Customer CMTA Indicator, the matching trade information will also contain a ''CMTA Customer Identifier,'' which provides identification information about the CMTA customer on whose behalf a transaction was executed, and an ''IB Identifier,'' which provides identification information about the introducing broker that executed or arranged for the execution of such transaction.[4]

If a transaction is marked with the CMTA Indicator, OCC's systems will verify against a database of registered identifiers that the CMTA Customer Identifier and the IB Identifier supplied as a part of the trade information match registered identifiers for purposes of the CMTA arrangement between the carrying clearing member and executing clearing member. This verification step will be in addition to the other verifications performed by OCC's systems for CMTA processing. If a transaction is marked with a Customer CMTA Indicator but either the CMTA Customer Identifier or the IB Identifier is incomplete, inaccurate, or missing, OCC's systems will treat the transaction as a failed CMTA and will cause the transaction to be cleared in the executing clearing member's designated or default account in accordance with OCC Rule 403.

Under the terms of a model agreement, which was developed by a working group of clearing members, options exchanges, and OCC, the firms will identify each CMTA covered customer. Each clearing member will then assign identifiers to their CMTA customers and introducing brokers. One clearing member will then register the assigned identifiers with OCC. OCC's systems will require the other clearing member to approve the identifiers before they are submitted to OCC for registration. Identifiers will be effectively registered when they are accepted by OCC's systems, subject to OCC's right to reject an already registered identifier.[5] OCC will retain the right to specify criteria applicable to the characters used to form identifiers for systemic reasons.

II. Discussion

Section 17A(b)(3)(F) of the Act[6] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission finds that the proposed rule change is consistent with OCC's obligations under Section 17A(b)(3)(F) because including identifying information about the CMTA customer and introducing broker to a transaction will make CMTA processing more transparent and should increase the regulatory and legal certainties with respect thereto. Specifically, the amendment to CTMA processing should better enable OCC members to make sure that transactions are properly sent to their accounts for clearing.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[7] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2004–19) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–1143 Filed 3–15–05; 8:45 am]

BILLING CODE 8010–01–P

[4] If the ''introducing broker'' is also the ''executing clearing member,'' a separate IB Identifier will still be required.

[5] Carrying and executing clearing members will be responsible to update their respective registrations of CMTA Customer Identifiers and IB Identifiers including registering any changes or deletions with respect thereto.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 15 U.S.C. 78q–1.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–51352; File No. SR–Phlx–2005–03]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to System Changes to the Exchange's Automated Options Market (AUTOM) System

March 9, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 10, 2005, 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 Exchange. On March 9, 2005, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain Exchange rules relating to system changes to the Philadelphia Stock Exchange Automated Options Market (''AUTOM'') System.[4] The text of the proposed rule change is included below. Italics indicate new text; brackets indicate deletions.

Rule 1080. Philadelphia Stock Exchange Automated Options Market (AUTOM) and Automatic Execution System (AUTO–X)

(a)–(b) No change.

(c) AUTO–X.

* * * * *

(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 (*i.e.*, 2[−1/8].*10* bid, 2 offer), or crosses the disseminated market of another options exchange;

(B) The AUTOM System is not open for trading when the order is received (which is known as a pre-market order);

(C) The disseminated market is produced during an opening or other rotation;

(D) When the specialist posts a bid or offer that is better than the specialist's own bid or offer (except with respect to orders eligible for ''Book Sweep'' as described in Rule 1080(c)(iii) above, and ''Book Match'' as described in Rule 1080(g)(ii) below);

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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Form 19b-4 dated March 8, 2005 (''Amendment No. 1''). In Amendment No. 1, the Exchange clarified the proposed new functionality of the AUTOM System. Amendment No. 1 replaced the original filing in its entirety.

[4] 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, AUTO–X, 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. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist limit order book on the Exchange trading floor. *See* Exchange Rule 1080.

(F) When the price of a limit order is not in the appropriate minimum trading increment pursuant to Rule 1034; *and*

(G[) When the bid price is zero respecting sell orders; and

(H]) 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.

