

existing specialists who trade in a newly listed top 120 option.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with the provisions of section 6(b) of the Act,¹⁷ in general, and section 6(b)(4) of the Act,¹⁸ in particular, in that it provides for the 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 foregoing proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A)(ii) of the Act¹⁹ and Rule 19b-4(f)(2)²⁰ thereunder, because it changes a fee imposed by the Exchange. 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.²¹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

Order Flow Provider Permit Fee:⁴

- a. Permits used only to submit orders to the equity, foreign currency options or options trading floor (one floor only). \$200 per month
 - b. Permits used only to submit orders to more than one trading floor \$300 per month
- Floor Broker, Specialist or ROT (on any trading floor) or Off-Floor Trader Permit Fee*
- a. First permit \$1,200 per month
 - b. Additional permits for members in the same organization \$1,000 per month

⁴This fee applies to a permit held by a permit holder who does not have physical access to the Exchange's trading floor, is not registered as a Floor Broker, Specialist or Registered Options Trader ("ROT") (on any trading floor) or Off-Floor Trader, and whose member organization submits orders to the Exchange. See Phlx Rule 620(a).

Any member who qualifies a member organization in more than one category

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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-Phlx-2004-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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-2004-08 and should be submitted by March 24, 2004.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-4714 Filed 3-2-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49320; File No. SR-Phlx-2004-09]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Permit Fees

February 25, 2004.

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 January 30, 2004, 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 the Exchange has prepared. 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 adopt a new category of permit holders for billing purposes to address possible situations where permit holders would not fall under one of the two existing permit fee categories.

The Exchange recently adopted the following permit fees, which are assessed based on how each permit is used:³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 49157 (January 30, 2004), 69 FR 5883 (February 6, 2004) (SR-Phlx-2004-02).

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(4).

¹⁹ 15 U.S.C. 78(s)(b)(3)(A)(ii).

²⁰ 17 CFR 240.19b-4(f)(2).

²¹ See 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on February 25, 2004, the date the Phlx filed Amendment No. 1.

²² 17 CFR 200.30-3(a)(12).

pays the higher of the applicable fees for such permit.⁵

In some instances, there may be permit holders in the same organization, other than the permit holder who qualifies the member organization, who either: (1) are not Floor Brokers, Specialists or ROTs (on any trading floor) or who are not Off-Floor Traders; or (2) are not associated with a member organization that meets the definition of an order flow provider. In those cases, the permit holders may be designated as

“excess” permit holders. This designation would therefore create a third category of permit holders who would be assessed \$200 for each “excess permit” that is not specifically designated for use in any of the two previously established categories.

The highest applicable permit fee will be assessed each month. Therefore, in the same month, if one was a floor broker and then became a clerk (and therefore, an “excess” permit holder, if one kept his or her permit) for the same

member organization, such person would be charged the higher of the possible applicable fees.

The Exchange intends to implement the proposal as described herein effective February 2, 2004.

The text of the proposed rule change is below. Proposed new language is *italicized*.

* * * * *

Appendix A

Order Flow Provider Permit Fee

- | | |
|---|--------------------|
| a. Permits used only to submit orders to the equity, foreign currency options, or options trading floor (one floor only). | \$200.00 per month |
| b. Permits used only to submit orders to more than one trading floor. | \$300.00 per month |

Floor Broker, Specialist, or ROT (on any trading floor) or Off-Floor Trader Permit Fee

- | | |
|---|----------------------|
| a. First Permit | \$1,200.00 per month |
| b. Additional permits for members in the same organization. | \$1,000.00 per month |

Excess Permit Holders

Foreign Currency User Fee

Application Fee

Initiation Fee⁶

Transfer Fee for FCO Participant

Trading Post/Booth

Trading Post with Kiosk

Kiosk Construction Fee (when requested by specialist)

Controller Space

Floor Facility Fees

Shelf Space on Equity Option Trading Floor

Direct Wire to the Floor

Telephone System Line Extensions

Wireless Telephone System

Tether Initial Connectivity Fee

Tether Monthly Service Fee

Execution Services/Communication Charge

Stock Execution Machine Registration Fee (Equity Floor)

Equity, Option, or FCO Transmission Charge

FCO Pricing Tape

PHLX CCH Guide

Option Report Service

(New York)

(Chicago)

Quotron Equipment

Instinet, Reuters Equipment

Examination Fee

⁵For example, if a member organization with only one permit was an order flow provider and the permit holder associated with the member

organization then registered as a floor broker on the Exchange for that or another member organization, that permit would be subject to a permit fee of

\$1,200 (the higher of \$200 and \$1,200, but not both fees).

