

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40842; File No. SR-Phlx-98-46]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Amending Rule 229, Philadelphia Stock Exchange Automatic Communication and Execution ("PACE") System, Raising the Minimum Order Delivery Requirement for Specialists from 1099 Shares to 2099 Shares

December 28, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder² notice is hereby given that on November 12, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 Rule 229, PACE,³ to raise the minimum order delivery requirement for specialists from 1099 shares to 2099 shares.

Currently, Rule 229 sets the minimum order delivery requirement for specialists at 1099 shares. Specialists are required to accept and the PACE system will accept, agency orders up to 1099 shares. Phlx Rule 229, Supplementary Material .06 through .10 contains the language requiring specialists to accept orders of 1099 shares over PACE in various situations. Section 229.06 governs market orders entered before the New York market opening. Section 229.07(b) governs market orders entered after the New York market opens. Section 229.09 governs limit orders. Sections 229.10(b)-(c) govern the method of execution given to PACE orders. The proposed rule change will increase the minimums contained in these sections to 2099 shares. Additionally, specialists will continue to be able to raise their own minimum delivery requirements

for individual stocks to levels higher than the proposed minimum of 2099 shares.

II. Self-Regulatory Organization's Statements Regarding 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

In summary, the Exchange is proposing to extend the benefits of its PACE System to a larger group of orders by increasing the minimum guaranteed order delivery size to 2099 shares. A higher minimum guarantee order delivery size will accommodate and encourage larger orders. By accepting larger orders, the Exchange should be able to attract more customers and larger volume of the PACE System. Thus, the benefits of automated order routing systems, like PACE, would be extended to additional orders.

Currently, Phlx specialists are required to accept delivery of orders up to 1099 shares. By raising this requirement, specialists will, at a minimum, accept PACE orders up to 2099 shares. The Exchange believes that 2099 shares is an appropriate minimum in today's marketplace in light of current volumes. Further, the current level of 1099 shares was set in place in 1986,⁴ when market volumes were lower. Additionally, the 2099 level is consistent with the 2099 level at the Chicago Stock Exchange.⁵

Specialists may increase the number of shares that they guarantee to accept above this minimum number. These guarantees, both mandatory and higher voluntary guarantees, tend to encourage customers to direct order flow to the Phlx specialist using the PACE System. Increased requirements should further encourage customers to increase order flow to Phlx specialists using the PACE System. Additionally, specialists may continue to voluntarily increase this

requirement above 2099 shares for individual stocks.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system by increasing the minimum delivery requirement for specialist using the PACE System, thereby extending the benefits of PACE to additional orders.

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

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 Receive 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 reason for so finding or (ii) as to which the Phlx 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ PACE is the Exchange's automatic order routing and execution system for securities on the equity trading floor. See Phlx. Rule 229.

⁴ See Securities Exchange Act Release No. 23620 (September 16, 1986), 51 FR 33968 (September 24, 1986) (SR-Phlx-86-30).

⁵ See Chicago Stock Exchange Article XX, Rule 37.

available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Phlx-98-46 and should be submitted by January 28, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Incentive Grants To Support Increased Seat Belt Use Rates

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of discretionary grants to support innovative seat belt projects designed to increase seat belt use rates.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary grant program under Section 1403 of the Transportation Equity Act for the 21st Century to provide funding to States for innovative projects to increase seat belt use rates. The goal of this program is to increase seat belt use to a high level in States across the nation in order to reduce the deaths, injuries, and societal costs that result from motor vehicle crashes. This notice solicits applications from the States, through their Governors' Representatives for Highway Safety, for funds to be made available in fiscal year 2000.

