

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,⁶ in general, and furthers the objectives of Section 6(b)(4) of the Act⁷ in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other changes among CBOE members.

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

The Exchange does not believe that the proposed rule change will impose a burden on competition.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and subparagraph (e) of Rule 19b-4⁹ thereunder. At any time within 60 days of the filing of such rule change, 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, 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, 450 Fifth Street NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the CBOE. All submissions should refer to File No. SR-CBOE-97-60 and should be submitted by January 2, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-39401; File No. SR-Plx 97-48]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Extension and Amendment of the Pilot Program for Equity and Index Option Specialist Enhanced Parity Splits

December 4, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 5, 1997, 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 Exchange. On November 14 1997, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.² 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 extend until December 31, 1998, the Exchange's enhanced parity split pilot program for equity and index option specialists ("Pilot Program"). The Pilot Program is

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Amendment No. 1 is a report which discusses the impact of the Exchange's Pilot Program for Equity and Index Option Specialist Enhanced Parity Splits. See Letter from Michele R. Weisbaum, Vice President and Associate General Counsel, Exchange, to Michael Walinskas, Esquire, Division of Market Regulation, Commission, dated November 7, 1997.

currently scheduled to expire on December 31, 1997. The Exchange also seeks to modify the application of the Pilot Program so that: (i) the enhanced parity split would not apply to all index options, in addition to applying to 50% of each specialist's equity options and all new options allocated to the specialist during the year; and (ii) specialists would be permitted to revise the list of eligible equity options on a quarterly basis, rather than annually. The proposed rule change will revise Exchange Rule 1014(g) "Equity Option and Index Option Priority and Parity," and its corollary Option Floor Procedure Advice B-6.

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of an 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 IV 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

On August 26, 1994, the Commission approved the Exchange's Pilot Program to provide enhanced specialist participation in parity equity option trades.³ Initially, the Pilot Program was approved for a one year period ending August 26, 1995. On November 30, 1994, the Commission approved the Exchange's request to include index option specialists in the Pilot Program.⁴ The Pilot Program was later revised on March 1, 1995, with respect to situations where less than three controlled accounts are on parity with the specialist.⁵ The Pilot Program has subsequently been renewed on three

³ Securities Exchange Act Release No. 34606 (Aug. 26, 1994), 59 FR 45741 (Sept. 2, 1994).

⁴ Securities Exchange Act Release No. 35028 (Nov. 30, 1994), 59 FR 63151 (Dec. 7, 1994).

⁵ Securities Exchange Act Release No. 35429 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78(b)(4).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 19b-4(e).

occasions,⁶ most recently until December 31, 1997.

The Pilot Program works as follows: when an equity or index option specialist is on parity with one controlled account⁷ and the order is for more than five contracts, the specialist will receive 60% of the contracts and the controlled account will receive 40%. When the specialist is on parity with two controlled accounts and the order is for more than five contracts, the specialist will receive 40% of the contracts and each controlled account will receive 30%. When the specialist is on parity with three or more controlled accounts and the order is for more than five contracts, the specialist will be counted as two crowd participants when dividing up the contracts. In any of these situations, if a customer is on parity, he will not be disadvantaged by receiving a lesser allotment than any other crowd participant, including the specialist.

It should be noted that the application of this enhanced parity split is mandatory. Therefore, with respect to any equity or index options transaction that implicates that enhanced parity split, the specialist is required to accept the preferential allocation and may not decline the enhancement.⁸

Presently, the enhanced parity split is not made available to all equity and index options traded on the Exchange. Rather, the enhanced parity split applies to only 50% of each specialist unit's issues listed as of the renewal date of the pilot each year, and to all option classes listed after that date.⁹ The Exchange seeks to continue to study these rules under the auspices of the Pilot Program. However, the Exchange proposes to modify the application of the Pilot Program in the following

respects: (i) While equity options would continue to be included in the pool of options from which each specialist chooses 50%, all index options would receive the enhanced parity split; and (ii) specialists would be allowed to revise the list of eligible equity options on a quarterly basis, instead of on an annual basis. It also should be noted that all new option classes listed after the renewal date of the Pilot Program each year will continue to receive the enhanced parity split. The Exchange has represented that these changes were made to better match the enhancement with the options in which specialists are expending the most money, time and effort in making competitive, liquid markets. Accordingly, the Exchange requests that the Pilot Program, as amended, be extended until December 31, 1998.

