

believes the one-year pilot will give the Exchange and the Commission the opportunity to evaluate whether these fees are appropriate.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change, as amended, is approved on a pilot basis until January 31, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47785; File No. SR-Phlx-2003-24]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Amend Its Rules Regarding the Calculation of Record Dates, Ex-Dividend Dates and Ex-Rights Dates

May 2, 2003.

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 April 11, 2003, 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 Phlx. The Exchange has designated the proposed rule change as constituting a “non-controversial” rule change under paragraph (f)(6) of Rule 19b-4 under the Act.<sup>3</sup> 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 817 (“Record Date”), Phlx Rule 825 (“Ex-dividend Procedure”), Phlx Rule 826 (“Ex-rights Procedure”) and Phlx Rule 831 (“Special Ex-dividend Rulings”). The proposed amendments are intended by the Exchange to update several archaic rules

that specify how record dates, ex-dividend dates and ex-rights dates are calculated. Below is the text of the proposed rule change. Proposed deleted text is [bracketed].

\* \* \* \* \*

#### Rule 817. Record Date

Rule 817. A company is not permitted to close its stock transfer books for any reason, including the declaration of a dividend. Rather, it must establish a record date for shareholders entitled to a dividend which is at least ten days after the date on which the dividend is declared (declaration date).

[However, in the case of stock issues that do not have transfer facilities in the Philadelphia metropolitan area, the record date shall not be less than such number of additional days (in excess of ten) after the declaration date as is equal to the mailing time (regular mail) between Philadelphia and the city in which the Transfer Agent is located. The requirement for additional time between the declaration date and the record date would also apply in cases where there is an intervening holiday or where the record date falls on a weekend.]

A company is also required to give the Exchange at least ten days notice in advance of a record date established for any other purpose, including meetings of shareholders.

\* \* \* \* \*

#### Rule 825. Ex-Dividend Procedure

Rule 825. [In the establishment and announcement of ex-dividend dates, the Exchange proceeds as follows:

(a) The “ex-dividend” date established by the Exchange is based on the location of the transfer facilities either in, or nearest to, Philadelphia. Thus, if an issue transfers both in Philadelphia and outside of Philadelphia the “ex” date is based on the Philadelphia transfer facilities. If an issue does not transfer in Philadelphia, but transfers in two or more cities outside of that area, the “ex” date is based on the location of the transfer facilities closest to Philadelphia.

(b) Transfer Facilities Located in Philadelphia—[ Transactions in stocks (except those made for “cash”) [for which there exists transfer facilities in Philadelphia] are ex-dividend on the second business day preceding the record date. If the record date selected is not a business day, the stock will be quoted ex-dividend on the third preceding business day. “Cash” transactions are ex-dividend on the business day following the record date.

[(c) Transfer Facilities Located Outside Philadelphia—The Exchange

will establish an “Ex-dividend” date for those stocks with transfer facilities only outside Philadelphia predicated on a theoretical “equivalent Philadelphia record date”. The equivalent Philadelphia record date is the last business day on which securities may be mailed in Philadelphia and reach the out-of-town transfer office, by regular mail, in time to effect transfer by the record date. “Regular way” transactions in these stocks are ex-dividend on the second business day preceding the equivalent Philadelphia record date. Transactions in such stocks made for “cash” are ex-dividend on the business day following such equivalent Philadelphia record date.

(d) To avoid unnecessary claims for dividends, members receiving deliveries of stocks against “dividend on” transactions are urged to provide for the earliest mailing of such stocks which transfer out of town, in order to ensure receipt by the transfer agent by the record date.]

\* \* \* \* \*

#### Rule 826. Ex-Rights Procedure

Rule 826. In the establishment and announcement of ex-rights dates, the Exchange proceeds as follows:

Subscription Price Established—Where the Subscription price and all other terms of the rights and subscription offering are established sufficiently in advance of the record date to determine the value of the rights (and the registration statement relating to the offering has been declared effective by the SEC sufficiently in advance of the record date), transactions in stocks to which the rights pertain are quoted ex-rights in a manner similar to that described in Rule 825 above.

Subscription Price Not Known—Where the subscription price and all other terms of the rights and subscription offering are not known sufficiently in advance of the record date to determine the value of the rights, the Exchange will rule the stock ex-rights on the day following the date the rights commence trading (which, in most instances, is a date subsequent to the record date for the subscription offering).