DATES: Applications must be submitted to the office designated below on or before April 7, 1999.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD-30), ATTN: Amy Poling, 400 7th Street, SW, Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Grant Program No. DTNH22-99-G-05050.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Amy Poling, Office of

Contracts and Procurement at (202) 366-9552. Programmatic questions relating to this grant program should be directed to Phil Gulak, Occupant Protection Division (NTS-12), NHTSA, 400 7th Street, SW, Room 5118, Washington, DC 20590, by e-mail at pgulak@nhtsa.dot.gov, or by phone at (202) 366-2725. Interested applicants are advised that no separate application package exists beyond the contents of this announcement.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1998, Congress enacted the Transportation Equity Act for the 21st Century (TEA-21). Section 1403 of TEA-21 contains a new safety incentive grant program for use of seat belts. Under this program, funds are allocated each fiscal year from 1999 until 2003 to States that exceed the national average seat belt use rate or that improve their State seat belt use rate, based on certain required determinations and findings. Beginning in fiscal year 2000, any funds remaining unallocated in a fiscal year after the determinations and findings related to seat belt use rates are to be used to "make allocations to States to carry out innovative projects to promote increased seat belt use rates." Today's notice solicits applications for funds that will become available in fiscal year 2000 under this latter provision.

TEA-21 imposes several requirements under the innovative projects funding provision. Specifically, in order to be eligible to receive an allocation, a State must develop a plan for innovative projects to promote increased seat belt use rates and submit the plan to the Secretary of Transportation (by delegation, to NHTSA) by March 1. (TEA-21 contemplated issuance of this guidance by December 1, 1998, which would have allowed the States 90 days for submission of plans by March 1, 1999. In order to afford the States the full 90-day period, NHTSA will accept applications until April 7, 1999. NHTSA is directed to establish criteria governing the selection of State plans that are to receive allocations and is further directed to "ensure, to the maximum extent practicable, demographic and geographic diversity and a diversity of seat belt use rates among the States selected for allocations." Finally, subject to the availability of funds, TEA-21 provides that the amount of each grant under a State plan is to be not less than \$100,000.

In the following sections, the agency describes the application and award procedures for receipt of funds under this provision, including requirements

related to the contents of a State's plan for innovative projects and the criteria the agency will use to evaluate State plans and make selections for award. In order to assist the States in formulating plans that meet these criteria, we have provided an extensive discussion of strategies for increasing seat belt use and of the ways in which States might demonstrate innovation.

Objective of This Grant Program

Seat belts, when properly used, are 45 percent effective in preventing deaths in potentially fatal crashes and 50 percent effective in preventing serious injuries. No other safety device has as much potential for immediately preventing deaths and injuries in motor vehicle crashes. The current level of seat belt use across the nation prevents more than 9,500 deaths and well over 200,000 injuries annually. Through 1997, more than 100,000 deaths and an estimated 2.5 million serious injuries have been prevented by seat belt use.

But, seat belt use rates and the resulting savings could be much greater. As of 1998, the average use rate among States in the U.S. is still well below the goal of 85 percent announced by the President for the year 2000 and at least a dozen States have use rates below 60 percent. On the other hand, use rates of 85-95 percent are a reality in most developed nations with seat belt use laws, and at least six U.S. States and the District of Columbia achieved use rates greater than 80 percent in 1998. A national use rate of 90 percent (the President's goal for 2005), among front seat occupants of all passenger vehicles, would result in the prevention of an additional 5,500 deaths and 130,000 serious injuries annually. This would translate into a \$9 billion reduction in societal costs, including \$356 million for Medicare and Medicaid.

The objective of this grant program is to increase seat belt use rates, for both adults and children, by supporting the implementation of innovative projects that build upon strategies known to be effective in increasing seat belt use rates. Because one of the best ways to ensure that children develop a habit of buckling up is for parents to properly restrain them in child safety seats, efforts to increase the use of child safety seats may be included among the innovative efforts in a State's plan.

Recent seat belt use increases in California, North Carolina, Louisiana, Georgia, Maryland, and the District of Columbia (see discussion in next section), as well as increases following national mobilizations (Operation ABC, conducted in May and November of 1998), have demonstrated the

⁶ 17 CFR 200.30(a)(12).