In connection with the most recent extension of the Pilot Program,¹⁰ it was noted that prior to granting another extension or permanent approval of the Pilot Program, the Commission would require the Exchange to submit a report ("Report") discussing: (i) Whether the Pilot Program has generated any evidence of any adverse effect on competition or investors, in particular, or the market for equity or index options, in general; (ii) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program; and (iii) whether the Exchange has taken any disciplinary action against, or commenced any investigations, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter. The Report, which the Exchange filed on November 14, 1997, as Amendment No. 1, is summarized below.

With respect to the issue of competition, the Exchange found that the enhanced parity split as originally proposed was overly burdensome when only one or two controlled accounts were on parity with the specialist. Consequently, the Pilot Program was amended on March 1, 1995, in order to make the enhanced parity split more equitable in those situations.¹¹ Later that year, the Exchange established a subcommittee composed of four specialists, four Registered Options Traders ("ROTs"), and one floor broker. The composition of the subcommittee was intended to represent all of the different interests on the trading floor and in the market. The subcommittee

has met on numerous occasions to analyze the Pilot Program and its effect on competition, investors, and the market in general. The subcommittee members have discussed the operation of the Pilot Program and have concluded there is not evidence of any adverse effects on competition or investors or the market for equity or index options.

As to the second issue concerning complaints about the Pilot Program, the provision requiring the specialist to assure that the customer is not disadvantaged has been strictly enforced without incident and the Exchange has not received any complaints either orally or in writing from investors or Exchange members regarding inequitable splits or the Pilot Program in general.

Finally, as to the third pilot relating to disciplinary actions, investigations, examinations or inquiries; no violations were either investigated or commenced this year. However, two years ago the Exchange did bring one disciplinary case against an equity option specialist for making an inequitable split among himself and the ROTs in the crowd.¹² In that instance, the specialist was censured and suspended for one week as part of a settlement.¹³

The Exchange further notes that its Options Committee is continuing to review the effectiveness of the Pilot Program and the effectiveness of the existing review criteria and system of selecting subject options. The Exchange expects the Options Committee to complete its review during the upcoming year.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,¹⁴ in general, and with Section 6(b)(5),¹⁵ in particular, in that it is designed to promote just and equitable principles of trade; to prevent fraudulent and manipulative acts and

⁶ Securities Exchange Act Release Nos. 36122 (Aug. 18, 1995), 60 FR 44530 (Aug. 28, 1995); 37524 (Aug. 5, 1996), 61 FR 42080 (Aug. 13, 1996); and 38924 (Aug. 11, 1997), 62 FR 44160 (Aug. 19, 1997).

⁷ A controlled account is defined as "any account controlled by or under common control with a member broker-dealer." Customer accounts, which include discretionary accounts, are defined as all accounts other than controlled accounts and specialists accounts. See Exchange Rule 1014(g).

⁸ The proposed rule change would not alter the mandatory application of the enhanced parity split. Telephone conversation between Michele R. Weisbaum, Vice President and Associate General Counsel, Exchange, and Michael L. Loftus, Attorney, Division of Market Regulation, Commission (November 26, 1997).

⁹ The Exchange also has a different enhanced parity split program in place for "new" option specialist units trading newly listed options classes where the specialist is on parity with two or more registered options traders. See Securities Exchange Act Release No. 34109 (May 25, 1994), 59 FR 28570 (June 2, 1994). That program was approved on a permanent basis and, therefore, is not included in the subject of this filing.

¹⁰ Securities Exchange Act Release No. 38924 (Aug. 11, 1997), 62 FR 44160 (Aug. 19, 1997).

¹¹ Securities Exchange Act Release No. 35499 (Mar. 1, 1995), 60 FR 12802 (Mar. 8, 1995).

¹² Enforcement No. 95-12, Business Conduct Committee, Exchange.

