

(3) Late Satisfaction of Clearing Fund Deficiency Call ¹

Amount	First occasion	Second occasion	Third occasion	Fourth occasion (or greater)
Up to \$100 M	(*)	\$100	\$200	\$500
\$100 M to \$900 M	(*)	300	600	1,500
\$900 M to \$1.7 MM	(*)	600	1,200	3,000
\$1.7 MM to \$2.5 MM	(*)	900	1,800	4,500
Greater than \$2.5 MM	(*)	1,000	2,000	5,000

*First occasions result in a warning letter issued to the Member.

(4) Requests for information ²

Request for information (failure to timely provide)	First occasion	Second occasion	Third occasion	Fourth occasion
Financial Statements:				
Audited Financial Statements for Member or Parent	(*)	\$300	\$600	\$1,500
Monthly and/or Quarterly Regulatory Filings	(*)	300	600	1,500
Monthly and/or Quarterly Financial Statements	(*)	300	600	1,500
Proforma Financial Statements	(*)	300	600	1,500
Any Financial Computations, Consolidating Worksheets or Internal Statements, Upon Special Request	(*)	300	600	1,500
Risk Questionnaires/Profiles:				
Questionnaires	(*)	150	300	750
Profiles	(*)	150	300	750
Risk Management Policies and Procedures	(*)	150	300	750
Disaster Recovery Procedures	(*)	150	300	750

*First occasions result in a warning letter issued to the Member. Warning Letters for first occasion violations will be discontinued one year after implementation of this schedule, at which time each violation will be subject to imposition of a fine.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46875; File No. SR-Phlx-2002-70]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., To Amend Schedule of Dues, Fees and Charges Relating to Floor Brokerage Assessments

November 21, 2002.

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 October 29, 2002, 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. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Phlx under Section 19(b)(3)(A)(ii) of the Act,³ 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 amend its schedule of dues, fees and charges by: (1) Suspending the current equity floor brokerage assessment fee of 5 percent of net floor brokerage income through December 31, 2003; and (2) adopting a monthly fee of \$250 for each member

who derives his/her primary income from equity floor brokerage business.⁴ For purposes of the \$250 monthly fee, "primary income" means that the member derives at least 80 percent of gross income generated from Phlx floor-based activities from his/her floor brokerage business conducted on the Exchange.⁵

The Phlx intends to suspend the floor brokerage assessment fee of 5 percent for transactions settling on or after November 1, 2002, and implement the \$250 monthly fee beginning November 2002.

The text of the proposed rule change is available at the Phlx and at the Commission. A copy of the Exchange's Summary of Equity Charges is attached to the proposed rule change filed with the Commission as Exhibit 2.

¹ 1 The number of occasions is determined over a moving three-month period beginning with the first occasion.

² Fines to be levied for offenses within a moving twelve-month period beginning with the first occasion.

³ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ This fee will be eligible for the monthly credit of up to \$1,000 to be applied against certain fees, dues and charges and other amounts owed to the Phlx by certain members. See Securities Exchange

Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001)(SR-Phlx-2001-49).

⁵ For purposes of this proposed rule change, floor brokerage business conducted on the Exchange includes orders that are received on the Phlx, even if those orders are executed on an exchange other than the Phlx.

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 attract business to the Exchange. Specifically, the Phlx believes that waiving the 5 percent assessment through December 31, 2003 and implementing a modest monthly fee of \$250 should encourage floor brokers to send additional order flow to the Exchange and enhance the competitiveness of the Exchange. The Exchange will reassess the waiver of the 5 percent assessment as appropriate,⁶ and will file any modification to it with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act.⁷

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁸ in general, and furthers the objectives of Section 6(b)(4)⁹ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Exchange members.

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.

⁶ Absent any modification, the 5 percent assessment will recommence on January 1, 2004.

⁷ 15 U.S.C. 78s(b)(3)(A)(ii).

⁸ 15 U.S.C. 78f(b).

⁹ 15 U.S.C. 78f(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁰ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹¹ because it involves a due, fee, or other charge. 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 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 proposal 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 Exchange. All submissions should refer to file number SR-Phlx-2002-70, and should be submitted by December 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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¹⁰ 15 U.S.C. 78s(b)(3)(A)(ii).

¹¹ 17 CFR 240.19b-4(f)(2).

¹² 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46886; File No. SR-Phlx-2002-39]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 1 and 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Providing Automatic Executions for Eligible Orders at the Exchange's Disseminated Size, Subject to a Minimum and Maximum Eligible Size Range

November 22, 2002.

I. Introduction

On July 3, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to provide automatic executions for eligible orders at the Exchange's disseminated size, subject to a minimum and maximum eligible size range to be determined by the specialist, on an issue-by-issue basis. Notice of the proposed rule change was published for comment in the **Federal Register** on August 15, 2002.³ The Commission received no comments on the proposal. On August 26, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.⁴ On November 20, 2002, the Exchange filed Amendment No. 2 to the proposed rule change.⁵ The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 46323 (August 8, 2002), 67 FR 53374.

⁴ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Sonia Patton, Special Counsel, Division of Market Regulation ("Division"), Commission, dated August 23, 2002 ("Amendment No. 1"). In Amendment No. 1, the Phlx (i) requested accelerated approval of the proposed rule change; (ii) explained how its current pilot, regarding the disengagement of its automatic execution system ("AUTO-X") once the AUTO-X guarantee for a particular option has been exhausted within a fifteen second time frame, will interact with this proposal; (iii) stated that, although AUTO-X guarantees sizes are subject to approval by the Phlx's Options Committee, that the Committee has delegated this responsibility to two Phlx Floor Officials; and (iv) discussed how the proposed rule will work when the disseminated size is greater than the maximum guaranteed AUTO-X size and how options contracts will be allocated.

⁵ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission, dated November 20, 2002 ("Amendment No. 2"). In Amendment No. 2, the Phlx amended the proposed rule text to reflect a change to Exchange Rule 1080(c) that was made to

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