

⁵ AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually or routed to AUTOM's automatic execution feature, AUTO-X, if they are eligible for execution on AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features

Continued

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6)(iii).

⁹ 17 CFR 240.19b-4(f)(6).

¹⁰ See Securities Exchange Act Release No. 41557, June 24, 1999, 64 FR 36055 (July 2, 1999) (Order approving File No. SR-Amex-99-09 to allow modified equal-dollar and modified capitalization weighting calculation methodologies for narrow-based index options on the American Stock Exchange LLC).

¹¹ For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹² 17 CFR 200.30-3(a)(12).

orders are routed from member firms directly to the appropriate specialist on the trading floor. Of the public customer market and marketable limit orders routed through AUTOM, certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. These orders are automatically executed at the disseminated quotation price on the Exchange and reported back to the originating firm.⁶

The Exchange represents that AUTO-X affords prompt and efficient automatic executions at the disseminated quotation price on the Exchange. Therefore, the Exchange believes that increasing automatic execution levels for eligible orders in QQQ options from 100 contracts to 250 contracts should provide the benefits of automatic execution to a larger number of customer orders. Further, the Exchange notes that this increase in the automatic execution levels in QQQ options should enable the Exchange to remain competitive for order flow with other exchanges that trade QQQ options.

The Exchange notes that there are many safeguards incorporated into Exchange rules to ensure the appropriate handling of AUTO-X orders. For example, Phlx Rule 1080(f)(iii) states that the specialist is responsible for the remainder of an AUTOM order where a partial execution has occurred. Phlx Rule 1015 governs execution guarantees and requires the trading crowd to ensure that public orders are filled at the best market to a minimum of the disseminated size. In addition, Phlx Options Floor Procedure Advice F-7 provides that the size of any disseminated bid or offer by the Exchange shall be equal to the AUTO-X guarantee for the quoted option and shall be firm, except that the disseminated size of bids and offers of limit orders on the book shall be 10 contracts and shall be firm, regardless of the actual size of the orders. Violations of any of these provisions could be referred to the Business Conduct Committee for disciplinary action.

The Wheel is a mechanism that allocates AUTO-X trades among specialists and Registered Options Traders ("ROT's").⁷ An ROT has discretion to participate on the Wheel to trade any option class to which he is assigned. The Exchange states that an increase in the maximum AUTO-X order size in QQQ options would not

prevent an ROT from declining to participate on the Wheel. The Exchange states that, because the Wheel rotates in two-lot to ten-lot increments depending upon the size of the order,⁸ no single ROT will be allocated the entire 250 contracts.

The Exchange also has procedures that permit a specialist to disengage AUTO-X in extraordinary circumstances.⁹ The Exchange represents that AUTOM users will be notified of such circumstances.

With respect to financial responsibility issues, the Exchange notes that it has a minimum net capital requirement respecting ROT's.¹⁰ Furthermore, an ROT's clearing firm performs risk management functions to ensure that the ROT has sufficient financial resources to cover positions throughout the day. In this regard, the function includes real-time monitoring of positions. The Exchange believes that clearing firm procedures address the issue of whether an ROT has the financial capability to support the AUTO-X trading of orders in QQQ options as large as 250 contracts.

The Exchange believes that automatic execution of orders in QQQ options for up to 250 contracts should provide customers with quicker executions for a larger number of orders by providing automatic rather than manual executions, thereby reducing the number of orders subject to manual processing. The Exchange also believes that increasing the AUTO-X maximum order size in QQQ options should not impose a significant burden on operation or capacity of the AUTOM system and will give the Exchange better means of competing with other options exchanges for order flow.

III. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 of the Act.¹¹ Among other provisions, Section 6(b)(5) of the Act requires that the rules of an exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and

facilitating securities transactions; remove impediments to and perfect the mechanism of a free and open market and a national market system; and protect investors and the public interest.¹²

While increasing the maximum order size limit in QQQ options from 100 contracts to 250 contracts for automatic execution eligibility by itself does not raise concerns under the Act, the Commission believes that this increase raises collateral issues that the Phlx will need to monitor and address. Increasing the maximum order size for QQQ options will make a larger number of QQQ option orders eligible for AUTO-X. These orders may benefit from greater speed of execution, but at the same time create greater risks for market maker participants. The specialists and ROT's signed onto AUTO-X will be exposed to the financial risks associated with larger-sized orders in QQQ options being routed through the system for automatic execution at the displayed price. When the market for the underlying security changes rapidly, it may take a few moments for the related option's price to reflect that change. In the interim, customers may submit orders that try to capture the price differential between the underlying security and the option. The larger the orders accepted through AUTO-X, the greater the risk the specialists and ROT's must be willing to accept. The Commission does not believe that, because the Phlx's Options Committee determines to approve orders as large as 250 contracts in QQQ options as eligible for AUTO-X, the Options Committee or any other Phlx committee or officials should disengage AUTO-X more frequently by, for example, declaring an "extraordinary circumstance."¹³ Disengaging AUTO-X can negatively affect investors by making it slower and less efficient to execute their orders. It is the Commission's view that the Phlx, when increasing the maximum size of orders that can be sent through AUTO-X, should not disadvantage all customers—the vast majority of whom enter orders for less than 250 contracts

¹² 15 U.S.C. 78f(b)(5).

