

the fundamental purpose of position and exercise limits are being served by their existence. However, given the surveillance capabilities of the Exchange and the depth and liquidity in both the QQQ options and the underlying cash market in QQQs, the Commission believes it is permissible to significantly raise position limits for QQQ options without risk of disruption to the options or underlying cash markets. Specifically, the Commission believes that it is appropriate to increase position and exercise limits from 75,000 contracts to 300,000 contracts for QQQ options for several reasons.

First, the Commission believes that the structure of the QQQ options and the considerable depth and liquidity of both the underlying cash and options market for QQQ options lessens the opportunity for manipulation of this product and disruption in the underlying market that a lower position limit may protect against. In this regard, the Phlx notes that the average daily trading volumes of the QQQs and QQQ options from January 1, 2001 to November 30, 2001 were 71.21 million shares and 148,181 contracts, respectively. The Phlx also notes that the QQQ option is the most actively-traded option in the U.S. markets, and the underlying QQQ is the most actively-traded equity security in the U.S. markets.¹⁹ These factors provide support for higher limits for the QQQ options and differentiate them from other equity options.

Second, the Commission notes that current margin and risk-based haircut methodologies serve to limit the size of positions maintained by any one account by increasing the margin and/or capital that a member must maintain for a large position held by itself or by its customer. Further, the Phlx, under Phlx Rule 722(d) and 722(i)(8), may impose additional margin on options positions if it determines that this is warranted. The Commission believes that these financial requirements should help to address concerns that a member or its customer may try to maintain an inordinately large unhedged position in QQQ options and will help to reduce risks if such a position is established.

Finally, the Commission believes that the reporting requirements imposed by the Exchange will help protect against potential manipulation. Under Phlx Rule 1003(b), each member or member organization that maintains a position

on the same side of the market in excess of 10,000 contracts in the QQQ option, for its own account or for the account of a customer is required to report certain information. The Exchange also requires members to report subsequent incremental increases in positions, thus assuring that positions are regularly monitored by the Exchange. In particular, information that must be reported includes, among other things, whether or not the option position is hedged, and if so, a description of the hedge. This information should help the Phlx to monitor accounts and determine whether it is necessary to impose additional margin for under-hedged positions, as provided under its rules.

In summary, the financial and reporting requirements noted above should allow the Exchange to detect and deter trading abuses arising from the increased position and exercise limits, and will also allow the Exchange to monitor large positions in order to identify instances of potential risk and to assess additional margin and/or capital charges, if deemed necessary. These requirements, coupled with the special trading characteristics of the QQQ options and the underlying QQQ noted above, warrant approval of the Exchange's proposal.²⁰

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof in the **Federal Register**. The Commission notes that under the current Phlx rules, the position and exercise limits applicable to QQQ options are 75,000 contracts. However, due to a 50% reduction in the value of the underlying QQQ on March 20, 2000, the limit was adjusted to 150,000 contracts. The position and exercise limits are scheduled to revert back to 75,000 contracts after the January options expiration occurring on January 18, 2002. The Exchange has represented to the Commission that a limits of 75,000 contracts for the QQQ options could substantially reduce depth and liquidity in the QQQ market. The Exchange has further represented that increasing position and exercise limits from 75,000 contracts to 300,000 contracts for QQQ options will provide greater flexibility for market participants attempting to hedge their market risks. The Commission, therefore, believes for the reasons noted above that it is

appropriate to approve this proposed rule change increasing the position and exercise limit to 300,000 contract son January 18, 2002. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,²¹ to approve the proposal on an accelerated basis.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²² that the proposed rule change (SR-Phlx-2002-06), as amended, is hereby approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.²³

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45304; File No. SR-Phlx-2001-112]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Reducing Exchange Fees for Trading Floor Members Participating in the Wireless Phone System

January 17, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 17, 2001, 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 Phlx. 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 Phlx proposes to amend its schedule of dues, fees and charges to decrease from \$200 to \$100 the fee per month for each phone used by Phlx members on the equity and options floors of the Exchange participating in the Exchange's Ericsson Wireless Phone

¹⁹ The Phlx has noted that the QQQ is designed to closely track the performance of the Nasdaq-100 Index. According to the Phlx, as of November 30, 2001, the market capitalization of the securities underlying the Nasdaq-100 Index was \$1.875 trillion.

²⁰ Of course, the Commission expects that Phlx will take prompt action, including timely communication with the Commission and other marketplace self-regulatory organizations responsible for oversight of trading in the underlying QQQ, should any unanticipated adverse market effects develop due to the increased limits.

²¹ 15 U.S.C. 78f(b)(5).

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

System ("system").³ The proposed amended fee will be implemented beginning January 1, 2002.⁴

II. Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, 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. 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 amend the Exchange's schedule of dues, fees and charges to decrease from \$200 to \$100 the fee per month for each phone used by members on the equity and options floors participating in the system. Each member user of the wireless phones has to agree to pay a monthly fee per phone (which will be reduced to \$100 commencing January 1, 2002) for a period of twelve months, or, if an agreement has been already signed, for the remainder of the twelve month period. At the end of the twelve-month period, a new agreement will be presented to the user. Phlx Rule 50 will govern payment of the monthly fees.

The Exchange believes that the proposed decrease in the monthly wireless phone fee is reasonable and equitable to all members on the equity and options floors of the Exchange that use the wireless phone system. This fee will help to offset the expense incurred in using and maintaining the system.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues,

³ A \$200 fee per month for each phone used on the system has been in effect since 1999. See Securities Exchange Act Release No. 41449 (May 25, 1999), 64 FR 29725 (June 2, 1999) (SR-Phlx-99-10). Users of the system are also assessed a one-time fee to purchase a handset, headset, battery, and accessories. While the system is available for use on both the equity and options floors, at this time it is used only on the options floor.

⁴ This fee will continue to be ineligible for the monthly credit of up to \$1,000 to be applied against certain fees, dues and charges and other amounts owed to the Exchange by certain members. See Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715, (May 18, 2001) (SR-Phlx-2001-49).

fees and charges is consistent with Section 6(b)⁵ of the Act in general, and furthers the objectives of section 6(b)(4)⁶ in particular, in that it is an equitable allocation of reasonable fees among the Exchange's members, because the members who pay the reduced monthly fee incur the benefit of using the phones on the Exchange's wireless phone system.

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

The Phlx does not believe that the proposed rule change will impose 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

The Phlx has neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)⁷ of the Act and Rule 19b-4(f)(2)⁸ thereunder. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of the 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.

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

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(4).

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(2).

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-2001-112 and should be submitted by February 15, 2002.

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

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 02-1908 Filed 1-24-02; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9014]

State of Florida

Charlotte and Lee Counties and the contiguous counties of Collier, De Soto, Glades, Hendry, Highlands, and Sarasota in the State of Florida constitute an economic injury disaster loan area as a result of a Red Tide condition and subsequent closure of the Gasparilla Sound beginning August 22, 2001 and continuing. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on October 17, 2002, at the address listed below or other locally announced locations:

U.S. Small Business Administration,
Disaster Area 2 Office, One Baltimore
Place, Suite 300, Atlanta, GA 30308.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The number assigned for economic injury for the State of Florida is 901400.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: January 17, 2002.

Hector V. Barreto,
Administrator.

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BILLING CODE 8025-01-P

⁹ 17 CFR 200.30-3(a)(12).