

limited exception to the Exchange's priority rules concerning synthetic option orders.

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. 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. 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. Please include File Number SR-Phlx-2005-31 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR-Phlx-2005-31. 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 such filing also will be available for inspection and copying at the principal office of 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-2005-31 and should be submitted on or before August 26, 2005.

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

After careful consideration, 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,¹¹ and, in particular, with the requirements of section 6(b) of the Act¹² and the rules and regulations thereunder. The Commission finds that the proposed rule change, as amended, is consistent with section 6(b)(5) of the Act,¹³ which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Commission notes that the priority rules with respect to the execution of synthetic option orders on other options exchanges are similar to the Phlx's proposed rule change.¹⁴ In general, such rules serve to reduce the risk of incomplete or inadequate executions of synthetic option orders by allowing the synthetic option orders to have priority over bids and offers of crowd participants who are bidding or offering only for the option component of the synthetic option order but only subject to restrictions such as those proposed by Phlx. For example, the proposed rule change would continue to protect the priority of public customer orders on the limit order book. In addition, Phlx's proposed rule change protects the priority of crowd participants who are willing to participate in the synthetic option order at the net debit or credit price.

¹¹ In approving this rule, the Commission notes that it has considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ See, e.g., Securities Exchange Act Release Nos. 20294 (October 17, 1983), 48 FR 49114 (October 24, 1983) (approving SR-CBOE-83-4); 47959 (May 30, 2003), 68 FR 34441 (June 9, 2003) (approving SR-CBOE-2002-05); 44955 (October 18, 2001), 66 FR 53819 (October 24, 2001) (approving SR-ISE-2001-18); and 46646 (October 11, 2002), 67 FR 64428 (October 18, 2002) (approving SR-ISE-2002-20).

The Commission finds good cause, pursuant to section 19(b)(2) of the Act,¹⁵ for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of the filing thereof in the **Federal Register**. The Commission notes that the proposed rule change is similar to Chicago Board Options Exchange Rule 6.45A(b)(iii) and International Stock Exchange Rule 722,¹⁶ which were previously approved by the Commission after notice and comment, and therefore does not raise any new regulatory issues.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act¹⁷ that the proposed rule change, as amended (SR-Phlx-2005-31), is hereby approved on an accelerated basis for a pilot period to expire on December 31, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Jill M. Peterson,

Assistant Secretary.

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SOCIAL SECURITY ADMINISTRATION

Notice of Senior Executive Service Performance Review Board Membership

Title 5, U.S. Code, section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register**.

The following persons will serve on the Performance Review Board which oversees the evaluation of performance appraisals of Senior Executive Service members of the Social Security Administration.

Nancy Berryhill*, Nicholas M. Blatchford, Michael G. Gallagher, Rogelio Gomez, Myrtle S. Habersham, Nancy A. McCullough, Gregory Pace*, Ronald Raborg*, Donna Siegel*, Felicitia Sola-Carter, Thomas J. Tobin, Manuel Vaz, and Alice H. Wade.

* New Member

Dated: July 28, 2005.

Reginald F. Wells,

Deputy Commissioner for Human Resources.

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¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ See *supra* note 14.

¹⁷ 15 U.S.C. 78s(b)(2).

¹⁸ 17 CFR 200.30-3(a)(12).