

to give the arbitrator additional time to take the training.<sup>28</sup> FINRA also stated that this suggestion would create a significant administrative burden on staff, as staff would be required to monitor continuously the arbitrators' training reports to ensure that they have completed the chair training prior to IPHCs.<sup>29</sup> For these reasons, FINRA declined to amend the proposal to implement this suggestion.<sup>30</sup>

One commenter requested that FINRA make available arbitrator selection records, beyond information publicly available from the Arbitration Awards Online database, so that it could be analyzed to determine whether arbitrators who award punitive or large compensatory awards are appointed to cases with less frequency due to strikes from industry parties, and whether the fragmentation of the random selection process through a chair-qualified slot exacerbates the problem.<sup>31</sup>

FINRA responded that its arbitrator selection records are proprietary and confidential.<sup>32</sup> FINRA explained, that the arbitrator selection records are generated during the resolution of a private matter between parties and contain the parties' confidential information, such as their striking and ranking choices.<sup>33</sup> Further, FINRA stated that it does not make this information available to the public because it could inhibit the parties' decisions during the arbitration process, which would compromise the integrity of the arbitration process.<sup>34</sup> For these reasons, FINRA declined to make this information available.<sup>35</sup>

Finally, four commenters objected to the existence of the separate chair roster.<sup>36</sup> FINRA stated that it is not proposing to amend the structure of its arbitrator rosters in this rule filing.<sup>37</sup> Further, FINRA noted that these same concerns were addressed by FINRA in connection with the proposal and adoption of the Codes,<sup>38</sup> and the changes to the arbitrator rosters were approved by the SEC.<sup>39</sup> FINRA stated

that these comments are, therefore, outside the scope of the rule filing.<sup>40</sup>

#### IV. Discussion and Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to a national securities association.<sup>41</sup> In particular, the Commission believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,<sup>42</sup> because it would enhance the fairness and neutrality of FINRA's arbitration forum by making the chairperson eligibility rules more objective and uniform.

#### V. Conclusions

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,<sup>43</sup> that the proposed rule change (SR-FINRA-2008-009) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>44</sup>

**Florence E. Harmon,**

*Acting Secretary.*

[FR Doc. E8-14568 Filed 6-26-08; 8:45 am]

**BILLING CODE 8010-01-P**

### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-58002; File No. SR-Phlx-2008-42]

#### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Catastrophic Errors

June 23, 2008.

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 17, 2008, 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 and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal as a "non-controversial"

<sup>40</sup> *Id.*

<sup>41</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. See 15 U.S.C. 78c(f).

<sup>42</sup> 15 U.S.C. 78o-(b)(6).

<sup>43</sup> 15 U.S.C. 78s(b)(2).

<sup>44</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.

proposed rule change pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 adopt amendments to Exchange Rule 1092 ("Rule") to: (i) Define a "Catastrophic Error"; (ii) extend the time period for member notification to Exchange staff that the member believes it has participated in a trade that resulted from a Catastrophic Error; and (iii) state in the Rule that, if the parties to such a trade do not agree on an adjustment price, trades resulting from a Catastrophic Error will be adjusted to the Theoretical Price of the affected option series, plus or minus a pre-determined adjustment value, depending on the Theoretical Price of the series.

The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.phlx.com>.

#### 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. 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 Exchange states that the purpose of the proposed rule change is to help its members better manage risk by affording them relief from trades that result from a Catastrophic Error.

The proposed rule change would address particularly egregious options trading errors, called Catastrophic Errors. An Options Exchange Official<sup>5</sup>

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

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> See Exchange Rules 124(a) and (b).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Cornell letter.

<sup>32</sup> FINRA letter.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> Bernstein, Cornell, PIABA, and Estell letters.

<sup>37</sup> FINRA letter.

<sup>38</sup> *Id.* citing Response to Comments and Amendment No. 5, May 4, 2006 (File No. SR-NASD-2003-158), at 21-22; see also Response to Comments and Partial Amendment 7, August 15, 2006 (File No. SR-NASD-2003-158), at 8.

<sup>39</sup> FINRA letter.

would determine that a Catastrophic Error occurred when the execution price of a transaction is higher or lower than the Theoretical Price for the series by an amount equal to at least the minimum amount shown below:

Theoretical price	Minimum amount
Below \$2 .....	\$1
\$2 to \$5 .....	2
Above \$5 to \$10 .....	5
Above \$10 to \$50 .....	10
Above \$50 to \$100 .....	20
Above \$100 .....	30

The proposed rule change would also set forth the procedure to be followed when an Exchange member believes that he/she has participated in a trade resulting from a Catastrophic Error. Significantly, the time period within which such a member would be required to notify the Exchange's Market Surveillance staff that such an error may have occurred would be extended well beyond the time period applicable to an Obvious Error under current Phlx Rule 1092. Members would have until 8:30 a.m. Eastern Time on the first trading day following the date on which the Catastrophic Error occurred to make such a notification, except that for such transactions in an expiring options series that take place on an expiration day, an Exchange member must notify the Exchange by 5 p.m. Eastern Time that same day.