¹³ The Phlx has filed a proposed rule change (File No. SR-Phlx-2001-27) with the Commission that would specify the procedures governing the disengagement of AUTO-X for "extraordinary circumstances," define what constitutes "extraordinary circumstances," and require the documentation of any action taken to disengage AUTO-X. The proposed rule change was filed pursuant to the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions, Securities Exchange Act Release No. 43268 (September 11, 2000) (File No. 3-10282) and is pending with the Commission.

and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

⁶ See Phlx Rule 1080(c).

⁷ Unlike ROT's, specialists are required to participate on the Wheel. See Phlx Rule 1080(g).

⁸ See Exchange Options Floor Procedure Advice F-24(e).

⁹ See Phlx Rule 1080(e) and Exchange Options Floor Procedure Advice A-13.

¹⁰ See Phlx Rule 703.

¹¹ The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

in QQQ options—by making their automatic execution systems less reliable.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act.¹⁴

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-Phlx-2001-89), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-7612 Filed 3-28-02; 8:45 am]
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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3398]

State of Ohio

Lorain County and the contiguous counties of Ashland, Cuyahoga, Erie, Huron, and Medina in the State of Ohio constitute a disaster area due to damages caused by a fire at the Fairway Manor Apartments on March 9, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on May 20, 2002 and for economic injury until the close of business on December 21, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

For Physical Damage

Homeowners With Credit Available Elsewhere—6.625%
Homeowners Without Credit Available Elsewhere—3.312%
Businesses With Credit Available Elsewhere—7.000%
Businesses and Non-Profit Organizations Without Credit Available Elsewhere—3.500%
Others (Including Non-Profit Organizations) With Credit Available Elsewhere—6.375%

For Economic Injury

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere—3.500%

The number assigned to this disaster for physical damage is 339805, and for economic injury the number is 909600.

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

Dated: March 21, 2002.

Hector V. Barreto,
Administrator.

[FR Doc. 02-7642 Filed 3-28-02; 8:45 am]
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SMALL BUSINESS ADMINISTRATION

Interest Rates

The Small Business Administration publishes an interest rate called the optional “peg” rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 5.125 (5 1/8) percent for the April–June quarter of FY 2002.

LeAnn M. Oliver,

Deputy Associate Administrator for Financial Assistance.

[FR Doc. 02-7721 Filed 3-28-02; 8:45 am]
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DEPARTMENT OF STATE

[Public Notice 3965]

Culturally Significant Objects Imported for Exhibition Determinations: “Masterpieces and Master Collectors: Impressionist and Early Modern Paintings from the Hermitage and Guggenheim Museums”

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that two additional objects to be included in the exhibition “Masterpieces and Master Collectors: Impressionist and Early Modern Paintings from the Hermitage

and Guggenheim Museums,” imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at the Guggenheim Hermitage Museum, Las Vegas, NV, from on or about April 9, 2002, to on or about August 12, 2002, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619-6529). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: March 25, 2002.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 02-7643 Filed 3-28-02; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Office of the Secretary; Aviation Proceedings, Agreements Filed During the Week Ending March 15, 2002

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST-2002-11825.

Date Filed: March 12, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC12 NMS-AFR 0135 dated 15 March 2002, Mail Vote 210—TC12 Mid Atlantic-Africa, Special Passenger Amending Resolution 010j r1-r6. PTC12 NMS-AFR 0136 dated 15 March 2002, Mail Vote 211—TC12 Mid Atlantic-Africa, Special Passenger Amending Resolution 010k r7-r12. Intended effective date: 15 April 2002, 30 April 2002.

Docket Number: OST-2002-11849.

Date Filed: March 14, 2002.

Parties: Members of the International Air Transport Association.

Subject: PTC12 MEX-EUR 0047 dated 19 February 2002, TC12 Mexico-Europe Resolutions r1-r20, Minutes—PTC12 MEX-EUR 0048, dated 15 March 2002. Tables—PTC12 MEX-EUR Fares 0019,

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).