

temporary personnel, independent contractors, or service providers, the statute specifically permits self-regulatory organizations designated by the SEC to have access to "all criminal history record information."<sup>8</sup>

The proposed access to criminal history information is also consistent with a recently enacted amendment to New York's General Business Law ("GBL"), which, among other things, requires self-regulatory organizations in New York to fingerprint their employees and those non-employee service providers whose access to facilities or records places the self-regulatory organization at risk.<sup>9</sup>

As stated in the proposed rule change, the Exchange will comply with all applicable laws relating to the use and dissemination of criminal history record information obtained from the FBI.

## 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with the provisions of section 6(b) of the Act,<sup>10</sup> in general, and section 6(b)(5) of the Act,<sup>11</sup> in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change, as amended, 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 Exchange has neither solicited nor received written comments on the proposed rule change.

## III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing,

<sup>8</sup> 15 U.S.C. 78q(f)(2).

<sup>9</sup> N.Y. Gen. Bus. Law 359-e (12-a) (McKinney 2003). New York's Labor Law prohibits fingerprinting for employment purposes unless otherwise permitted by law. N.Y. Labor Law 201-a (McKinney 2003). The GBL amendment ensures that such fingerprinting would not violate New York's Labor Law.

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

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

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 Exchange. All submissions should refer to File No. SR-NYSE-2003-18 and should be submitted by [insert date 21 days from the date of publication].

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,<sup>12</sup> and, in particular section 6(b)(5) of the Act.<sup>13</sup> The Commission believes that the proposed rule change should promote the objectives of the Act. The Commission notes that the Exchange is an important component of the National Market System and that a serious disruption in the operation of the Exchange could have a significant deleterious impact on the U.S. financial markets. The proposed rule change should promote the objectives of the Act by establishing procedures that help prevent a serious disruption in the operation of the Exchange. Specifically, the proposal should provide the Exchange with an effective tool for identifying individuals whose prior criminal activities may indicate that the individuals pose a heightened threat to the security of the Exchange's operations. Moreover, the Commission notes that, notwithstanding any other provisions of law, it has been granted the authority to designate self-regulatory organizations to receive all criminal history record information held by the

<sup>12</sup> In granting approval of the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

Attorney General.<sup>14</sup> In approving this proposed rule filing, the Commission so designates the Exchange as being authorized to receive such criminal history record information held by the Attorney General.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval to the proposed rule change will allow the Exchange to implement expeditiously its fingerprinting program and increase the security of the Exchange, generally. In addition, the Commission believes that accelerated approval is appropriate in this case because the instant NYSE rule proposal is substantially similar to a recently approved Nasdaq Stock Market, Inc. ("Nasdaq") rule.<sup>15</sup>

## V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,<sup>16</sup> that the proposed rule change (SR-NYSE-2003-18), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-17356 Filed 7-8-03; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48112; File No. SR-Phlx-2003-39]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Increasing Index Option Transaction Charges

June 30, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 30, 2003, the Philadelphia Stock Exchange,

<sup>14</sup> See Section 17(f)(2) of the Act, 15 U.S.C. 78q(f)(2).

<sup>15</sup> See Nasdaq Rule 140, Fingerprint-Based Background Checks of Nasdaq Employees and Independent Contractors. See also Securities Exchange Act Release No. 47240 (January 23, 2003), 68 FR 4810 (January 30, 2003) (approving Nasdaq Rule 140).

<sup>16</sup> 15 U.S.C. 78s(b)(2).

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

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 the 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 by increasing three index option transaction charges.

### **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 increase three index option transaction charges. Specifically, the Exchange proposes to increase the Registered Option Trader charge from \$.19 per contract to \$.21 per contract, to increase the Specialist charge from \$.14 per contract to \$.24 per contract, and to increase the Firm charge from \$.10 per contract to \$.15 per contract.<sup>3</sup> These increases are proposed to be effective for contracts settling on or after June 1, 2003. These fee increases will raise revenue for the Exchange, which should help offset rising Exchange costs associated with maintaining a competitive marketplace for its members and investors.

<sup>3</sup> These index option transaction charges had previously been eligible for a 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). The credit program expired effective May 2003. The Exchange intends to file a separate proposed rule change to remove references to the member credit throughout the entire schedule of dues, fees and charges.

##### **2. Statutory Basis**

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with section 6(b) of the Act in general,<sup>4</sup> and furthers the objectives of section 6(b)(4) of the Act in particular,<sup>5</sup> in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members.

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

The Exchange 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*

No written comments were either solicited or received.

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

The proposed rule change has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> 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 Commission and any person, other than those that may be withheld from the

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

<sup>6</sup> 15 U.S.C. 78(s)(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

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-2003-39 and should be submitted by July 30, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-17358 Filed 7-8-03; 8:45 am]

**BILLING CODE 8010-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Disaster #3512]**

#### **State of West Virginia (Amendment #2)**

In accordance with the notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective June 27, 2003, the above numbered declaration is hereby amended to include Berkeley, Lincoln, and Wyoming Counties in the State of West Virginia as a disaster area due to damages caused by severe storms, flooding, and landslides that occurred June 11, 2003 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Jefferson and Morgan Counties in the State of West Virginia; Washington County in the State of Maryland; and Clarke and Frederick Counties in the Commonwealth of Virginia. All other counties contiguous to the above named primary counties have been previously declared.

The number for economic injury for the State of Maryland is 9W1500.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 20, 2003, and for economic injury the deadline is March 22, 2004.

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

Dated: June 30, 2003.

**Herbert L. Mitchell,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-17256 Filed 7-8-03; 8:45 am]

**BILLING CODE 8025-01-P**

<sup>8</sup> 17 CFR 200.30-3(a)(12).