Under such circumstances, the Exchange requires that all deliveries of stock made after the record date [(or “equivalent Philadelphia record date”, where appropriate)] in settlement of transactions made prior to the ex-rights date, and on a “rights on” basis carry “due bills” for the rights.

\* \* \* \* \*

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</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 240.19b(f)(6).

**Rule 831. Special Ex-Dividend Rulings**

Rule 831. If, as required by Exchange rules, the Exchange does not receive a notice of a dividend declaration sufficiently in advance of a record date to permit a stock to be quoted “ex-dividend” in the usual manner, the Exchange quotes the stock “ex-dividend” as soon as possible following receipt of notice of the dividend. The Exchange also rules that the “dividend on” purchaser (in transactions made during the interval between the date when the stock should have been quoted “ex” and the date when the stock is actually quoted “ex”) is entitled to receive the dividend from the seller. The seller in such transactions is required to give to the purchaser a due bill, covering the amount of the dividend, to be redeemed subsequent to the payment date for the dividend.

Larger or Valuable Dividends, Dividends “Not in Kind”, and Split-ups Effected as Stock Distributions—When large or valuable cash or stock dividends (usually 25% or more), or a dividend “not in kind”, (*i.e.*, a distribution of securities of another issuer), or a split-up is declared, it is the policy of the Exchange to postpone the “ex-dividend” or “ex-distribution” date until the dividend has been paid. The reason for this is so that the stock is not quoted at the substantially lower “ex-dividend” or “ex-distribution” price until the distribution is received by shareholders. If this were not the case, the collateral value of the stock would be reduced between the “ex” date and payment date, and the shareholder might be required to provide additional collateral.

In the case of dividends “not in kind” (regardless of its size in relation to the listed security), it will be necessary to postpone the “ex-dividend” date in the event a market does not exist in the security to be distributed at the time the listed issue would normally be quoted “ex-dividend”.

In all of the above instances, the postponement of the “ex” date until after the payment date makes it possible for shareholders to sell all of their holdings at one time, on a “dividend on” basis (prior to the “ex” date). As a result of this ruling, purchasers of the stock prior to the “ex” date continue to pay a “dividend on” price, but will not receive the dividend payment from the company. Accordingly, the Exchange rules that the “dividend on” purchaser is entitled to receive the dividend from the seller. The seller, in turn, is required to give the purchaser a due bill, covering the amount of the dividend, to

be redeemed on the date fixed by the Exchange.

“Cash” Transactions—The Ex-Dividend Rule of the Exchange specifies that “cash” transactions (in which delivery of the security must be made on the date of the transaction) [in the case of stocks transferring in the Philadelphia Metropolitan area,] shall be “ex-dividend” on the business day following the record date[, and in the case of stocks transferring only outside of that area shall be “ex-dividend” on the business day following the “equivalent Philadelphia record date”].

\* \* \* \* \*

## 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 and is set forth in sections A, B, and C below.

### 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 amend several archaic rules that specify how record dates, ex-dividend dates and ex-rights dates are to be calculated. Phlx Rules 817, 825, 826 and 831 specify that a longer record date, ex-dividend or ex-rights date, as the case may be, may be used where the issuer has a transfer agent located outside the Philadelphia metropolitan area. Given the current state of communication networks and electronic interaction among issuers, the Exchange, transfer agents and investors, the Exchange believes that these additional time periods are no longer necessary. The Exchange also states that these rules, as amended, are similar to Rules 510, 512, 513 and 521 of the American Stock Exchange, LLC. The proposed changes to the Exchange’s rules are discussed below.

*Phlx Rule 817.* Currently, Phlx Rule 817 provides generally that a company listed on Phlx must establish a record date for shareholders entitled to a dividend, which is at least ten days after the date on which the dividend is declared. For issuers that do not have transfer facilities in the Philadelphia metropolitan area, however, current Phlx Rule 817 provides that the record

date may be extended by the time equal to the mailing time between Philadelphia and the city in which the transfer agent is located. Because today most communication among issuers, the Exchange, transfer agents and investors is conducted electronically, the Exchange believes it no longer makes sense to distinguish between issuers with transfer agents located in Philadelphia and those with transfer agents located outside the Philadelphia metropolitan area when calculating a record date. As amended, Phlx Rule 817 will apply a uniform ten-day rule for establishing a record date to all Phlx issuers.

