

situation where a member who initiates the purchase (sale) of an ITS security at a price which is higher (lower) than the price at which the security is being offered (bid) in another ITS participating market, sends contemporaneously through ITS to such ITS participating market a commitment to trade at such offer (bid) price or better and for at least the number of shares displayed with that market center's better-priced offer (bid); and

ii. A trade-through complaint sent in these circumstances is not valid, even if the commitment sent in satisfaction cancels or expires, and even if there is more stock behind the quote in the other market.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act,<sup>4</sup> in general, and Section 6(b)(5) of the Act,<sup>5</sup> in particular, in that it will promote just and equitable principles of trade, facilitate transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments on the proposed rule change were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act<sup>6</sup> and subparagraph (f)(1) of Rule 19b-4 thereunder,<sup>7</sup> because it is concerned solely with the interpretation of the meaning, administration or enforcement of existing NYSE Rule 15A. At any time within 60 days of the filing of such 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.<sup>8</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-NYSE-2003-36. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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 NYSE. All submissions should refer to file number SR-NYSE-2003-36 and should be submitted by February 11, 2004.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 04-1212 Filed 1-20-04; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49074; File No. SR-Phlx-2003-72]

### **Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Reduce Strike Prices for Index Options**

January 14, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 4, 2003, 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 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 amend Phlx Rule 1101A ("Terms of Option Contracts") to provide that strike price intervals for index options<sup>3</sup> shall be \$2.50 for the three consecutive near-term months, \$5 for the fourth month, and \$10 for the fifth month. The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

#### **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 Phlx proposes to reduce strike price intervals of index options, thereby

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>7</sup> 17 CFR 240.19b-4(f)(1).

<sup>8</sup> For purposes of determining the effective date of the filing and calculating the 60-day abrogation date, the Commission considers the period to commence on January 6, 2004, the date the NYSE filed Amendment No. 1.

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

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

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

<sup>3</sup> Index options traded on the Exchange are also known as sector index options.

providing added flexibility to customers trading index options.

Currently, Phlx Rule 1101A provides that strike price intervals for index options shall be \$5 for the three consecutive near-term months, \$10 for the fourth month, and \$30 for the fifth, and that the Exchange may determine to list strike prices at \$5 intervals in response to demonstrated customer interest or a specialist request. The proposed rule change would significantly reduce the strike price intervals of index option products—to \$2.50 for three consecutive near-term months, \$5 for the fourth month, and \$10 for the fifth month—and continue to allow the Exchange to list index price options at the new strike prices in response to customer and option specialist requests.

The Phlx believes the proposed rule change is particularly necessary in current economic conditions. Over the past two years, the Exchange notes that stock prices in general have dropped and the prices of certain listed stocks suffered precipitous declines, resulting in a proliferation of stocks trading below \$25 ("lowest-tier stocks") at the Exchange. Many such lowest-tier stocks are the components of the largest index options traded on the Exchange. The Exchange states that at this time, for example, between 40% and 75% of the components of the three largest index options traded on the Exchange (XAU, the Phlx Gold/Silver Index; OSX, the Phlx Oil Service Index; and SOX, the Phlx Semiconductor Index) are lowest-tier stocks. In addition, the Phlx states that the depressed prices of many of the components that make up these index options would require substantial price movement to move between the current \$5, \$10, and \$30 strike price ranges.

The Exchange believes that, given the current last prices of its 14 index options from a range of approximately \$86 to \$531 as of December 2, 2003,<sup>4</sup> and annualized volatilities ranging from 14% to 39%, 11 of the Exchange's index options would not be statistically expected to: (a) On a daily basis move through the next higher or lower strike price, from the current minimum \$5 strike price; (b) on a weekly basis move through more than one \$5 strike price; or (c) on a monthly basis move through more than three \$5 strike prices. The Phlx believes that many index options are not expected to move through a strike price range at all. Under the

current Phlx Rule 1101A strike price structure, for example, seven index options are not expected to move through even one \$5 strike price on a weekly basis, and two index options are not expected to move through a single \$5 strike price on a monthly basis.

The minimum \$5 strike price for index options in Phlx Rule 1101A results in many index options products expiring at or out-of-the-money. The Phlx believes that allowing \$2.50 strikes in index options and reducing the current \$10 and \$30 strikes would give investors increased flexibility and an opportunity to trade options series that are more likely to expire in-the-money.

Moreover, the Exchange believes that, according to Options Price Reporting Authority ("OPRA") figures, there is sufficient OPRA system capacity to accommodate the Exchange's proposal. On a daily basis, for example, the OPRA participants (AMEX, CBOE, ISE, PCX, and Phlx)<sup>5</sup> are using an average of less than 10,000 messages per second ("mps"), which is less than one third of the current total system capacity of 32,000 mps.<sup>6</sup> To date, the OPRA participants have yet to exceed 16,000 mps for any extended period of time.<sup>7</sup> Thus, the Phlx believes that implementing the proposed strike price changes to Phlx Rule 1101A should not have any significant negative impact on OPRA system capacity.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>9</sup> in particular, in that it is designed to perfect the mechanism 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 allowing the Exchange to list index options at strike price intervals of \$2.50 for three consecutive near-term months, \$5 for the fourth month, and \$10 for the fifth month, and thereby providing added flexibility to customers trading index options.

<sup>5</sup> The OPRA participants are: American Stock Exchange LLC; Chicago Board Options Exchange, Inc.; International Securities Exchange, Inc.; and Pacific Exchange, Inc.

<sup>6</sup> The OPRA participants have recently voted to expand OPRA system capacity to 40,000 mps.

