

(b) Formulate a recommendation as to the proposed participation, including the amount of the proposed follow-on investment, by the Investor and provide the recommendation to the non-interested directors.

The non-interested directors will make their own determination with respect to follow-on investments. To the extent that

(i) The amount of a follow-on investment opportunity is not based on the Investor's and Partners' initial investments; and

(ii) The aggregate amount recommended by GMC to be invested by the Investor in such follow-on investment, together with the amount proposed to be invested by Partners in the same transaction, exceeds the amount of the follow-on investment opportunity, the amount invested by each such party will be allocated among them *pro rata* based on the ratio of each party's total assets to the aggregated total assets of both parties, up to the maximum amount to be invested by each. The Investor will participate in such investment to the extent that the Required Majority determines that it is in the Investor's best interest. The acquisition of follow-on investments as permitted by this condition will be subject to the other conditions set forth in the application.

7. The non-interested directors will be provided quarterly for review all information concerning Co-investment Transactions, including investments made by Partners which the Investor considered but declined to participate, so that the non-interested directors may determine whether all investments made during the preceding quarter, including those investments which the Investor considered but declined to participate, comply with the conditions of the order. In addition, the non-interested directors will consider at least annually the continued appropriateness of the standards established for co-investments by the Investor, including whether the use of the standards continues to be in the best interests of the Investor and its shareholders and does not involve overreaching on the part of any person concerned.

8. The Investor will maintain the records required by section 57(f)(3) of the Act as if each of the investments permitted under these conditions were approved by the non-interested directors under section 57(f).

9. No non-interested director will also be a director, general partner or principal, or otherwise an "affiliated person" (as defined in the Act) of, Partners.

10. The expenses, if any, associated with acquiring, holding or disposing of any securities acquired in a Co-investment Transaction (including, without limitation, the expenses of the distribution of any such securities registered for sale under the Securities Act of 1933) shall, to the extent not payable solely by GMC under its investment advisory agreements with the Investor and Partners, be shared by the Investor and Partners in proportion to the relative amounts of their securities to be acquired or disposed of, as the case may be, by the Investor and Partners.

11. Any transaction fee (including break-up or commitment fees but excluding broker's fees contemplated by section 17(e)(2) of the Act) received in connection with a Co-investment Transaction will be distributed to the Investor and Partners on a *pro rata* basis based on the amount they invested or committed, as the case may be, in such Coinvestment Transaction. If any transaction fee is to be held by GMC pending consummation of the transaction, the fee will be deposited into an account maintained by GMC at a bank or banks having the qualifications prescribed in section 26(a)(1) of the Act, and the account will earn a competitive rate of interest that will also be divided *pro rata* between the Investor and Partners based on the amount they invest in such Coinvestment Transaction. Partners, GMC or any affiliated person of the Investor will not receive additional compensation or remuneration of any kind (other than (i) the *pro rata* transaction fees described above and (ii) investment advisory fees paid in accordance with investment advisory agreements with the Investor and Partners) as a result of or in connection with a Co-investment Transaction.

12. The Board of Directors of each Investor will satisfy the fund governance standards as defined in rule 0-1(a)(7) under the Act by the compliance date for the rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52657; SR-Amex-2005-047; SR-BSE-2005-39; SR-CBOE-2005-68; SR-ISE-2005-42; SR-PCX-2005-104; SR-Phlx-2005-27]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 by the American Stock Exchange LLC; a Proposed Rule Change by the Boston Stock Exchange, Inc.; a Proposed Rule Change by the Chicago Board Options Exchange, Incorporated; a Proposed Rule Change and Amendment No. 1 by the International Securities Exchange, Inc.; a Proposed Rule Change by the Pacific Exchange, Inc.; and a Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. Relating to the Definition of Firm Customer Quote Size and Limitations on Sending Secondary P/A Orders

October 24, 2005.

I. Introduction

On April 26, 2005, April 28, 2005, August 29, 2005, August 31, 2005, September 7, 2005, and September 13, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx"), the American Stock Exchange LLC ("Amex"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the International Securities Exchange, Inc. ("ISE"), the Pacific Exchange, Inc. ("PCX"), and the Boston Stock Exchange, Inc. ("BSE") (collectively, the "Options Exchanges"), respectively, 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 proposed rule changes to amend each of their respective rules governing the operation of the intermarket option linkage ("Linkage") to conform with a proposed amendment³ to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan").⁴ Each of the Exchanges is

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 52401 (September 9, 2005), 70 FR 54781 (September 16, 2005) (File No. 4-429) ("Amendment No. 16").

⁴ On July 28, 2000, the Commission approved a national market system plan for the purpose of creating and operating an intermarket option market linkage proposed by the Amex, CBOE, and ISE. See Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). Subsequently, upon separate requests by the Phlx, PCX, and BSE, the Commission issued orders to permit these exchanges to participate in the Linkage Plan. See Securities Exchange Act Release Nos. 43573 (November 16, 2000), 65 FR 70850 (November 28,

Continued

proposing: (i) To amend the definition of "Firm Customer Quote Size" ("FCQS")⁵ to provide automatic executions for Principal Acting as Agent Orders ("P/A Orders")⁶ sent via Linkage up to the full size of an Options Exchange's disseminated quotation; and (ii) to eliminate a 15-second waiting period between the sending of P/A Orders.

