

6(b)(5) of the Act¹⁸ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest. In addition, the Commission believes that the XPress system is consistent with Congress's finding in Section 11A(a)(1)(C)(i) of the Act¹⁹ that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the economically efficient execution of securities transactions.

The Commission believes that the XPress system should assure the economically efficient execution of securities transactions by providing a means for the execution of large orders from off the floor. In addition, the Commission believes that the XPress system should encourage market participants, particularly institutional investors, to display orders of at least 25,000 shares, which may attract more order flow and increase the depth and liquidity of the Exchange's market to the benefit of investors and the public interest. The Commission notes that the 30 second display requirement provides brokers and non-XPress orders the opportunity to interact with the quote before it becomes XPress eligible. The Commission also believes that the proposed rule change could help to perfect the mechanism of a free and open market by allowing market participants, particularly institutional investors, to more quickly execute large orders from off the floor. The Commission also believes that permitting the prompt and efficient execution of large orders, with the opportunity for price improvement, could strengthen the NYSE market and benefit market participants.

The Commission finds good cause to approve Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the amendment in the **Federal Register**. Specifically, Amendment No. 1 amends the proposed rule language to clarify that the minimum number of shares required for an order to be designated as XPress is 25,000 and that a published bid or offer must remain at the same price for at least 30 seconds to be designated an XPress quote. Amendment No. 2 clarifies that partial executions are permitted by the system, that intervening SuperDOT orders will

not clear the floor, and that XPress orders cannot be entered within two minutes of the close of trading. The Commission believes that these amendments should assist members, investors, and market participants in general in understanding the requirements of XPress quotes and XPress orders and how orders are executed on the system. Accordingly, the Commission believes that there is good cause, consistent with Sections 6(b)(5) and 19(b) of the Act,²⁰ to approve Amendment Nos. 1 and 2 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1 and 2, including whether these amendments are 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR-NYSE-99-24 and should be submitted by [insert date 21 days from the date of publication].

V. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,²¹ that the proposed rule change (SR-NYSE-99-24), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 00-33264 Filed 12-28-00; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43762; File No. SR-Phlx-00-64]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Late Charges and Penalties for Non-Payment

December 21, 2000.

I. Introduction

On September 18, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "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 amend its By-Law Article XIV, Section 14-5, "Penalty for Non-Payment," and Phlx Rule 50, "Late Charge," to clarify and provide consistent time periods for reporting delinquent accounts to the Phlx's Finance Committee and the Phlx's Board of Governors ("Board").

The proposed rule change was published for comment in the **Federal Register** on November 8, 2000.³ No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The Phlx proposes to amend Phlx Rule 50 to: (1) Impose a late charge on accounts unpaid 30 days after the date of the original invoice, rather than accounts unpaid 40 days after the date of the original invoice; (2) reduce the amount of the late charge from 2% simple interest to 1% simple interest for each 30-day period or fraction thereof, calculated on a daily basis, during which the accounts payable to the Phlx remain outstanding; and (3) provide that the Phlx's Finance Committee may waive the amount of the late charge, or a portion thereof, if the amount falls within guidelines established by the Board. The Phlx also proposes to eliminate from Phlx Rule 50 the requirement that the Phlx's Controller notify the board when an amount due to the Exchange remains outstanding for 90 days. Instead, Phlx Rule 50, as amended, requires the Phlx's controller to notify the Finance Committee when an amount due to the Phlx remains unpaid 50 days after the date of the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 43489 (October 27, 2000), 65 FR 67031.

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ 15 U.S.C. 78k-1(a)(1)(C)(i).

²⁰ 15 U.S.C. 78f(b)(5) and 78s(b).

²¹ 15 U.S.C. 78s(b)(2).

²² 17 CFR 200.30-3(a)(12).

original invoice. The Finance Committee will refer the matter to the Board if the amount due exceeds \$10,000.