¹³ The Commission again notes that in connection with any future request by the Exchange for the Commission to either further extend or permanently approve the Pilot Program, the Exchange will be required to submit a Report discussing: (i) Whether the Pilot Program has generated any evidence of any adverse effect or competition or investors, in particular, or the market for equity or index options, in general; (ii) whether the Exchange has received any complaints, either written or otherwise, concerning the operation of the Pilot Program; and (iii) whether the Exchange has taken any disciplinary action against or commenced any investigation, examinations, or inquiries concerning the operation of the Pilot Program, as well as the outcome of any such matter.

¹⁴ 15 U.S.C. 78f.

¹⁵ 15 U.S.C. 78f(b)(5).

practices; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and to protect investors and the public interest. Specifically, the Exchange believes that the proposal balances the competing interests of specialists and market makers while assisting specialists in making tight and liquid markets in assigned issues. The proposal also protects the public interest by requiring quarterly reviews and assuring that a customer's participation is never disadvantaged by the enhanced parity split.

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

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

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

The Exchange did not solicit or receive written comments 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 change: (1) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from November 14, 1997, the date on which it was filed,¹⁶ 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 Act¹⁷ and Rule 19b-4(e) (6)¹⁸ thereunder.

At any time within 60 days of the filing of the proposed rule change, 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.

¹⁶ The proposed rule change filing is deemed filed as of the date Amendment No. 1 was received by the Commission.

¹⁷ 15 U.S.C. 78s(b)(3)(A).

¹⁸ 17 CFR 240.19b-4(e)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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 persons, 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Phlx-97-48 and should be submitted by January 2, 1998.

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

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SMALL BUSINESS ADMINISTRATION

Senior Executive Service; Performance Review Board Members

ACTION: Standing Roster of Members of this Agency's Senior Executive Service.

SUMMARY: Section 4314(c)(4) of Title 5, requires Federal agencies publish notification of the appointment of individuals who may serve as members of that Agency's Performance Review Boards (PRB). The following is a standing roster:

1. Paul Weech, Chief of Staff;
2. Chris Sale, Chief Operating Officer;
3. John Whitmore, Deputy to the Associate Deputy Administrator for Government Contracting and Minority Enterprise Development;
4. Mary K. Swedin, Assistant Administrator for Congressional and Legislative Affairs;
5. John Gray, Associate Deputy Administrator for Economic Development;
6. Carolyn J. Smith, Assistant Administrator for Human Resources;

¹⁹ 17 CFR 200.30-3(a)(12).

7. Herbert Mitchell, Deputy Associate Administrator for Disaster Assistance;
8. Mark Stephens, Deputy General Counsel;
9. John Smith, District Director (Chicago);
10. Erline Patrick, Assistant Administrator for Equal Employment Opportunity and Civil Rights Compliance;
11. Darryl Dennis, Counselor to the Administrator;
12. Charles Anderson, District Director (Miami);
13. Monika Harrison, Associate Administrator for Business Initiatives;;
14. Judith Roussel, Associate Administrator for Government Contracting;
15. Mark Quinn, District Director (San Francisco);
16. Larry Wilson, Chief Financial Officer;
17. Jeanne Saddler, Counselor to the Administrator;
18. John T. Spotila, General Counsel;
19. David Kohler, Associate General Counsel for General Law;
20. Eric Benderson, Associate General Counsel for Litigation;
21. Elizabeth Myers; Senior Advisor to the Administrator;
22. Jadine Neilsen, Senior Advisor to the Administrator;
23. Mona Mitnick, Assistant Administrator for Hearings and Appeals;
24. Edward Eugene Carlson, Associate Administrator for Communications and Public Liaison;
25. Gregory Walter, Deputy Chief Financial Officer;
26. Bernard Kulik, Associate Administrator for Disaster Assistance;
27. Jane Butler, Deputy Associate Administrator for Financial Assistance;
28. Arnold Rosenthal, Assistant Administrator for Borrower and Lender Servicing;
29. Don Christensen, Associate Administrator for Investment;
30. Robert Moffitt, Associate Administrator for Surety Guarantees;
31. Johnnie Albertson, Associate Administrator for Small Business Development Centers;
32. Jeanne Scalter, Acting Deputy to the Associate Deputy Administrator for Economic Development;;
33. James Van Wert, Senior Advisor for Policy and Planning;
34. Lawrence Barrett, Acting Associate Deputy Administrator for Management and Administration;