Phlx submitted Amendment No. 1 to its proposed rule change on September 2, 2005.⁷ ISE submitted Amendment No. 1 to its proposed rule change on September 7, 2005.⁸ Amex submitted Amendment No. 1 to its proposed rule change on September 12, 2005.⁹

Notice of: (i) Amex's proposed rule change, as amended; (ii) BSE's proposed rule change; (iii) CBOE's proposed rule change; (iv) ISE's proposed rule change, as amended; and (v) PCX's proposed rule change were published in the **Federal Register** on September 20, 2005.¹⁰ Notice of Phlx's proposed rule change, as amended, was published in the **Federal Register** on September 21, 2005.¹¹ No comments were received on the proposed rule changes. This order approves the proposed rule changes, as amended.

II. Description of the Proposals

The purpose of the proposed rule changes is to amend each of the Options Exchanges' rules governing the operation of the Linkage to conform with Amendment No. 16 to the Linkage

Plan.¹² In general, the proposed rule changes will modify the rules of each of the Options Exchanges in two respects. First, the definition of FCQS will be amended to reflect that all Options Exchanges disseminate dynamic option quotes with size. Specifically, each of the Option Exchanges proposes to amend its rules so that the FCQS is calculated based on the size of the disseminated quotation of the Options Exchange receiving the P/A Order. Secondly, the proposed rule changes will eliminate a 15-second waiting period for sending a subsequent P/A Order currently provided for in each of the Option Exchange's rules. Finally, the proposed rule changes will clarify the conditions under which automatic execution is required in response to P/A Orders.

III. Discussion

After careful review, the Commission finds that the proposed rule changes, as amended, are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges.¹³ In particular, the Commission finds that the proposed rule changes, as amended, are consistent with the provisions of section 6(b)(5) of the Act,¹⁴ which requires, among other things, that national securities exchanges' rules be designed to prevent fraudulent and manipulative acts and practices, 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.

The Commission believes that the proposed rule changes should facilitate the conformity of the Options Exchanges' rules to Amendment No. 16 to the Linkage Plan. Further, the Commission believes that the Options Exchanges' proposal to calculate FCQS on the basis of the size of the disseminated quotation of the Options Exchange receiving the P/A Order is appropriate and should facilitate the use of the Linkage for the Options Exchanges. This change proposed by the Options Exchanges, coupled with the proposed elimination of the 15-second waiting period for sending a subsequent P/A Order, should facilitate investors'

intermarket access to superior prices disseminated by Options Exchanges other than the one to which the order was initially sent.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule changes (SR-Amex-2005-047; SR-BSE-2005-39; SR-CBOE-2005-68; SR-ISE-2005-42; SR-PCX-2005-104; SR-Phlx-2005-27), as amended, are approved.

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

Jonathan G. Katz,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-52673; File No. SR-CBOE-2005-86]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Order Granting Accelerated Approval to a Proposed Rule Change To Establish Certain Fees with Respect to Transactions Executed Through the Intermarket Trading System

October 25, 2005.

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 October 18, 2005, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and is approving the proposal on an accelerated basis.

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

The Exchange proposes to enter into arrangements with other national securities exchanges to pass certain fees they have collected from members for transactions executed on another exchange through the Intermarket

2000), 43574 (November 16, 2000), 65 FR 70851 (November 28, 2000) and 49198 (February 5, 2004), 69 FR 7029 (February 12, 2004).

⁵ See Section 2(11) of the Linkage Plan; Amex Rule 940(b)(7); Chapter XII; Section 1(g) of BOX's Rules; CBOE Rule 6.80(9); ISE Rule 1900(7); PCX Rule 6.92(a)(10); and Phlx Rule 1083(g).

⁶ See Section 2(16)(a) of the Linkage Plan; Amex Rule 940(b)(10)(i); Chapter XII; Section 1(j)(i) of BOX's Rules; CBOE Rule 6.80(12)(i); ISE Rule 1900(10)(i); PCX Rule 6.92(a)(12)(i); and Phlx Rule 1083(k)(i).

⁷ In its Amendment No. 1, the Phlx made clarifying changes to the proposed rule text relating to the availability of Options Exchanges' automatic execution systems.

⁸ In its Amendment No. 1, the ISE made technical corrections to the proposed rule change.

⁹ In its Amendment No. 1, the Amex made clarifying changes to the proposed rule text relating to the availability of Options Exchanges' automatic execution systems.

¹⁰ Securities Exchange Act Release Nos. 52428 (September 14, 2005), 70 FR 55186 (September 20, 2005) (SR-Amex-2005-047); 52429 (September 14, 2005), 70 FR 55191 (September 20, 2005) (SR-BSE-2005-39); 52424 (September 14, 2005), 70 FR 55193 (September 20, 2005) (SR-CBOE-2005-68); 52410 (September 14, 2005), 70 FR 55198 (September 20, 2005) (SR-ISE-2005-42); and 52427 (September 14, 2005), 70 FR 55201 (September 20, 2005) (SR-PCX-2005-104).

¹¹ Securities Exchange Act Release No. 52425 (September 14, 2005), 70 FR 55443 (September 21, 2005) (SR-Phlx-2005-27).

¹² Amendment No. 16 to the Linkage Plan is approved separately today by the Commission. See Securities Exchange Act Release No. 52656 (October 24, 2005).

¹³ In approving these proposals, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).

¹⁷ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.