If it is determined that a Catastrophic Error has occurred, unless both (all) parties agree to adjust the transaction to a different price, the execution price(s) of the transaction(s) will be adjusted to the theoretical price: (i) Plus the adjustment value provided below for erroneous buy transactions; and (ii) minus the adjustment value provided for erroneous sell transactions, as described below:

Theoretical price	Adjustment value
Below \$2 .....	\$1
\$2 to \$5 .....	2
Above \$5 to \$10 .....	3
Above \$10 to \$50 .....	5
Above \$50 to \$100 .....	7
Above \$100 .....	10

The Exchange believes that the proposed longer time period is appropriate to allow members to discover, and seek relief from, trading errors that result in extreme losses. At the same time, the Exchange believes that the proposed Minimum Amounts required for a trade to qualify as a Catastrophic Error, in combination with the large Adjustment Values, assures

that only those transactions where the price of the execution results in very high losses will be eligible for adjustment under the new provisions. While the Exchange believes it is important to identify and resolve trading errors quickly, it also believes it is important to the integrity of the marketplace to have the authority to mitigate extreme losses resulting from errors.

A member that requests a review under the proposed rule would be charged \$5,000 by the Exchange if there is no adjustment or nullification of the transaction. The initial ruling by the Options Exchange Official would be appealable to the Exchange's Referee.<sup>6</sup>

The Exchange states that it has weighed carefully the need to assure that one market participant is not permitted to receive a windfall at the expense of another market participant that made an Obvious Error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. The Exchange states that, while it believes that the Obvious Error Rule strikes the correct balance in most situations, in some extreme situations, trade participants may not be aware of errors that result in very large losses within the time periods currently required under the rule. In this type of extreme situation, the Exchange believes its members should be given more time to seek relief so that there is a greater opportunity to mitigate very large losses and reduce the corresponding large wind-falls. However, to maintain the appropriate balance, the Exchange believes members should only be given more time when the execution price is much further away from the theoretical price than is required for Obvious Errors so that relief is only provided in extreme circumstances.<sup>7</sup>

Under the proposed rule, members will have until 8:30 a.m. Eastern Time on the trading day following the trade to notify the Exchange of a potential Catastrophic Error. For trades that take place in an expiring series on the day of expiration, members must notify the Exchange's Market Surveillance Department of a potential Catastrophic Error by 5 p.m. Eastern Time that same day. Once a member has notified Market Surveillance of a potential Catastrophic

<sup>6</sup> See Exchange Rule 124, Commentary .02 and current Exchange Rule 1092(f).

<sup>7</sup> The Exchange does not believe the type of extreme situation that is covered by the proposed rule would occur in the normal course of trading. Rather, this type of situation could potentially occur as a result of, for example, an error in a member's quotation system that causes a market maker to severely misprice an option.

Error, within the required time period, an Options Exchange Official would review and make a determination as to the claim.

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 promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by helping Exchange members better manage risk through the Catastrophic Error rule. In particular, the proposal would allow members a longer opportunity to seek relief from errors that result in large losses.

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

The Exchange does not believe that the proposed rule change would 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*

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**

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>11</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing.<sup>12</sup> However, Rule 19b-4(f)(6)(iii) permits the Commission to

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

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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii). The Exchange has satisfied the five-day pre-filing requirement of Rule 19b-4(f)(6)(iii).

designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Given that the Exchange's proposed catastrophic error rule is substantially similar to that of the International Securities Exchange and that of NYSE Arca,<sup>13</sup> the proposal does not appear to present any novel regulatory issues. Therefore, the Commission designates the proposal operative upon filing.<sup>14</sup>

At any time within 60 days of the filing of the 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 the furtherance of the purposes of the Act.

#### 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:

##### *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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2008-42 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-Phlx-2008-42. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such 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-2008-42 and should be submitted on or before July 18, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Florence E. Harmon,**  
*Acting Secretary.*

[FR Doc. E8-14566 Filed 6-26-08; 8:45 am]

**BILLING CODE 8010-01-P**

#### DEPARTMENT OF STATE

[Public Notice 6279]

##### **Culturally Significant Objects Imported for Exhibition Determinations: "Giorgio Morandi, 1890-1964"**

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Giorgio Morandi, 1890-1964" to be displayed at The Metropolitan Museum of Art, New York, New York, imported from abroad for temporary exhibition within the United States, are of cultural

significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about September 16, 2008, until on or about December 14, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202/453-8050). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: June 20, 2008.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E8-14637 Filed 6-26-08; 8:45 am]

**BILLING CODE 4710-05-P**

#### DEPARTMENT OF STATE

[Public Notice 6278]

##### **Culturally Significant Objects Imported for Exhibition Determinations: "Hearst the Collector"**

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Hearst the Collector", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Los Angeles County Museum of Art, Los Angeles, California, from on or about November 9, 2008, until on or about February 1, 2009, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these

<sup>13</sup> See Securities Exchange Act Release Nos. 57398 (February 28, 2008), 73 FR 12240 (March 6, 2008) (SR-ISE-2007-112) and 57653 (April 11, 2008), 73 FR 20996 (April 17, 2008) (SR-NYSEArca-2008-41).

<sup>14</sup> For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. <sup>15</sup> U.S.C. 78c(f).

<sup>15</sup> 17 CFR 200.30-3(a)(12).