

OCC-2002-21) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47630; File No. SR-Phlx-2003-14]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Net Capital Calculation for Broker-Dealer Accounts

April 3, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act"),<sup>1</sup> and rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on March 19, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to 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 Phlx. 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 Exchange proposes to amend Phlx rule 722(c)(5) ("Broker-Dealer Accounts") to clarify that the haircut requirements of Exchange Act rule 15c3-1<sup>3</sup> must be considered in computing the net capital of a broker-dealer that is extending margin to another broker-dealer and to harmonize it with other exchanges' rules.<sup>4</sup>

Below is the text of the proposed rule change. Proposed new language is

*italicized*. Proposed deletions are in [brackets].

#### Rule 722. Margin Accounts<sup>5</sup>

\* \* \* \* \*

5. Broker-Dealer Accounts. A member organization may carry the proprietary account of another broker-dealer, which is registered with the Securities and Exchange Commission, upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T of the Board of Governors of the Federal Reserve System are adhered to and the account is not carried in a deficit equity condition. The amount of any deficiency between the equity maintained in the account and the [margin required by the other provisions of this rule] *haircut requirements calculated pursuant to rule 15c3-1 of the Exchange Act*, shall be deducted in computing the Net Capital of the member organization under *rule 15c3-1 of the Exchange Act* and rule 703.

\* \* \* \* \*

#### 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 Phlx 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 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 proposes to amend Phlx rule 722(c)(5) ("Broker-Dealer Accounts"), to clarify that the haircut requirements of Exchange Act rule 15c3-1<sup>6</sup> must be considered in computing the net capital of a broker-dealer extending margin to another broker-dealer. As amended, Phlx rule 722(c)(5) would be substantially similar to CBOE rule 12.3(g).

Currently, Phlx rule 722 sets forth the rules governing the margin that must be

maintained in margin accounts of customers of Phlx members, whether such customers are members themselves, partners of members, member firms, member corporations or stockholders therein, or non-members. Phlx rule 722(c) sets forth certain exceptions to the general margin requirements. Phlx rule 722(c)(5) provides that an Exchange member may carry the proprietary account of another broker-dealer registered with the Commission, on a margin basis that is satisfactory to both parties ("broker-to-broker margin"); provided however, that the parties adhere to Regulation T of the Board of Governors of the Federal Reserve System,<sup>7</sup> and the account is not carried in a deficit condition.

Phlx rule 722(c)(5) further provides that the amount of any deficiency between the equity maintained in the account and the "margin required by the other provisions of" Phlx rule 722 shall be deducted in computing the net capital of the Phlx member carrying the account of another registered broker-dealer. The Phlx believes that this language does not accurately reflect that the haircut requirements specified in Exchange Act rule 15c3-1<sup>8</sup> must also be considered in computing such Phlx member's net capital.

Accordingly, the Phlx proposes to delete the phrase "margin required by the other provisions of," and clarify in its rule that the haircut requirements calculated pursuant to Exchange Act rule 15c3-1 will be used to calculate the net capital of a Phlx member carrying the margin account of a registered broker-dealer customer. The Phlx notes that the CBOE and NYSE each has adopted a similar change to its margin rules.

###### 2. Statutory Basis

The Phlx believes that the proposed rule change harmonizes the margin treatment between Phlx's rule and analogous CBOE and NYSE rules. As such, the Phlx believes that its proposal is consistent with section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>10</sup> in particular, in that it is designed to perfect the mechanism of a free and open market and to protect investors and the public interest.

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

This proposed rule change does not impose any burden on competition that

<sup>6</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.

<sup>3</sup> 17 CFR 240.15c3-1.

<sup>4</sup> See Securities Exchange Act Release No. 46716 (October 24, 2002), 67 FR 66434 (October 31, 2002) (SR-CBOE-2002-59) (relating to margin requirements for broker-dealer accounts). The Phlx notes that Chicago Board Options Exchange ("CBOE") rule 12.3(g) is substantially similar to New York Stock Exchange, Inc. ("NYSE") rule 431(e)(6)(A). See Securities Exchange Act Release No. 42453 (February 24, 2000), 65 FR 11620 (March 3, 2000) (SR-NYSE-1997-27) (order approving a proposed rule change affecting the margin calculation for broker-dealer accounts).