(v) In situations in which the Exchange receives a market order that is not eligible for automatic execution because of any of the conditions described in Rule 1080(c)(iv), such market order, if not already executed manually by the specialist, will nonetheless be executed automatically when: (A) a limit order resting on the limit order book or a quotation that was not priced at the NBBO at the time such market order was received, becomes priced at the NBBO; or (B) an inbound limit order or quotation priced at or better than the NBBO is received before the specialist has manually executed such market order. In each case, the AUTOM System will automatically execute the market order against such resting limit order or quotation, or against such inbound limit order or quotation, at or better than the NBBO price.

(vi) When the Exchange's disseminated quotation is not the NBBO (and, pursuant to Rule 1080(c)(iv)(E), inbound orders otherwise eligible for automatic execution are instead handled manually by the specialist):

(A) (1) Marketable public customer limit orders will be exposed to the trading crowd and to participants in Phlx XL for a period of three seconds following receipt. At the end of the three-second exposure period: (a) If the Exchange's disseminated price is not the NBBO, any unexecuted contracts remaining in such an order will be automatically sent as a P/A Order through the Intermarket Option Linkage to any other exchange whose disseminated price is the NBBO, subject to the provisions contained in Rules 1083–1087; or (b) if the Exchange's disseminated price is the NBBO, any unexecuted contracts remaining in such an order will be automatically executed up to the Exchange's disseminated size. Any remaining contracts will be sent as P/A Order(s) to the exchange(s) displaying the NBBO.

(2) For each option in which a specialist is assigned, such specialist shall submit to the Exchange prior written instructions for the routing of any P/A orders the specialist may send through AUTOM to the Intermarket Option Linkage in accordance with Rules 1083–1087. The Exchange's AUTOM System will route P/A Orders on the basis of these written instructions.

(B) Marketable limit orders for the proprietary account(s) of a broker-dealer, or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest, will be automatically cancelled, and a message indicating the cancellation will be automatically sent to the sender of the order.

(d)–(h) No change.

(i) [RESERVED] *Zero-bid option series. The AUTOM System will convert market orders to sell a particular option series that are received when the bid price in such option series is zero, to limit orders to sell with a limit price of $.05. Such orders will be automatically placed on the limit order book in price-time priority.*

(j)–(k) No change.

Commentary: No change.

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 Exchange 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 Exchange 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 establish rules to reflect system changes to AUTOM that are intended to increase the number of orders that are handled and executed automatically on the Exchange.

Automatic Sending of P/A Orders

The Exchange proposes to adopt new rules for the automated handling of inbound limit orders when the Exchange's disseminated price is not the National Best Bid or Offer (''NBBO''). Currently, Exchange Rule 1080(g)(ii)(B) states that inbound marketable orders will be automatically executed against a limit order on the book or specialist, Remote Streaming Quote Trader (''RSQT'') [5] and/or Streaming Quote Trader (''SQT'') [6] electronic quotes at the disseminated price where: (1) The Exchange's disseminated size includes limit orders on the book and/or electronic quotes at the disseminated price; and (2) the disseminated price is the NBBO. This feature is called Book Match. Book Match will not automatically execute inbound orders against limit orders resting on the limit order book under the circumstances listed in Exchange Rule 1080(c)(iv). Specifically, Exchange Rule 1080(c)(iv)(E) provides that orders otherwise eligible for automatic execution are handled manually by the specialist when the Exchange's bid or offer is not the NBBO. The specialist is currently responsible for handling an order manually when it would otherwise be eligible for automatic execution and, with respect to customer limit orders received when the Exchange's best bid or offer is not the NBBO, may send via the Intermarket Option Linkage (''Linkage''), a Principal Acting as Agent (''P/A'') Order [7]

[5] An RSQT is an Exchange Registered Options Trader (''ROT'') that is a member or member organization of the Exchange with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options in which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. An RSQT may only trade in a market making capacity in classes of options in which he is assigned. *See* Exchange Rule 1014(b)(ii)(B).

[6] An SQT is an ROT who has received permission from the Exchange to generate and submit option quotations electronically through AUTOM in eligible options to which such SQT is assigned. *See* Exchange Rule 1014(b)(ii)(A).

[7] A P/A Order is an order for the principal account of a specialist (or equivalent entity on

pursuant to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage (''Linkage Plan'')[8] to the options exchange disseminating the NBBO.

