

that market maker order tickets have the "yield" field circled, because the tickets used for orders by ROTs and other exchanges' market makers (due to the processing needs of clearing firms), do not have such a category, as do customer order tickets. This change merely corresponds to expanding the definition of controlled account to include non-member broker-dealers, such as market makers from other exchanges. Other controlled accounts would still be required to circle the yield field. Currently, specialists and ROTs market making in person are not required to circle the yield field; the requirement would not change.

Broker-dealers are not treated the same as members for all purposes under the Exchange's rules. Certain functions and entitlements are unique to membership status. For example, only members may transact business on the Exchange trading floor.<sup>8</sup> Nevertheless, the proposal would generally place non-member broker-dealers at parity with member broker-dealers for purposes of Phlx Rule 1014(g), except that certain yielding provisions differ with respect to ROTs and specialists, as explained above, due to their unique market making obligations, which non-member broker-dealers do not have. Therefore, the Exchange does not believe that the proposal is unfairly discriminatory against non-member broker-dealers. Parity with certain other broker-dealers is fair and consistent with other exchange rules, as described above.

For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5),<sup>10</sup> in particular, in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest, and promote just and equitable principles of trade by equalizing all broker-dealers in terms of how their orders are treated in Exchange rules, regardless of whether they are members of the Exchange, as well as by providing a benefit to customer accounts in terms of execution priority. The Exchange also believes that the proposal is consistent with the provisions in Section 6(b)(5)<sup>11</sup> that provides that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

*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*

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 Phlx 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 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-2001-38 and should be submitted on or before October 16, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**  
Deputy Secretary.  
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**BILLING CODE 8010-01-M**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3365]**

**State of California**

Butte County and the contiguous counties of Colusa, Glenn, Plumas, Sutter, Tehama and Yuba in the State of California constitute a disaster area as a result of damages caused by severe wildfires that occurred on September 6, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 19, 2001 and for economic injury until the close of business on June 18, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853-4795.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere .....	6.750
Homeowners Without Credit Available Elsewhere .....	3.375
Businesses With Credit Available Elsewhere .....	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere .....	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere ..	4.000

The number assigned to this disaster for physical damage is 336505 and for economic damage is 9M7500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)  
Dated: September 18, 2001.

**John Whitmore,**  
Acting Administrator.  
[FR Doc. 01-23884 Filed 9-24-01; 8:45 am]  
**BILLING CODE 8025-01-P**

<sup>8</sup> See Phlx Rules 104 and 109 regarding the role of members.

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

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

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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