

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51827; File No. SR-Phlx-2005-20)

June 13, 2005

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change, and Amendment No. 1 Thereto, Relating to the Elimination of the Prohibition Against the Entry of Multiple Orders in an Option Within Any 15-Second Period for an Account or Accounts of the Same Beneficial Owner

On March 24, 2005, 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 amend Exchange Rule 1080, Philadelphia Stock Exchange Automated Options Market (“AUTOM”) System,³ to eliminate the restriction against Order Entry Firms⁴ entering or permitting the entry of multiple orders in an option within any 15-second period for an account or accounts of the same beneficial owner and to eliminate a similar provision in Commentary .05 to Exchange Rule 1080 relating to proprietary orders submitted by off-floor broker-dealers.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ AUTOM is the Exchange’s electronic order delivery, routing, execution 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 certain orders are eligible for AUTOM’s automatic execution features, Book Sweep and Book Match. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. See Exchange Rule 1080.

⁴ The Exchange defines an “Order Entry Firm” as a member organization of the Exchange that is able to route orders to AUTOM. See Exchange Rule 1080(c)(ii)(A)(1).

⁵ The term “off-floor broker-dealer” means a broker-dealer that delivers orders from off the floor of the Exchange for the proprietary account(s) of such broker-dealer, including a market maker located on an exchange or trading floor other than the Exchange’s trading floor who elects to deliver orders via AUTOM for the proprietary account(s) of such market maker. See Exchange Rule 1080(b)(i)(C).

On April 11, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.⁶ The proposed rule change, as amended, was published for comment in the Federal Register on May 6, 2005.⁷ The Commission received no comments on the proposal.

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 exchange⁸ and, in particular, the requirements of Section 6(b) of the Act⁹ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,¹⁰ in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In the Commission's view, removal of the limitation on the entry into AUTOM of multiple orders by an Order Entry Firm for the same beneficial account owner within any 15-second period should help facilitate more efficient and immediate executions on the Exchange.

⁶ In Amendment No. 1, the Exchange revised the status of the proposed rule change from one that would take effect upon filing with the Commission under Section 19(b)(3)(A) of the Act, 15 U.S.C. 78s(b)(3)(A), to one that is filed under Section 19(b)(2) of the Act.

⁷ See Securities Exchange Act Release No. 51640 (April 29, 2005), 70 FR 24156.

⁸ In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-Phlx-2005-20), as amended, be, and hereby is, approved.

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

Margaret H. McFarland
Deputy Secretary

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).