Proposed Exchange Rule 1080(c)(vi)(A)(1) would address the manner in which the AUTOM System handles inbound marketable public customer limit orders when the Exchange's disseminated price is not the NBBO. Specifically, proposed Exchange Rule 1080(c)(vi)(A)(1)(a) would provide that, when the Exchange's disseminated quotation is not the NBBO (and, pursuant to Exchange Rule 1080(c)(iv)(E), inbound orders otherwise eligible for automatic execution are instead handled manually by the specialist), marketable public customer limit orders would be exposed to the trading crowd and to participants in Phlx XL for a period of three seconds following receipt. At the end of the three-second exposure period, if the Exchange's disseminated price is not the NBBO, any unexecuted contracts remaining in such an order would be automatically sent as a P/A Order through the Linkage to any other exchange whose disseminated price is the NBBO, subject to the provisions contained in Exchange Rules 1083–1087, which generally govern the handling of orders sent and received via the Linkage.

Proposed Exchange Rule 1080(c)(vi)(A)(1)(b) would address the situation where, at the end of the three-second period, the Exchange's disseminated price is the NBBO. In such a circumstance, any unexecuted contracts remaining in the marketable public customer limit order would be automatically executed[9] up to the Exchange's disseminated size. Any remaining contracts would be sent as P/A Order(s) to the exchange(s) displaying the NBBO. If the marketable public customer limit order is canceled during the three-second period, no P/A Order would be sent, nor would the marketable public customer limit order be executed. The Exchange believes that the three-second exposure period should provide Exchange specialists and ROTs sufficient opportunity to execute such orders at a price that is at or better than the NBBO during the three-second period following receipt of the marketable public customer limit order. The Exchange further believes that this change to the AUTOM System should result in more automated handling of inbound marketable public customer limit orders, and should help achieve the best execution of customer orders on the Exchange and through the Linkage.

The specialist is required to act with due diligence with regard to the interests of orders entrusted to him/her and fulfill other duties of an agent, including, but not limited to, ensuring that such orders, regardless of their size or source, receive proper representation and timely execution in accordance with the terms of the orders and the rules of the Exchange. To enable the specialist to carry out his/her agency responsibilities with respect to P/A Orders submitted through the Linkage, the Exchange, pursuant to proposed Exchange Rule 1080(c)(vi)(A)(2), would require that a specialist submit prior written instructions to the Exchange regarding the routing of any P/A Orders that the specialist would send through the Linkage. The AUTOM System would route P/A Orders on behalf of the specialist according to these instructions three seconds after receipt of the marketable public customer limit order if such order is not executed or is partially executed during the three-second period and the Exchange's disseminated price at the end of the three-second period is not the NBBO. In the case of a partial execution during the three-second period, the P/A Order that is routed to the market disseminating the NBBO would be for the size that is equal to the number of contracts remaining in the order. Each execution received from an away exchange would result in the automatic generation of a trade execution on the Exchange between the original marketable public customer limit order and the specialist.

The Exchange believes that the specialist's instructions should ensure that such specialist is ultimately responsible for decisions regarding the routing of P/A Orders and exercises appropriate discretion over such orders. While the AUTOM System may carry out the mechanics of routing such orders, the specialist assigned in the particular issue that is the subject of a P/A Order would be responsible for providing the Exchange with instructions on how and where to route a P/A Order. The Exchange believes that the proposed rule requiring the specialist to provide routing instructions to the Exchange should ensure that P/A Orders will be handled in accordance with the Linkage Plan.

Broker-Dealer Orders

Marketable limit orders for the proprietary account(s) of a broker-dealer (or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest) received when the Exchange's disseminated quotation is not the NBBO would be automatically cancelled by the AUTOM System. A message indicating the cancellation would be automatically sent to the sender of the order.

The purpose of this proposal is to avoid trading through a better away market when the Exchange's disseminated price is not the NBBO. Unlike marketable public customer limit orders, which enable the specialist to generate and forward a P/A Order to the exchange disseminating the NBBO through the Linkage, an order for the proprietary account of a broker-dealer (or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest) does not enable the specialist to generate a P Order on behalf of the broker-dealer. The cancellation of such an order when the Exchange's disseminated price is not the NBBO, and the message to the sender of such an order that the order has been cancelled, should enable the sender to decide to route a new order to the exchange disseminating the NBBO.

