

and/or give proxies<sup>5</sup> for each and every membership. Additionally, the amendments would allow titleholders to sign multiple times representing each regular membership they hold legal title to with respect to independent nominations for industry governors, to be counted for quorum purposes, to be counted for purposes of calling a special membership meeting, and to be counted for purposes of offering any amendment to the By-Laws or requesting the calling of a special meeting of the membership to vote on a proposed By-Law amendment. Finally, the Exchange believes that these amendments would allow all legal titleholders to participate fully in Exchange governance opportunities whereas under current interpretation of the By-Laws legal titleholders with multiple legal titles to regular memberships registered in their name are allowed only one vote.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(3) of the Act<sup>7</sup> in particular, in that the rules of the Exchange assure a fair representation of its members in the selection of its directors and administration of its affairs by providing for legal titleholders that own more than one regular membership to participate more fully in Exchange governance.

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

The Exchange does not believe that the proposed rule change would 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 the Exchange 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 Phlx. All submissions should refer to file number SR-Phlx-2003-49 and should be submitted by September 9, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 03-21132 Filed 8-18-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48323; File No. SR-Phlx-2003-43]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to By-Law Article 12-11, Use of Facilities

August 12, 2003.

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 June 2,

2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to 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 its By-Laws to limit the liability of The Options Clearing Corporation ("OCC") to members and member organizations resulting from their use of the Intermarket Options Linkage ("Linkage").

The text of the proposed rule change is below. Proposed additions are in *italics*.

\* \* \* \* \*

#### Sec. 12-11 Use of Facilities of Exchange

SEC. 12-11. The Exchange shall not be liable for any damages sustained by a member or a member organization growing out of the use or enjoyment by such member or member organization of the facilities afforded by the Exchange to members for the conduct of their business. *The Options Clearing Corporation shall not be liable to members and member organizations with respect to the use, non-use or inability to use the Intermarket Options Linkage, including without limitation the content of orders, trades, or other business facilitated through the Intermarket Options Linkage, the truth or accuracy of the content of messages or other information transmitted through the Intermarket Options Linkage, or otherwise.*

\* \* \* \* \*

### 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 had 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.

<sup>5</sup> Exchange By-Law Article III, Section 3-12 (Right to Vote) provides as follows: Each regular member of the Exchange in good standing shall be entitled to vote at any election of the Exchange. Each such member may vote in person or by proxy under such regulations as the Nominating and Elections Committee, with the approval of the Board of Governors, may direct.

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(3).

<sup>8</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.

*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 limit the liability of OCC to Phlx members and member organizations resulting from their use, non-use or inability to use the Linkage. The Phlx, along with the American Stock Exchange LLC, the Chicago Board Options Exchange, Inc., the International Securities Exchange, Inc., and the Pacific Exchange, Inc. (together with the Phlx, known as the "Exchanges"), entered into an agreement with OCC regarding the construction and on-going maintenance and operation of the Linkage (the "Agreement"). In the Agreement, the Exchanges consented to each file a proposed rule change with the Commission limiting OCC's liability to the respective Exchanges' members. The Phlx believes that the present proposed rule change satisfies its respective obligation.

The Phlx believes that the proposed rule change is a reasonable extension of the existing limitation of liability enjoyed by the Exchange in Phlx By-Law Article XII, Section 12-11 (the "By-Law") to OCC. Both the OCC and the Exchange are performing functions related to the on-going maintenance and operation of the Linkage, the benefits of which are enjoyed by the Exchange's members. While the Phlx believes that the By-Law would afford the Exchange protection from liability from members' and member organizations' use of Exchange facilities regarding Linkage, the By-Law, in its current form, does not extend similar protection to OCC. The proposed By-Law amendment would extend that protection to OCC, which should prevent OCC from being the target of liability claims made by members and member organizations who may look for satisfaction to an otherwise unprotected OCC. The Phlx believes that this protection should contribute to the efficient operation of the Linkage.

2. Statutory Basis

The Phlx believes that its proposal is consistent with Section 6(b) of the Act<sup>3</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>4</sup> in particular, in that it is intended to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing

information with respect to, and facilitating transactions in securities, and, in general, to protect investors and the public interest by promoting efficient operation of the Linkage by extending liability protection to OCC, which provides functions related to the Linkage's on-going maintenance and operations.

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

The Phlx 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*

The Phlx neither solicited nor received written comments concerning the proposed rule change.

**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 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. 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 filings will also be available for inspection and copying at the principal office of the Phlx. All

submissions should refer to File No. SR-Phlx-2003-43 and should be submitted by September 9, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-21178 Filed 8-18-03; 8:45 am]

**BILLING CODE 8010-01-P**

**DEPARTMENT OF STATE**

**[Public Notice 4450]**

**Consular Affairs, Overseas Citizen Services, Office of Children's Issues; 30-Day Notice of Proposed Information Collection: Form DS-3013, Application for Assistance Under The Hague Convention on the Civil Aspects of International Child Abduction; OMB Control Number 1405-0076**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Extension of currently approved collection.

*Originating Office:* Bureau of Consular Affairs, Overseas Citizen Service, Office of Children's Issues, CA/OCS/CI

*Title of Information Collection:* Application for Assistance Under The Hague Convention on the Civil Aspects of International Child Abduction.

*Frequency:* On occasion.

*Form Number:* DS-3013.

*Respondents:* Individuals.

*Estimated Number of Respondents:* 500.

*Average Hours Per Response:* 1.

*Total Estimated Burden:* 500 hours.

*Public comments are being solicited to permit the agency to:*

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.

- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.

<sup>3</sup> 15 U.S.C. 78f(b).

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 17 CFR 200.30-3(a)(12).