

*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 revise the fees for the listing of additional shares ("LAS") program and to institute a record-keeping fee for certain changes by issuers.

The LAS program involves notification and fee requirements for the issuance of additional shares.

Specifically, an issuer must notify Nasdaq prior to a transaction that may implicate the corporate governance requirements and thereafter pay a fee that is based on the change in the issuer's total shares outstanding as reported in its periodic reports filed with the SEC. Revenues from the LAS program are used to fund issuer-related operations that include educational initiatives, issuer service initiatives and NASD surveillance measures.<sup>3</sup>

NASD Rules 4510(b) and 4520(b) currently provide that the fee for the listing of additional shares is \$2,000 or \$0.01 per additional share, whichever is higher, up to a maximum of \$22,500 per quarter and an annual maximum of \$45,000 per issuer. There is no fee for issuances of up to 49,999 additional shares per quarter.

Nasdaq proposes to modify the LAS program fees in two ways. First, the minimum fee would be increased from \$2,000 to \$2,500 for issuances of between 50,000 and 250,000 additional shares.<sup>4</sup> Second, the current quarterly cap of \$22,500 would be eliminated. The annual cap of \$45,000, however, would be retained.

Nasdaq also proposes to institute a \$2,500 record-keeping fee for certain changes made by issuers. Such a fee would be used to address the costs associated with revising Nasdaq's records when issuers engage in certain actions, including a change of name, a change in the par value or title of securities, or a voluntary change in trading symbol.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,<sup>5</sup> in general, and with Section 15A(b)(5) of the Act,<sup>6</sup> in particular, in that the proposal provides for the equitable

allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Specifically, Nasdaq states that the LAS program fees, which are used to fund issuer-related operations,<sup>7</sup> will be imposed on all issuers equally based on the number of additional shares issued. In addition, the proposed record keeping-fee will be imposed equally on all listed issuers that make the changes described above.

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

Nasdaq does not believe that the proposed rule change will result in 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*

Written comments were neither solicited nor 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 reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such 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, 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 NASD. All submissions should refer to file number SR-NASD-2003-127 and should be submitted by September 30, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-22855 Filed 9-8-03; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48425; File No. SR-Phlx-2003-60]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Extending the Program To Deploy the Options Floor Broker Management System**

August 29, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on August 29, 2003, 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 Phlx. The Exchange has designated the proposed rule change as constituting a "non-controversial" rule change under Section 19(b)(3)(A)(iii) of the Act,<sup>3</sup> and paragraph (f)(6) of Rule 19b-4 under the Act,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

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

<sup>5</sup> The Exchange has requested that the Commission waive both the five-day pre-filing notification requirement and the 30-day operative delay, as specified in Rule 19b-4(f)(6)(iii). 17 CFR 240.19b-4(f)(6)(iii).

<sup>3</sup> See Securities Exchange Act Release No. 31586 (December 11, 1992), 57 FR 60257 (December 18, 1992).

<sup>4</sup> As under the current rules, there would be no fee for issuances of up to 49,999 per quarter.

<sup>5</sup> 15 U.S.C. 78o-3.

<sup>6</sup> 15 U.S.C. 78o-3(b)(5).

<sup>7</sup> See Securities Exchange Act Release No. 31586, *supra* note 3.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to extend its pilot program pertaining to the Options Floor Broker Management System (the "System") until September 12, 2003.<sup>6</sup> The System is a new component of the Exchange's Automated Options Market (AUTOM) and Automatic Execution (AUTO-X) System.<sup>7</sup>

The text of the proposal rule change is set forth below. New text is in italics; deletions are in brackets.

\* \* \* \* \*

Philadelphia Stock Exchange  
Automated Options Market (AUTOM)  
and Automatic Execution System  
(AUTO-X)

Rule 1080. (a)-(j)

No change.

Commentary:

.01-.05 No change.

.06 Options Floor Broker

Management System. The Options Floor Broker Management System is a component of AUTOM designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. The Options Floor Broker Management System also is designed to establish an electronic audit trail for options orders represented and executed by Floor Brokers on the Exchange, such that the audit trail provides an accurate, time-sequenced record of electronic and other orders, quotations and transactions on the Exchange, beginning with the receipt of an order by the Exchange, and further documenting the

<sup>6</sup> On July 31, 2003, the Exchange filed a proposed rule change to implement a pilot program to deploy the Exchange's new System. This proposed rule change was noticed, and accelerated approval was granted thereto, on July 31, 2003. See Securities Exchange Act Release No. 48266 (July 31, 2003), 68 FR 152 (August 7, 2003) (SR-Phlx-2003-56). The pilot is currently scheduled to expire on August 29, 2003. The Exchange has also filed for permanent approval of the proposed rules. See Securities Exchange Act Release No. 48265 (July 31, 2003), 68 FR 47137 (August 7, 2003) (SR-Phlx-2003-40). The Exchange acknowledges that SR-Phlx-2003-40 and Amendment No. 1 thereto are subject to public comment, which may result in amendments to the proposed rules.

<sup>7</sup> AUTOM is the Exchange's electronic order delivery, routing, execution and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO-X. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. See Exchange Rule 1080.

life of the order through the process of execution, partial execution, or cancellation of that order. The Exchange will begin deployment of the Options Floor Broker Management System on July 31, 2003, with floor-wide deployment to be completed not later than [August 29] *September 12, 2003.*

\* \* \* \* \*

## 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 purpose of the proposed rule change is to extend the effectiveness of the rules governing the System beyond the current effective date of August 29, 2003, in order to continue to have rules in place concerning the System and to ensure that Floor Brokers using the System during the continuing deployment will not be in violation of current Exchange rules regarding ticket marking requirements.

