

**SECURITIES AND EXCHANGE COMMISSION**  
**(Release No. 34-52082; File No. SR-Phlx-2005-45)**

**July 20, 2005**

**Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change by the Relating to the Automatic Execution of Option Transactions During Crossed Markets**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on July 12, 2005, the Philadelphia Stock Exchange, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. 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 Phlx proposes to provide for automatic executions when the Exchange’s disseminated market is crossed by one minimum trading increment (i.e., \$1.05 bid, \$1.00 offer or \$3.10 bid, \$3.00 offer), and the Exchange’s disseminated price is the National Best Bid/Offer (“NBBO”). Additionally, as a housekeeping matter, the proposed rule change would delete Phlx Rule 1080(c)(iv)(G), a reference to an obsolete pilot program relating to the disengagement of AUTO-X.

The text of the proposed rule change is set forth below. Brackets indicate deletions; underlining indicates new text.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

**Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO-X)**

**Rule 1080.** (a) - (b) No change.

(c)(i) - (iii) No change

(iv) Except as otherwise provided in this Rule, in the following circumstances, an order otherwise eligible for automatic execution will instead be manually handled by the specialist:

(A) the Exchange's disseminated market is crossed by more than one minimum trading increment (as defined in Exchange Rule 1034) (i.e., 2.10 bid, 2 offer), or crosses the disseminated market of another options exchange by more than one minimum trading increment;

(B) - (D) No change.

(E) if the Exchange's bid or offer is not the NBBO; and

(F) when the price of a limit order is not in the appropriate minimum trading increment pursuant to Rule 1034<sub>2</sub> [; and

(G) respecting non-Streaming Quote Options, when the number of contracts automatically executed within a 15 second period in an option (subject to a Pilot program through April 30, 2005) exceeds the specified disengagement size, a 30 second period ensues during which subsequent orders are handled manually. If the Exchange's disseminated size exceeds the specified disengagement size and an eligible order is delivered for a number of contracts that is greater than the specified disengagement size, such an order will be automatically executed up to the disseminated size, followed by an AUTO-X disengagement period of 30 seconds. If the specialist revises the quotation in

such an option prior to the expiration of such 30-second period, eligible orders in such an option shall again be executed automatically.]

The Exchange's systems are designed and programmed to identify the conditions that cause inbound orders to be ineligible for automatic execution. Once it is established that inbound orders are ineligible for automatic execution, Exchange staff has the ability to determine which of the above conditions occurred.

## **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Phlx 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 Phlx 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**

The purpose of the proposed rule change is to increase the automated handling and execution of option orders on the Exchange by establishing that orders are eligible for automatic execution during crossed markets when such markets are crossed by one minimum trading increment.<sup>3</sup>

Currently, Exchange Rule 1080(c)(iv)(A) states that an order otherwise eligible for automatic execution will instead be manually handled by the specialist when the Exchange's

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<sup>3</sup> Exchange Rule 1034, Minimum Increments, currently provides that all options on stocks, index options, and Exchange Traded Options quoting in decimals at \$3.00 or higher shall have a minimum increment of \$.10, and all options on stocks and index options quoting in decimals under \$3.00 shall have a minimum increment of \$.05.

disseminated market is crossed or crosses the disseminated market of another options exchange.<sup>4</sup> The proposed rule change would limit the specialist's manual handling of orders during crossed markets to situations where the market is crossed by more than one minimum trading increment (i.e., 2.10 bid, 2 offer). The proposed rule would provide that an order otherwise eligible for automatic execution would instead be handled manually by the specialist when the Exchange's disseminated market is crossed by more than one minimum trading increment, or crosses the disseminated market of another options exchange by more than one minimum trading increment.

Thus, the effect of the proposal is that orders would be eligible for automatic execution when the Exchange's disseminated market is crossed or crosses another exchange's market by just one minimum trading increment (and where the Exchange's disseminated market is the NBBO).<sup>5</sup>

The Exchange believes that establishing a limitation of one minimum trading increment as the amount by which a market may be crossed in order to provide automatic executions during crossed markets should provide Exchange specialists and Registered Options Traders ("ROTs") with sufficient ability to manage their market risk during times of crossed markets. The Exchange believes that a market that is crossed by an amount greater than one minimum trading increment is an indication that one or more options market(s) or market makers may be experiencing quotation system issues that do not reflect current market conditions, and thus orders on the Exchange would be handled manually by the specialist in such circumstances.

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<sup>4</sup> Eligible orders are currently executed automatically on the Exchange during locked markets (i.e., 2 bid, 2 offer). See Securities Exchange Act Release No. 47359 (February 12, 2003), 68 FR 8322 (February 20, 2003) (SR-Phlx-2003-03).

<sup>5</sup> Orders otherwise eligible for automatic execution will instead be handled manually by the specialist when the Exchange's disseminated market is not the NBBO. See Exchange Rule 1080(c)(iv)(E). Therefore, for an order to be eligible for automatic execution during a crossed market, the Exchange's disseminated market must be the NBBO.

On the other hand, the Exchange believes that markets that are crossed by only one single minimum trading increment in today's increasingly electronic marketplace reflect the number and speed of electronic quotations and the number of market makers submitting such quotations, and therefore do not necessarily indicate system errors that may result in unusual risk to market makers.

Finally, as a housekeeping matter, the Exchange proposes to delete Phlx Rule 1080(c)(iv)(G), a reference to an expired pilot program relating to the disengagement of AUTO-X for "non-Streaming Quote Options."<sup>6</sup> There are no longer any non-Streaming Quote Options traded on the Exchange; therefore Phlx Rule 1080(c)(iv)(G) is no longer applicable.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest and promote just and equitable principles of trade, by establishing conditions under which the Exchange will provide automatic executions during times of crossed markets, thus increasing the number of orders that are handled electronically on the Exchange.

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

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

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<sup>6</sup> A "non-Streaming Quote Option" was previously defined as an option that is not traded on the Exchange's electronic trading platform for options, "Phlx XL." See Securities Exchange Act Release No. 50100 (July 27, 2004), 69 FR 46612 (August 3, 2004) (SR-Phlx-2003-59). All options traded on the Exchange are now traded on Phlx XL.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

No written comments were either solicited or received.

**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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2005-45 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-Phlx-2005-45. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2005-45 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Jill M. Peterson  
Assistant Secretary

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<sup>9</sup> 17 CFR 200.30-3(a)(12).