<sup>7</sup> According to OPRA's information processor, Securities Industry Information Corporation ("SIAC"), on September 30, 2003, the one-minute peak (total for all participants) was approximately 15,069 mps, and the five-minute peak was approximately 12,639 mps.

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

## 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.

## 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 Phlx 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-Phlx-2003-72. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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

<sup>4</sup> The Exchange notes that the last price of the highest-priced index, the Phlx/KBX Bank Index, at approximately \$955, is almost twice that of the second-highest-priced index, the Phlx Semiconductor Index, and significantly higher-priced than the Exchange's 12 other indexes.

the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2003-72 and should be submitted by February 11, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 04-1213 Filed 1-20-04; 8:45 am]

**BILLING CODE 8010-01-P**

## SOCIAL SECURITY ADMINISTRATION

### The Ticket To Work and Work Incentives Advisory Panel Meeting

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of meetings.

**DATES:** February 10, 2004, 9 a.m.—4 p.m.;\* February 11, 2004, 9 a.m.—5 p.m.; February 12, 2004, 9 a.m.—1 p.m.

\*The full deliberative panel meeting ends at 4 p.m. The standing committees of the Panel will meet from 4 p.m. until 5:30 p.m.

**ADDRESSES:** Wyndham Bonaventure Resort & Spa, 250 Racquet Club Road, Weston, FL 33326, Phone: (954) 389-3300.

#### SUPPLEMENTARY INFORMATION:

**Type of meeting:** This is a quarterly meeting open to the public. The public is invited to participate by coming to the address listed above. Public comment will be taken during the quarterly meeting. The public is also invited to submit comments in writing on the implementation of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

**Purpose:** In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces a meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Pub. L. 106-170 establishes the Panel to advise the President, the Congress and the Commissioner of SSA, on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings, hear

presentations, conduct full Panel deliberations on the implementation of TWWIIA and receive public testimony. The topics for the meeting will include presentations of Vocational Rehabilitation, Use and Access to the SSA Work Incentives, Employment Supports, Advocacy and the Ticket, and agency updates from SSA, the Department of Education and the Department of Health and Human Services.

The Panel will meet in person commencing on Tuesday, February 10, 2004 from 9 a.m. to 4 p.m. (standing committee meetings from 4 p.m. to 5:30 p.m.); Wednesday, February 11, 2004 from 9 a.m. to 5 p.m.; and Thursday, February 12, 2004 from 9 a.m. to 1 p.m.

**Agenda:** The Panel will hold a quarterly meeting. Briefings, presentations, full Panel deliberations and other Panel business will be held Tuesday, Wednesday and Thursday, February 10, 11, and 12, 2004. Public testimony will be heard in person Tuesday, February 10, 2004 from 3:15 p.m. to 3:45 p.m. and on Thursday, February 12, 2004 from 9 a.m. to 9:30 a.m. Members of the public must schedule a timeslot in order to comment. In the event that the public comments do not take up the scheduled time period for public comment, the Panel will use that time to deliberate and conduct other Panel business.

Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule time slots. Each presenter will be called on by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute verbal presentation. Full written testimony on TWWIIA Implementation, no longer than 5 pages, may be submitted in person or by mail, fax or email on an on-going basis to the Panel for consideration.

Since seating may be limited, persons interested in providing testimony at the meeting should contact the Panel staff by e-mailing Monique Fisher, at [Monique.Fisher@ssa.gov](mailto:Monique.Fisher@ssa.gov) or calling (202) 358-6435.

The full agenda for the meeting will be posted on the Internet at <http://www.ssa.gov/work/panel> at least one week before the meeting or can be received in advance electronically or by fax upon request.

**Contact Information:** Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff. Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring

information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024.
- Telephone contact with Monique Fisher at (202) 358-6435.
- Fax at (202) 358-6440.
- E-mail to [TWWIIAPanel@ssa.gov](mailto:TWWIIAPanel@ssa.gov).

Dated: January 13, 2004.

**Deborah Morrison,**

*Designated Federal Officer.*

[FR Doc. 04-1230 Filed 1-20-04; 8:45 am]

**BILLING CODE 4191-02-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement, Manatee County, FL

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Revised notice of intent.

**SUMMARY:** On November 13, 2000, the FHWA published a notice of intent in the **Federal Register** (Vol. 65, No. 219, pg. 67791) to prepare an environmental impact statement (EIS) for a proposed roadway/bridge project in Manatee County, Florida. Subsequent study indicated that there was very little controversy and impacts to pristine natural environment as previously anticipated. The FHWA is re-issuing this notice to advise the public that although an environmental assessment (EA) was prepared and approved, an EIS will now be prepared in response to growing public controversy.

**FOR FURTHER INFORMATION CONTACT:** Mr. BSB Murthy, District Transportation Engineer, Federal Highway Administration, 227 North Bronough Street, Room 2015, Tallahassee, Florida 32301-2015, Telephone (850) 942-9650, Ext. 3032.

**SUPPLEMENTARY INFORMATION:** The FHWA, in consultation with the Florida Department of Transportation, will prepare an EIS for a proposal to improve regional traffic circulation in the rapidly developing portion of eastern Manatee County. The EIS will examine a study area bounded by State Road (SR) 64 to the south, Rye Road to the east, CR 675 and U.S. 301 to the north and I-75 to the west. The proposed project will include improvements to Upper Manatee River Road and Fort Hamer Road, and provide a new bridge connection across the Upper Manatee River south of the community of Parrish

<sup>10</sup> 17 CFR 200.30-3(a)(12).