

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2001-84 and should be submitted by December 26, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45114; File No. SR-Phlx-2001-38]

Self-Regulatory Organizations; Order Granting Approval to Proposed Rule Change, and Amendment No. 1 Thereto, by the Philadelphia Stock Exchange, Inc. Relating to the Definition of a Controlled Account

November 28, 2001.

I. Introduction

On March 12, 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 related to the definition of a controlled account. On August 16, 2001, the Exchange filed Amendment No. 1 to the proposed rule change.³ The proposed rule change was published for comment in the **Federal Register** on September 18, 2001.⁴ This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Phlx proposes to amend the definition of controlled accounts under Phlx Rule 1014(g)(i) and Option Floor Procedure Advice ("Advice") B-6. The proposed rule change would also make corresponding amendments to Phlx Rule 1014(g)(i) and Advice B-6 pertaining to the requirements to circle the "yield" field on order tickets. This proposed rule change has been filed in response to the Ordering Instituting Public Administrative Proceeding Pursuant to section 19(h)(1) of the Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3-10282 (the "Order"). Under Section IV.B.j of the Order, the Exchange is required to codify market maker practices pertaining to the allocation of orders.

Currently, Phlx Rule 1014(g) defines the term controlled account to include "any account controlled by or under common control with a member broker-dealer." Phlx Option Specialists, Registered Options Traders ("ROT's")

and other "firm proprietary" accounts (if for the account of a member broker-dealer) are included in this definition. Under the rule, if an account is not a controlled account, it is considered a customer account. Thus all other accounts, including non-member broker-dealer accounts, are considered customer accounts. Except for specialists and ROTs closing in-person, controlled accounts must yield priority to customer accounts. Presently, member broker-dealers are required to yield priority to non-member broker-dealer accounts because such accounts are considered customer accounts under the rule language. However, Phlx Rule 1014(g) has been interpreted to yield the priority of non-member broker-dealer orders to "true" customer orders, and treat non-member broker-dealer orders on par with member broker-dealer orders on the floor of the Exchange. This proposed rule change would codify the floor's interpretation of the term "controlled account."

Specifically, the proposed rule change would amend the controlled account definition to include a non-member broker-dealer account. Thus, non-member broker-dealers would be required to yield priority to public customer orders, and be treated on par with orders for accounts of member broker-dealers. For instance, currently, where both a customer and a non-member broker-dealer order bid for 100 contracts at the same time and at the same price, the customer and the non-member broker-dealer would each be entitled to 50 contracts of an incoming order to sell 100 contracts under the rule. However, under the proposed rule change, the customer's bid would have priority over the non-member broker-dealer and would receive the entire execution of an incoming sell order for 100 contracts at that price. In addition, under the proposed rule change, where a non-member broker-dealer and a ROT both bid for 100 contracts at the same time and at the same price, the ROT and the non-member broker-dealer would each be entitled to 50 contracts as opposed to the result under the current rule in which the non-member broker-dealer would have priority and be entitled to the entire execution of the incoming sell order for 100 contracts.

In addition, the proposed rule change would amend Advice B-6 to clarify that there is no requirement to circle the "yield" field on market maker order tickets because unlike customer order tickets, the tickets used for orders by ROTs and other exchanges' market makers (due to the processing needs of clearing firms), do not have such a category. This amendment would make

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 J. Sanow, Senior Special Counsel, Division of Market Regulation, Commission, dated August 15, 2001 ("Amendment No. 1").

⁴ See Securities Exchange Act Release No. 44809 (September 18, 2001), 66 FR 49056 (September 25, 2001).

⁵ 17 CFR 200.30-3(a)(12).

