

and the public interest, consistent with section 6(b)(5) of the Act.²⁴

Finally, the Commission believes that the Amendment No. 1 to provide an alternate eligibility criteria for component securities received as part of a distribution or as a result of a merger, consolidation, corporate combination or other event to remain in the trust should enhance competition by enabling the Phlx to better compete with other markets trading TIRs and notes that the Commission has previously approved similar listing standards modifications for the American Stock Exchange, Inc.²⁵

Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,²⁶ to approve the proposal, as amended, on an accelerated basis prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register** pursuant to Section 19(b)(2) of the Act.²⁷

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁸ that the proposed rule change, as amended, (SR-Phlx-2001-75), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁹

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44844; File No. SR-Phlx-2001-68]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Philadelphia Stock Exchange, Inc. Regarding Notification of Changes in Business Operations and the Minor Rule Violation Enforcement and Reporting Plan

September 25, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder,

notice is hereby given that on July 19, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On September 20, 2001, the Phlx amended the proposal.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to adopt an Equity Floor Procedure Advice ("EFPA") and an Options Floor Procedure Advice ("OFPA"), with fine schedules under the minor rule violation enforcement and reporting plan ("Minor Rule Plan")⁴ containing the requirements for notification established in Phlx Rule 610, "Notification of Changes in Business Operations." Additionally, the Exchange proposes to amend Phlx Rule 610 to require at least ten business days prior notification of a change in business operations. The same ten business day notification requirement is proposed for the OFPA and EFPA and, therefore, establishes consistency with the proposed OFPA, EFPA and Phlx Rule 610. The text of the proposed rule change is below. Additions are in italics.

F-33 Failure to Provide Notification of Changes in Business Operations

Any member or member organization for which the Exchange is the Designated Examining Authority ("DEA"), that operates as a specialist, floor broker and/or Registered Options Trader ("ROT"), shall provide prior written notification to the Examinations Department of any change in the business operations of such member or member organization which would cause the member or member organization to be subject to additional or modified net capital requirements, examination schedules or other

registration, examination or regulatory requirements.

For the purposes of this Advice, the appropriate time frame for notification is at least 10 business days prior to the change in business operations.

FINE SCHEDULE (Implemented on a three-year running calendar basis)

F-33

1st Occurrence \$250.00

2nd Occurrence \$500.00

3rd Occurrence \$1000.00

4th and Thereafter Sanction is discretionary with Business Conduct Committee

* * * * *

Notification of Changes in Business Operations

Rule 610. Any member or member organization for which the Exchange is the Designated Examining Authority ("DEA"), that operates as a specialist, floor broker and/or Registered Options Trader ("ROT"), shall provide prior written notification to the Examinations Department of any change in the business operations of such member or member organization which would cause the member or member organization to be subject to additional or modified net capital requirements, examination schedules or other registration, examination or regulatory requirements.

For the purposes of this Rule, the appropriate time frame for notification is at least 10 business days prior to the change in business operations.

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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 Phlx proposes to provide for the issuance of fines for failure to notify the Exchange of certain changes in business operations for minor infractions without the need for formal disciplinary action.

²⁴ 15 U.S.C. 78f(b)(5).

²⁵ See Securities Exchange Act Release No. 44309 (May 16, 2001), 66 FR 28587 (May 23, 2001) (SR-Amex-2001-04).

²⁶ 15 U.S.C. 78f(b)(5).

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 15 U.S.C. 78s(b)(2).

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See September 19, 2001 letter from Linda S. Christie, Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, and attachments ("Amendment No. 1"). Amendment No. 1 completely replaces and supersedes the original proposal.

⁴ SEC Rule 19d-1(c)(1) requires prompt reporting to the Commission of any final disciplinary action. 17 CFR 240.19d-1(c)(1). However, minor rule violations not exceeding \$2,500.00 are not deemed final and therefore are not subject to the same reporting requirements. See also Phlx Rule 970.

