

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.¹⁴ The Commission notes that it has previously approved similar listing standards proposed by the Amex, the CBOE, the PCX, and the ISE for options on trust issued receipts, and it believes that the Phlx's proposal contains in adequate safeguards, matching those previously approved.¹⁵ As the Commission found in its previous approvals of the listing standards proposed by the other exchanges, the listing and trading of options, including FLEX equity options, on exchange-traded trust issued receipts, should give investors a better means to hedge their positions in the underlying trust issued receipts. The Commission also believes that pricing of the underlying trust issued receipts may become more efficient, and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on trust issued receipts likely will engender the same benefits to investors and the marketplace that exist with respect to options on common stock, thereby serving to promote the public interest, to remove impediments to a free and open securities market, and to promote efficiency, competition, and capital formation.¹⁶

The Commission finds that the Exchange's listing and delisting criteria for options on trust issued receipts are adequate. The proposed listing and maintenance requirements should ensure that there exist adequate supplies of the underlying trust issued receipts in case of the exercise of an option, and a minimum level of liquidity to control against manipulation and to allow for the maintenance of fair and orderly markets.¹⁷ The Phlx's additional

requirements for opening additional series of options on HOLDERS will also ensure that the underlying securities are options eligible, and, for the most part, will satisfy minimum thresholds previously approved by the Commission.

The Commission also believes that the surveillance standards developed by the Phlx for options on trust issued receipts are adequate to address the concerns associated with the listing and trading of such securities. The Phlx's proposal to limit the weight of the portfolio that may be composed of ADRs whose primary markets are in countries that are not subject to comprehensive surveillance agreements is similar to that previously approved by the Commission.¹⁸ As to domestically traded trust issued receipts themselves and the domestic stocks in the underlying portfolio, the Internmarket Surveillance Group ("ISG") Agreement will be applicable to the trading of options on trust issued receipts.¹⁹

Finally, the Commission believes that the Phlx's proposed margin requirements are appropriate. The Commission notes that they are comparable to margin requirements that currently apply to broad-based and narrow-based index options, and to those previously approved for use at the Amex, the CBOE, the ISE, and the PCX.²⁰

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act.²¹ As noted above, the trading requirement for options on trust issued receipts at the Phlx will be substantially similar to those at the Amex, the CBOE, the ISE, and the PCX, which the Commission has previously approved.²² The Commission does not believe that the proposed rule change raises novel regulatory issues that were not already addressed and should benefit holders of trust issued receipts by permitting them to use options to manage the risks of their positions in the receipts. Accordingly, the Commission finds that there is good cause, consistent with

Section 6(b)(5) of the Act,²³ to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁴ that the proposed rule change (SR-Phlx-2001-71) and Amendment No. 1 are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁵

Jonathan G. Katz,
Secretary.

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SMALL BUSINESS ADMINISTRATION

Region IV—Georgia District Advisory Council Public Meeting

The Small Business Administration Region IV Georgia District Advisory Council, located in the geographical area of Atlanta, Georgia, will hold a public meeting on Friday, September 21, 2001 at 9:00 a.m. EST at the Hyatt Regency, 2 West Bay Street, Savannah, Georgia 31401, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Charles E. Anderson, District Director, in writing by letter or fax no later than September 7, 2001, in order to be put on the agenda. Charles E. Anderson, District Director, U.S. Small Business Administration, 233 Peachtree Street, NE, Suite 1900, Atlanta, Georgia 30303, (404) 331-0266 phone (404) 331-0269 fax.

Steve Tupper,
Committee Management Officer.

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SMALL BUSINESS ADMINISTRATION

Declaration of Military Reservist Economic Injury Disaster Loan #R101

As a result of Public Law 106-50, the Veterans Entrepreneurship and Small Business Development Act of 1999, this notice establishes the application filing period for the Military Reservist Economic Injury Disaster Loan program. Effective August 24, 2001, small businesses employing military reservists may apply for economic injury disaster

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ See *supra* note 4.

¹⁶ 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).

¹⁷ The Commission notes that even if options on trust issued receipts were not listed under the uniform equity option listing standards, the exchanges trading trust issued receipts generally require a minimum number of trust issued receipts to be outstanding before trading in a series of trust issued receipts may commence. See Amex Rule

1202; Boston Stock Exchange Guide, Chapter XXIV-A, Sec. 5; Chicago stock Exchange Guide, Rule 27; Cincinnati Stock Exchange, Rule 11.9(w); PCX Rule 8.200; and Phlx Rule 803(j).

¹⁸ See *supra* note 4.

¹⁹ ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets.

²⁰ See *supra* note 4.

²¹ 15 U.S.C. 78s(b)(2).

²² See *supra* note 4.

²³ 15 U.S.C. 78f(b)(5).

²⁴ 15 U.S.C. 78s(b)(2).

²⁵ 17 CFR 200.30-3(a)(12).