Advice B-6 consistent with the expanded definition of controlled account under the proposed rule change. Currently, specialists and ROTs closing-in person are not required to circle the yield field; this requirement would not change. Other controlled accounts would still be required to circle the yield field.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange.⁵ In particular, the proposed rule change is consistent with sections 6(b)(5) and 6(b)(8) of the Act.⁶ The Commission finds that proposed rule change is consistent with the requirements of section 6(b)(5) of the Act⁷ because the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. The Commission also finds that the proposed rule change is consistent with section 6(b)(5) of the Act because the proposed rule change is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Further, the Commission finds that the proposed rule change is consistent with section 6(b)(8) of the Act⁸ because the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Commission finds that it is consistent with sections 6(b)(5) and 6(b)(8) of the Act⁹ to treat non-member broker-dealers and member broker-dealers similarly by generally requiring that orders for such accounts yield to customer orders. In this regard, this rule is similar to protections offered to customer orders in other contexts. Further, the Commission finds that parity between orders for non-member broker-dealers and member broker-dealers, except for members (*i.e.*, specialists and ROTs) that close in-person, is appropriate and consistent with the Act.

⁵ In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5) and 78f(b)(8).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(8).

⁹ 15 U.S.C. 78f(b)(5) and 78f(b)(8).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,¹⁰ that the proposed rule change (SR-Phlx-2001-38), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-30139 Filed 12-4-01; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

President's Commission To Strengthen Social Security

AGENCY: Social Security Administration (SSA).

ACTION: Announcement of meeting location.

DATES: December 11, 2001 10:00 a.m.–6:00 p.m.

ADDRESSES: Park Hyatt Ballroom, Park Hyatt Washington, 24th at M Street NW., Washington, DC 20037, (202) 789-1234.

SUPPLEMENTARY INFORMATION: The **Federal Register** notice announcing the December 11 meeting of the President's Commission to Strengthen Social Security did not include a meeting location. The purpose of this announcement is to provide the meeting location.

The Commission will meet commencing Tuesday, December 11, at 10:00 a.m. and ending at 6:00 p.m., with a break for lunch between 12:30 p.m. and 1:30 p.m. The Commission will be discussing its draft Final Report.

Dated: November 30, 2001.

Michael A. Anzick,

Designated Federal Officer.

[FR Doc. 01-30244 Filed 12-4-01; 8:45 am]

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DEPARTMENT OF STATE

Bureau of Consular Affairs

[Public Notice 3850]

Designation of Certain Posts for Special Fee Payment Procedures

This public notice adds additional posts, located in India and Vietnam, to those already designated by the Deputy Assistant Secretary for Visa Services for two purposes related to the payment of immigrant visa fees. The first purpose

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ 17 CFR 200.30-3(a)(12).

relates to the revised procedure for payment of the fee for the processing of the application for an immigrant visa set forth in the **Federal Register** on September 8, 2000, (65 FR 54598). The effective date of that notice was stayed until January 1, 2001 by a public notice in the **Federal Register** of December 14, 2000, (65 FR 78243).

The second purpose is to identify the posts for which a fee pursuant to Item 61 of the Schedule of Fees for Consular Services (22 CFR 22.1) will be assessed for advance review of and assistance with the Affidavit of Support that is required in certain immigrant visa cases. Notice of this fee requirement was added to the visa regulation pertaining to the Affidavit of Support requirement in 22 CFR 40.41(b), and was effective January 1, 2001.

The Department will publish further public notices as additional designations are made.

The Deputy Assistant Secretary for Visa Services has designated the Foreign Service posts in the following cities for participation in the new immigrant visa application processing fee payment system and the fee for review of and assistance with the Affidavit of Support required under section 213A of the Immigration and Nationality Act. The effective date of this notice is October 1, 2001.

Abidjan, Cote D'Ivoire
Accra, Ghana
Addis Ababa, Ethiopia
Algiers, Algeria
Antananarivo, Madagascar
Bogota, Colombia
Cairo, Egypt
Chennai, India
Casablanca, Morocco
Ciudad Juarez, Mexico
Cotonou, Benin
Dakar, Senegal
Dar-es-Salaam, Tanzania
Djibouti, Djibouti
Freetown, Sierra Leone
Georgetown, Guyana
Guangzhou, China
Harare, Zimbabwe
Ho Chi Minh City, Vietnam
Johannesburg, South Africa
Kinshasa, Democratic Republic of the Congo
Lagos, Nigeria
Libreville, Gabon
Lilongwe, Malawi
Lome, Togo
Lusaka, Zambia
Manila, Philippines
Monrovia, Liberia
Montreal, Canada
Mumbai, India
Nairobi, Kenya
New Delhi, India