The Phlx believes this should streamline the sanctioning process and make it more efficient for all parties involved.

Phlx Rule 610 requires members or member organizations for which the Exchange is the designated examining authority operating as a specialist, floor broker or Registered Options Trader ("ROT") to provide prior written notification to the Phlx Department of Examinations ("Department") of any change in certain of its business operations which would cause the member or member organization to be subject to certain additional or modified regulatory or financial requirements.⁵ The Exchange also proposes to amend Phlx Rule 610 to require at least ten business days prior notification to a change in business operations. The requirement for ten business days prior notification is consistent with the proposal for the OFPA and EFPA.

Currently, when a violation of Phlx Rule 610 is detected, the Department sends a letter of inquiry to the member or member organization and makes a formal request that begins an examination. If a violation is found, the Department sends a recommendation to the Exchange's Business Conduct Committee ("Committee"). The Committee considers the matter and may determine to issue a statement of charges.⁶ This action is reportable on a member's Form U-4 or member organization's Form BD (Uniform Application for Broker-Dealer Registration) because it is a disciplinary action. By adopting a fine schedule under the Minor Rule Plan, the Department can issue fines for minor infractions without the need for formal disciplinary action.

The Exchange believes that it is appropriate to add the requirements of Phlx Rule 610 to its Minor Rule Plan. The Exchange's Minor Rule Plan is intended to provide a response to a violation of Exchange rules when a meaningful sanction is needed, but initiation of a disciplinary proceeding pursuant to Phlx Rule 960.2 is not suitable because such a proceeding would be more costly and time consuming than would be warranted given the nature of the violation.⁷ Therefore, the inclusion of the

requirements of Phlx Rule 610 in the Minor Rule Plan should make the Exchange's disciplinary system more efficient. If the Exchange determines that a violation of Phlx Rule 610 is not minor in nature, the Exchange may initiate full disciplinary proceedings in accordance with Phlx Rule 960.2.

2. Statutory Basis

The Phlx believes the proposed rule change is consistent with Section 6 of the Act⁸ in general, and furthers the objectives of Section 6(b)(5)⁹ in particular, in that it is designed to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest, and specifically with Section 6(b)(6) of the Act¹⁰ which requires that the rules of an exchange provide that its members be disciplined appropriately for violations of an exchange's rules and the Act, by providing the Exchange the ability to impose sanctions in a more efficient manner that are proportionate to the nature of the violation.

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

The Phlx does not believe that the proposed rule change would 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.

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 Exchange 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 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 filings will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2001-68 and should be submitted by October 22, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 3791]

Bureau of Consular Affairs; Designation of Certain Posts for Special Fee Payment Procedures

This public notice identifies additional posts designated by the Deputy Assistant Secretary for Visa Services for two purposes related to the payment of immigrant visa fees. The first purpose relates to the revised procedure for payment of the fee for the processing of the application for an immigrant visa set forth in the **FEDERAL REGISTER** on September 8, 2000, (65 FR 54598). The effective date of that notice was stayed until January 1, 2001 by a public notice in the Federal Register of December 14, 2000, (65 FR 78243).

The second purpose is to identify the posts for which a fee pursuant to Item 61 of the Schedule of Fees for Consular Services (22 CFR 22.1) will be assessed for advance review of and assistance with the Affidavit of Support that is required in certain immigrant visa cases. Notice of this fee requirement was added to the visa regulation pertaining

⁵ See Phlx Rule 610. Securities Exchange Act Release No. 43546 (November 9, 2000), 65 FR 69983 (November 21, 2000)(SR-Phlx-00-47).

⁶ See Phlx Rule 960.3. The Committee could also determine that a less formal sanction, such as a letter of caution, is appropriate.

⁷ Phlx Rule 960.2 governs the initiation of disciplinary proceedings by the Exchange for violations within the disciplinary jurisdiction of the Exchange.

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 15 U.S.C. 78f(b)(6).

¹¹ 17 CFR 200.30-3(a)(12).