For amounts in excess of \$10,000, Phlx By-Law Article XIV, Section 14-5, as amended, requires the Phlx's Controller, rather than the Secretary, to report to the Board: (1) A fine and/or other monetary sanction unpaid 20 days after the amount becomes payable; and (2) a due, foreign currency option ("FCO") user's fee, fee other charge or other amount due to the Phlx that is unpaid 50 days from the date of the original invoice. In addition, the Phlx proposes to amend Phlx By-Law 14-5 to provide that the Phlx's Committee on Admissions may dispose of a membership or FCO participation when an amount over \$10,000 has not been paid within one year after payment was due.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6 of the Act.⁴ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5)⁵ of the Act in that it is designed to modify the Exchange's fee collection process in a manner that promotes just and equitable principles of trade, prevents fraudulent and manipulative acts and practices, maintains fair and orderly markets, and protects investors and the public interest.⁶ In addition, the Commission finds that the proposal is consistent with Section 6(b)(4) of the Act,⁷ which provides that a registered national securities exchange must promulgate rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

The Commission believes that the proposal to revise PHLX Rule 50 to impose a late charge 30 days after the date of the original invoice, rather than 40 days after the date of the original invoice, will help to encourage the prompt payment of amounts due to the Exchange. The Commission believes that the reduction of the late charge in PHLX Rule 50 from 2% simple interest to 1% simple interest is reasonable. In

addition, the Commission believes that the proposal to allow the Finance Committee or its designee to waive a late charge or a portion of a late charge if the amount falls within guidelines established by the Board will provide the Finance Committee with flexibility in the administration of late charges.

PHLX Rule 50 currently requires the Controller to notify the Board if a member fails to pay dues, fees, fines, or other charges within 90 days. The Commission believes that the proposal to revise PHLX Rule 50 to require the Controller to notify the Finance Committee of the failure to pay a fine and/or other monetary sanction within 20 days, and of the failure to pay dues, fees, and other charges within 50 days, will facilitate the collection of amounts owed to the PHLX. The Commission believes that amending PHLX Rule 50 to require the Finance Committee to report to the matter to the Board when an amount due exceed \$10,000 establishes a reasonable threshold for Board involvement in the collection process.

PHLX By-Law 14-5 currently states that the membership or participation of a member or FCO participant may be disposed of by the PHLX's Committee on Admissions when a due, fee, or fine has not been paid within one year. The Commission believes that amending PHLX By-Law 14-5 to specify that the Committee on Admissions may dispose of the participation or membership when an amount in excess of \$10,000 has not been paid within a year will establish a threshold for action by the Committee on Admissions and notify members and participants of a circumstance under which the Committee on Admissions may dispose of a membership or FCO participation. With regard to unpaid amounts exceeding \$10,000, the Commission finds that the PHLX's proposal to amend PHLX By-Law 14-5 to require the PHLX's Controller, rather than the Secretary, to report to the Board: (1) A fine and/or other monetary sanction unpaid 20 days after the amount becomes payable; and (2) a due, FCO user's fee, fee, other charge, or other amount due to the PHLX that is unpaid 50 days from the date of the original invoice is designed to increase the efficiency of the collection process.

IV. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-PHLX-00-64) be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[License No. 09/71-0378]

Housatonic Equity Investors SBIC, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Housatonic Equity Investors SBIC, L.P., 88 Kearney St. Suite 1610, San Francisco, CA 94108, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, *Financings which Constitute Conflicts of Interest of the Small Business Administration* ("SBA") rules and regulations (13 CFR 107.730 (2000)). Housatonic Equity Investors SBIC, L.P. proposes to provide equity financing to WebFeet.com, Inc. 609 Mission Street, Suite 4000, San Francisco, CA 94105. The financing is contemplated for working capital purposes.

The financing is brought within the purview of Sec. 107.730(a)(1) of the Regulations because Housatonic Equity Investors, L.P., an Associate of Housatonic Equity Investors SBIC, L.P., currently owns greater than 10 percent of ArchivesOne, Inc. and therefore WebFeet.com, Inc. is considered an Associate of Housatonic Equity Investors, L.P. as defined in Sec. 107.50 of the regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Don A. Christensen,

Associate Administrator for Investment.

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⁴ 15 U.S.C. 78f.

⁵ 15 U.S.C. 78f(b)(5).

⁶ In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).