Market Orders to Sell When the Exchange's Bid Price is Zero

Exchange Rule 1080(c)(iv)(G) currently provides that sell orders received in a particular series in which the disseminated bid price is zero[10] are handled manually by the specialist. The proposal would delete Exchange Rule 1080(c)(iv)(G) and adopt new Exchange Rule 1080(i) concerning the automated handling of market orders to sell when the bid price is zero. Under the proposal, the AUTOM system would automatically convert market orders to sell when the bid price is zero to limit orders to sell with a limit price of $.05. Such market orders to sell, as well as

---

another Participant Exchange that is authorized to represent Public Customer orders), reflecting the terms of a related unexecuted Public Customer order for which the specialist is acting as agent. *See* Exchange Rule 1083(k)(i).

[8] *See* Securities Exchange Act Release Nos. 44482 (June 27, 2001), 66 FR 35470 (July 5, 2001) (Amendment to Linkage Plan to Conform to the Requirements of Securities Exchange Act Rule 11Ac1–7; 43573 (November 16, 2000), 65 FR 70851 (November 28, 2000) (Notice of Phlx Joining the Linkage Plan); and 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000) (Approval of the Linkage Plan).

[9] The Exchange notes that another options exchange handles inbound customer orders received when the exchange is not disseminating the NBBO in a similar fashion, including the situation in which that exchange's disseminated price is the NBBO at the end of the three-second period. *See* Boston Options Exchange Rules, Chapter V, Section 16(b)(iii)(2)(b) and (c).

[10] A bid price of zero typically occurs in situations where there is no intrinsic value in the series quoted (*i.e.*, where an option series is out-of-the-money by a relatively large amount and such series is close to expiration).

limit orders to sell, would be placed on the limit order book in price-time priority. The purpose of this provision is to establish the time priority of market orders to sell when the bid price in the particular series is zero (and thus no execution could occur). In the event that the bid price in the particular series becomes $.05 or greater, thus establishing a bid price that makes the booked limit orders to sell marketable, such orders to sell at the $.05 limit price or better would be executed in the order in which they were received (*i.e.*, price-time priority). The Exchange believes that this proposed rule should reduce the manual handling of such orders and automate the processing of market orders to sell when the Exchange's bid price is zero.

Market Orders Received That Are Not Eligible for Automatic Execution

Proposed Exchange Rule 1080(c)(v) would address the situation in which the Exchange receives a market order that is not eligible for automatic execution because of any of the conditions described in Exchange Rule 1080(c)(iv). The proposed rule would provide that such market order, if not already executed manually by the specialist, would nonetheless be executed automatically in two situations.

In one situation, such a market order, if not already executed manually by the specialist, would be automatically executed against a limit order resting on the limit order book or a quotation that was not priced at the NBBO at the time such market order was received, if the resting limit order or quotation becomes priced at the NBBO. Alternatively, the AUTOM System would automatically execute a market order that is being handled manually by the specialist when an inbound limit order or quotation priced at or better than the NBBO is received before the specialist has manually executed such market order.

The Exchange believes that this proposed change to the AUTOM System would eliminate the need for the specialist to match the market order manually against quotes or limit orders if an execution is possible at the NBBO while the specialist is handling the market order. The Exchange believes that proposed Exchange Rule 1080(c)(v) should result in more timely executions, and enhance the specialist's ability to provide the best execution on behalf of market orders entrusted to him/her, by automating the process currently carried out by the specialist.

Rule Change To Reflect Decimalization

As a housekeeping matter, the Exchange proposes to amend Exchange Rule 1080(c)(iv)(A) to reflect decimal pricing in the parenthetical example of a crossed market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act [11] in general, and furthers the objectives of Section 6(b)(5) of the Act [12] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest, by implementing changes to the AUTOM System that result in a greater number of orders that are handled and executed automatically.

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

The Exchange has neither solicited nor received written comments on 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 Exchange consents, the Commission will:

(A) By order approve the 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:

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

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*. Please include File Number SR–Phlx–2005–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR-Phlx-2005–03. 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 Exchange. 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–2005–03 and should be submitted on or before April 6, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. E5–1131 Filed 3–15–05; 8:45 am]

BILLING CODE 8010–01–P

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement

AGENCY: Maritime Administration, DOT.