*Phlx Rule 825.* Similarly, Phlx Rule 825 currently provides that issuers with transfer agent facilities located outside the Philadelphia metropolitan area can have a longer period between the declaration of a dividend and the establishment of an “ex-dividend” date. This longer period is based on the time equal to the mailing time between Philadelphia and a transfer facility located outside Philadelphia. Again, since most communications in the securities industry no longer rely on regular mail, the Exchange believes that it is reasonable to put Philadelphia issuers and non-Philadelphia issuers on equal footing when it comes to establishing an “ex-dividend” date. As amended, Phlx Rule 825 will uniformly provide that all stock dividends are “ex-dividend” on the second business day preceding the record date and all cash dividends are “ex-dividend” on the day following the record date.

*Phlx Rule 826.* Phlx Rule 826 provides that the transactions in stocks to which rights attach are quoted “ex-rights” in a manner similar to that described in Phlx Rule 825. This reference to Phlx Rule 825 should remain, subject to the changes to Phlx Rule 825 discussed above. The last paragraph of Phlx Rule 826 is proposed to be amended, however, because of the explicit reference to “equivalent Philadelphia record date,” which is being eliminated along with the other geographical references from Phlx Rule 825.

*Phlx Rule 831.* Phlx Rule 831 repeats the ex-dividend date rule set forth in Phlx Rule 825 as it pertains to cash transactions (*i.e.*, where an issuer pays a dividend in cash). Because Phlx Rule 825 is being amended to eliminate distinctions between Philadelphia and non-Philadelphia issuers, Phlx Rule 831 must also be amended so that the rules are consistent.

#### 2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with

section 6(b) of the Act<sup>4</sup> in general, and furthers the objectives of section 6(b)(5)<sup>5</sup> in particular, in that it is designed to facilitate transactions in securities, 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 removing outdated provisions.

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

The 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 Received From Members, Participants or Others*

No written comments were either solicited or received.

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

The proposed rule change has been filed by the Exchange as a "non-controversial" rule change pursuant to section 19(b)(3)(A) of the Act<sup>6</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder.<sup>7</sup> Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>8</sup> and Rule 19b-4(f)(6)<sup>9</sup> thereunder.<sup>10</sup>

A proposed rule change filed under Rule 19b-4(f)(6)<sup>11</sup> normally does not become operative prior to thirty days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii), the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx has requested that the proposed rule change become operative immediately upon filing so that the

Exchange may remain competitive with other exchanges with similar rules in effect.

The Commission believes that it is consistent with the protection of investors and the public interest to designate the proposed rule change immediately operative. Accelerating the operative date should permit the Exchange's rules to reflect current business practices.<sup>12</sup> At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed 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 Phlx. All submissions should refer to File No. SR-Phlx-2003-24 and should be submitted by May 29, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

### **SELECTIVE SERVICE SYSTEM**

#### **Form Submitted to the Office of Management and Budget for Extension of Clearance**

The form described below has been submitted to the Office of Management and Budget (OMB) for extension of clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35):

#### **SSS Form 22**

*Title:* Claim Documentation Form—Conscientious Objector.

*Purpose:* Is used to document a claim for classification as a conscientious objector.

*Respondents:* Registrants who claim to be conscientious objectors.

*Frequency:* One-time.

*Burden:* The reporting burden is one hour per individual.

Copies of the above identified form can be obtained upon written request to the Selective Service System, Reports Clearance Officer, Arlington, Virginia 22209-2425.

Written comments and recommendations for the proposed extension of clearance of the form should be sent within 30 days of publication of this notice to the Selective Service System, Reports Clearance Officer, Arlington, Virginia, 22209-2425.

A copy of the comments should be sent to Office of Information and Regulatory Affairs, Attention: Desk Officer, Selective Service System, Office of Management and Budget, New Executive Office Building, Room 3235, Washington, DC 20435.

Dated: March 11, 2003.

**Lewis C. Brodsky,**

*Acting Director.*

[FR Doc. 03-11463 Filed 5-7-03; 8:45 am]

**BILLING CODE 8015-01-M**

### **DEPARTMENT OF STATE**

#### **[Public Notice 4359]**

#### **Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and

<sup>4</sup> 15 U.S.C. 78f(b).

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

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(6).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240-19b-4(f)(6).

<sup>10</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

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

<sup>12</sup> For purposes of only accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 17 CFR 200.30-3(a)(12).