<sup>5</sup> The phrase, "Rule 722. Margin Accounts", reflects the correction of a typographical error from the rule text that Phlx submitted with the proposed rule change. Telephone conversation between Mark I. Salvacion, Director and Counsel, Phlx, and Tim Fox, Attorney, Division of Market Regulation, Commission on April 3, 2003.

<sup>6</sup> 17 CFR 240.15c3-1.

<sup>7</sup> 12 CFR 220.1 *et seq.*

<sup>8</sup> 17 CFR 240.15c3-1.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

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*

No written comments were either solicited or received.

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

The Phlx has designated the foregoing proposed rule change as effecting a change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.<sup>11</sup> Accordingly, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>12</sup> and rule 19b-4(f)(6) thereunder.<sup>13</sup> At any time within 60 days of the filing of such 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 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 20549-0609. 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 Phlx. All submissions should refer to File No. SR-Phlx-2003-14 and should be submitted by May 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**DEPARTMENT OF STATE**

**[Public Notice 4332]**

**Bureau of Educational and Cultural Affairs Request for Grant Proposals for a Project To Support Training in Public Administration and Public Policy Development in Montenegro**

**SUMMARY:** The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs announces an open competition for a project to support training in public administration and public policy development in Montenegro. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to train faculty, students, administrators, public officials, and other practitioners in this field. Applicants are encouraged to propose creative strategies to target the training needs of current and future public administrators and policy-makers in Montenegro within the general guidelines provided in this document. Applicants are also invited to propose one or more partner institution(s) in Montenegro with which to cooperate in project implementation, and should explain why each institutional partner is appropriate to the objectives of the project.

**Program Information**

*Overview:* The project will support training in public administration and public policy development for current and future public administrators and policy-makers in Montenegro. One grant will be awarded in an amount not to exceed approximately \$270,000 for a period of up to three years to support this training effort through exchanges of faculty, students, non-government organization representatives, public

administrators, or public officials. Activities may include any appropriate combination of teaching, consultation, study, distance education, and outreach.

The fundamental objective of the project is to provide participants in Montenegro with skills in public administration and public policy development with an emphasis on practical training for local government administration. The project should provide program participants from Montenegro with the necessary tools to strengthen Montenegro's managerial capacity and its decision-making processes, especially at the local level.

Applicants may propose to pursue this objective in ways that reflect their own institutional strengths as well as the interests, needs, and capacities of the institutional partner(s) in Montenegro. For example, applicants may propose to develop a curriculum in public administration and public policy development and to design and organize in-service training workshops for currently employed administrators and officials based on the curriculum and related training materials. Applicants may also propose to develop curriculum, materials, and training for students preparing for careers as public servants and administrators or as policy analysts and policy developers. Other project designs and emphases may also be proposed. Applicants are invited to propose appropriate topics based on consultations with their counterparts in Montenegro and their knowledge of local needs. Topics of potential interest include decentralization, resource allocation strategies, anti-corruption practices, transparency in government, financial management and control, budgeting and accounting, procurement, organizational development, local government management, taxation, and strategic planning.

**U.S. Institution and Participant Eligibility**

In the United States, participation in the program is open to accredited colleges and universities as well as other organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c). Applications from consortia or other combinations of U.S. colleges and universities are eligible. The lead U.S. organization in the consortium or other combination of cooperating institutions is responsible for submitting the application. Each application must document the lead organization's authority to represent all U.S. cooperating partners.

Participants who are traveling under the Bureau's grant funds may include teachers, researchers, public

<sup>11</sup> As required under Securities Exchange Act rule 19b-4(f)(6)(iii), the Phlx provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing date or such shorter period as designated by the Commission. See Prefiling Notice of Proposed Rule Change (SR-Phlx-2003-14), dated March 11, 2003.

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 200.30-3(a)(12).