

thereunder because the proposal: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the filing date of the proposed rule change.¹⁰

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹¹ the Commission may designate a shorter time if such action is consistent with the protection of investors and public interest. Nasdaq has requested that the Commission waive the 30-day pre-operative waiting period because the processing described by this proposal is already operative in SuperMontage during the trading day and Nasdaq believes that designating the proposal as immediately effective and operative will ensure that formal notice of this processing during the SuperMontage opening is provided to market participants as soon as practicable.

The Commission, consistent with the protection of investors and the public interest, has waived the 30-day operative date requirement for this proposed rule change, and has determined to designate the proposed rule change as operative on April 24, 2003, the date of filing of Amendment No. 1 to the proposed rule change, in order to allow Nasdaq to provide notice to its members of this aspect of the Nasdaq opening process immediately.¹² 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.¹³

¹⁰ As required under Rule 19b-4(f)(6)(iii), Nasdaq provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date.

¹¹ 17 CFR 240.19b-4(f)(6)(iii).

¹² For the purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rules impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f)

¹³ For purposes of determining the effective date of the filing and calculating the 60-day abrogation period, the Commission considers the period to

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 Amex. All submissions should refer to File No. SR-NASD-2003-38 and should be submitted by May 27, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 03-11014 Filed 5-2-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47750; File No. SR-Phlx-2003-16]

Self-Regulatory Organizations; Notice of Filing of Amendment No. 2 to Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Charges to Members for Orders Entered Through the Intermarket Options Linkage

April 28, 2003.

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 March 18, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a

commence on April 24, 2003, the date that Nasdaq filed Amendment No. 1.

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

proposed rule change,³ as described in Items I, II, and III below, which Items have been prepared by the Phlx. On March 21, 2003, Phlx filed Amendment No. 1 to the proposed rule change.⁴ The proposed rule change, as amended by Amendment No. 1, was originally published for comment in the **Federal Register** on April 2, 2003.⁵ On April 23, 2003, Phlx filed Amendment No. 2 to the proposed rule change.⁶ On April 23, 2003, Phlx filed a supplementary letter to Amendment No. 2.⁷ The Commission is publishing this notice to solicit comments on Amendment No. 2 to the proposed rule change from interested persons.

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

In the Original Filing, Phlx proposed to amend its fee schedule to set forth charges applicable to Principal Orders sent to the Exchange via the Intermarket Options Linkage ("Linkage"). In the proposed fee schedule attached to the Original Filing, floor brokerage assessments (which do not apply to Linkage orders) were not accurately described.⁸ In addition, in a separate filing, Phlx amended its fee schedule on April 11, 2003 to modify the fees applicable to broker/dealers for non-AUTO-X trades.⁹ Previously, the fee was \$.35 per contract. Now, the fee ranges from \$.35 per contract to \$.20 per contract, depending on the number of contracts.¹⁰ In the Original Filing, Phlx

³ See letter from Richard S. Rudolph, Director and Counsel, Phlx to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated March 17, 2003 ("Original Filing").

⁴ See letter from Richard S. Rudolph, Director and Counsel, Phlx to Jennifer Lewis, Attorney, Division, Commission, dated March 20, 2003 ("Amendment No. 1").

⁵ See Securities Exchange Act Release No. 47561 (March 21, 2003), 68 FR 15250.

⁶ See letter from Richard S. Rudolph, Director and Counsel, Phlx to Jennifer Lewis, Attorney, Division, Commission, dated April 22, 2003 ("Amendment No. 2").

⁷ See letter from Richard S. Rudolph, Director and Counsel, Phlx to Jennifer Lewis, Attorney, Division, Commission, dated April 22, 2003.

⁸ In the Original Filing, the Option Floor Brokerage Assessment was set forth as 5% of net floor brokerage income. The current Option Floor Brokerage Assessment is 5% of net floor brokerage income for brokers with monthly net brokerage income of \$0 to \$300,000; 6.5% of net floor brokerage income for brokers with monthly net brokerage income of \$301,000 to \$500,000; and 7.5% of net floor brokerage income for brokers with monthly net brokerage income of \$500,001 and over.

⁹ See Securities Exchange Act Release No. 47715 (April 23, 2003), 68 FR 22446 (April 28, 2003).

¹⁰ The fee is \$.35 per contract for up to 2,000 contracts, \$.25 per contract for between 2,001 and 3,000 contracts; and \$.20 per contract above 3,001

stated that its proposed linkage fees were consistent with other fees charged by the Exchange for non-Linkage Orders. In Amendment No. 2, Phlx clarifies that due to the recent changes to the options transaction charges applicable to broker-dealers discussed above, the proposed fee applicable to Principal Orders sent to the Exchange via the Linkage is no longer consistent with other fees charged by the Exchange for non-Linkage Orders.

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

In its filings 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.¹¹ 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.¹²

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

1. Purpose

The Exchange proposes to modify the fee schedule to reflect changes made to Phlx's fee schedule subsequent to the Original Filing and to make a correction to the fee schedule.

2. Statutory Basis

Phlx believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,¹³ in general, and furthers the objectives of section 6(b)(4),¹⁴ in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members who avail themselves of the linkage.

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

Phlx does not believe that the proposed rule change, as amended, will impose any inappropriate burden on competition.

contracts (with the first 3,000 contracts charged \$25 per contract).

¹¹ See Original Filing, note 5 *supra*.

¹² *Id.*

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change, as amended.

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

Within 35 days of the 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 Phlx consents, the Commission will:

(A) by order approve the proposed rule change, as amended, or

(B) institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 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 Number SR-Phlx-2003-16 and should be submitted by May 27, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-10958 Filed 5-2-03; 8:45 am]

BILLING CODE 8010-01-P

¹⁵ 17 CFR 200.30-2(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3494]

State of Alaska

As a result of the President's major disaster declaration on April 26, 2003, I find that the Kenai Peninsula Borough, Matanuska-Susitna Borough and Municipality of Anchorage in the State of Alaska constitute a disaster area due to damages caused by a severe winter storm, including high winds and freezing temperatures that occurred on March 6 through March 14, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 25, 2003 and for economic injury until the close of business on January 26, 2004 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.

In addition, applications for economic injury loans from small businesses located in the following contiguous boroughs and areas may be filed until the specified date at the above location: Denali Borough, Kodiak Island Borough, Lake and Peninsula Borough, Chugach Regional Educational Attendance Area (REAA), Copper River REAA, Delta/Greely REAA and Iditarod Area REAA in the State of Alaska.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	5.875
Homeowners without credit available elsewhere	2.937
Businesses with credit available elsewhere	6.378
Businesses and non-profit organizations without credit available elsewhere	3.189
Others (including non-profit organizations) with credit available elsewhere	5.500
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.189

The number assigned to this disaster for physical damage is 349411 and for economic injury the number is 9V0800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 28, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03-10939 Filed 5-2-03; 8:45 am]

BILLING CODE 8025-01-P