The System is designed to enable Floor Brokers and/or their employees to enter, route and report transactions stemming from options orders received on the Exchange. Floor Brokers or their employees access the System through an electronic Exchange-provided handheld device on which they have the ability to enter the required information as set forth in Phlx Rule 1063(e), either from their respective posts on the options trading floor or in the trading crowd. The System will eventually replace the Exchange's current Floor Broker Order Entry System ("FBOE"),<sup>8</sup> as part of a roll-out of the new System floor-wide.

<sup>8</sup> See Securities Exchange Act Release No. 41524 (June 14, 1999), 64 FR 33127 (June 21, 1999) (SR-Phlx-99-11). The FBOE, a component of AUTOM, currently provides a means for (but does not require) Floor Brokers to route eligible orders to the specialist's post, consistent with the order delivery criteria of the AUTOM System set forth in Exchange Rule 1080(b). The new System would include the same functionality as the FBOE, in addition to providing an electronic audit trail for non-electronic orders received by Floor Brokers by way

All of the rules pertaining to the System adopted in July and effective through August 29<sup>9</sup> are proposed to be extended until September 12, 2003, including: Phlx Rules 1014(g), 1015, 1051, 1063, 1064, and 1080.06, as well as Option Floor Procedure Advices ("Advice") A-11, B-6, B-8, C-2, C-3, F-1, F-2, and F-4. In addition to extending the effective date of the rules, this proposal also amends Phlx Rule 1080, Commentary .06 to state that the Exchange will complete deployment of the System by September 12, 2003.

The Exchange believes that the System will enable Floor Brokers to handle orders they represent more efficiently, and will further enable the Exchange to comply with the audit trail requirement for non-electronic orders required under the Order Instituting Public Administrative Proceedings Pursuant to Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions.<sup>10</sup>

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>11</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>12</sup> in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and to protect investors and the public interest, by providing a System that enables Floor Brokers to handle orders they represent more efficiently, while enabling the Exchange to comply with the requirement in the Order to provide an electronic audit trail for non-electronic orders entered on the Exchange.

### 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.

of the entry of the required information in proposed Rule 1063(e). Telephone call between Edith Hallahan, First Vice President and Deputy General Counsel, Phlx and Jennifer Colihan, Special Counsel, Division of Market Regulation, Commission, on August 29, 2003.

<sup>9</sup> See note 6, *supra*.

<sup>10</sup> See Securities Exchange Act Release No. 43268 (September 11, 2000) and Administrative Proceeding File 3-10282.

<sup>11</sup> 15 U.S.C. 78f(b).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

*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**

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of the filing, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>13</sup> and Rule 19b-4(f)(6) thereunder.<sup>14</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.

The Commission has decided, consistent with the protection of investors and the public interest, to waive the five-day pre-filing notice and 30-day operative date to allow the System and rules to continue on a pilot basis without interruption until September 12, 2003.<sup>15</sup>

**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-2003-60 and should be submitted by September 30, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**DEPARTMENT OF STATE**

**[Public Notice 4471]**

**Consular Affairs, Overseas Citizen Services, Office of Children's Issues; 60-Day Notice of Proposed Information Collection: Form DS-3077, The Children's Passport Issuance Alert Program; OMB Control Number 1405-XXXX**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the **Federal Register** preceding submission to OMB. This process is conducted in accordance with the Paperwork Reduction Act of 1995.

The following summarizes the information collection proposal to be submitted to OMB:

*Type of Request:* New Collection.

*Originating Office:* Bureau of Consular Affairs, Overseas Citizen Services, Office of Children's Issues, CA/OCS/CI.

*Title of Information Collection:* The Children's Passport Issuance Alert Program.

*Frequency:* On occasion.

*Form Number:* DS-3077.

*Respondents:* Concerned U.S. parents, or their agents, who believe their child may be abducted.

*Estimated Number of Respondents:* 2400/year.

*Average Hours Per Response:* 30 minutes.

*Total Estimated Burden:* 1200 hours/year.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection is necessary for

the proper performance of the functions of the agency.

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

*For Additional Information:* Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Sandra McNeilly, CA/OCS/CI, U.S. Department of State, Washington, DC 20520-4818, who may be reached on (202) 312-9710.

Dated: August 8, 2003.

**Dianne M. Andruch,**

*Deputy Assistant Secretary, Bureau of Consular Affairs, Overseas Citizens Services, Department of State.*

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**DEPARTMENT OF STATE**

**[Public Notice 4472]**

**30-Day Notice of Proposed Information Collection: Form DS-4024, American Citizens Services Internet Based Registration Service (IBRS); OMB Control Number 1405-XXXX**

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. This new Internet Based Information Collection system permits U.S. citizens who travel or reside abroad to register their destination and emergency contacts with the Department of State. This facilitates the provision of emergency assistance to U.S. citizens during crisis or disaster. Comments should be submitted within 30 days of the publication of this notice.

The following summarizes the information collection proposal to be submitted to OMB:

*Type of Request:* New Collection.

*Originating Office:* Bureau of Consular Affairs, Overseas Citizens Services CA/OCS.

*Title of Information Collection:* American Citizens Services Internet Based Registration Service (IBRS).

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> For purposes only of accelerating the operative date 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>16</sup> 17 CFR 200.30-3(a)(12).