Review/Process Subordinated Loans	\$25.00
Registered Representative Registration: ⁹	
Initial	\$55.00
Renewal	\$55.00 annually
Transfer	\$55.00
Termination	\$30.00
Trading Floor Personnel Registration Fee ¹⁰	\$25.00 monthly
Option Mailgram Service	\$117.00 monthly
Off-Floor Trader Initial Registration Fee	\$100.00
Off-Floor Trader Annual Fee	\$350.00
Computer Equipment Services,	
Repairs or Replacements	\$100.00 per service call and \$75.00 per hour (Two hour minimum)
Computer Relocation Requests	\$100.00 per service call and \$75.00 per person, per hour (Two hour minimum)
Remote Specialist System Fee*	\$250.00 per month per workstation
Remote Specialist Security Routing Fee	\$250.00 per month per specialist
Remote Specialist Telecommunications	
Installation Fee	Pass-through cost
Remote Specialist Telecommunications Fee	
No. of Workstations*	Monthly Charge
2	\$2,800.00
3	\$3,600.00
4	\$4,000.00
5	\$4,700.00
6	\$5,100.00
7	\$5,875.00
8	\$6,275.00
9	\$7,535.00
10	\$7,935.00
11	\$8,335.00
12	\$8,735.00
Remote Specialist Equipment Installation Fee	\$500.00 per remote facility
Remote Specialist Equipment Rental Fee*	\$355.00 per month for the first two workstations at a single site; \$144.00 per month for each workstation in excess of two at such site

* Payment for a minimum of two remote workstations will be required for each remote location.

⁶This fee is imposed on a member upon election, on a non-member FCO participant upon the purchase of an FCO participation, and on persons or entities registering as approved lessors.

⁷PHLX Guides will be provided to new members/member organizations without charge but there will be a \$200/year charge for renewals. Alternatively, members/member organizations can get access to the PHLX Guide at no cost through the internet.

⁸This fee is applicable to member/participant organizations for which the PHLX is the DEA. The following organizations are exempt: (1) inactive organizations; (2) organizations operating from the PHLX trading floor or as remote specialists which have demonstrated that at least 25% of their income as reflected on the most recently submitted FOCUS Report was derived from floor activities or remote specialist activities; (3) organizations for any month where they incur transaction or clearing fees charged directly by the Exchange or by its registered clearing subsidiary, provided that the fees exceed the examinations fee for that month; and (4) organizations affiliated with an organization exempt from this fee due to the second or third category. Affiliation includes an organization that is a wholly owned subsidiary of or controlled by or under the common control with an exempt member or participant organization. An inactive organization is one which had no securities transaction revenue, as determined by semi-annual FOCUS reports, as long as the organization continues to have no such revenue each month.

⁹For the purposes of these fees, the registered representative categories include registered options principals, general securities representatives, general securities sales supervisors and United Kingdom limited general securities registered representatives and shall not apply to "off-floor" traders, as defined in Phlx Rule 604(e).

¹⁰This fee is imposed on member/participant organizations for individuals who are employed by such member/participant organizations and who work on the Exchange's trading floor, such as clerks, interns, stock execution clerks and other associated persons, but who are not registered as members or participants.

* * * * *

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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. The Exchange 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 clarify the application of the permit fee schedule currently in effect to address, in advance, instances when a person who is neither a Floor Broker, Specialist, ROT (on any trading

floor) nor Off-Floor Trader is the permit holder for a member organization who is also not an order flow provider. Creating a category to cover these permit holders who do not currently fall within an existing category should help to minimize member confusion in connection with the billing of these permit holders and to ensure that each permit is subject to a permit fee.

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 Act¹¹ in general, and furthers the objectives of section 6(b)(4) of the Act¹² in particular, 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 burden on competition.

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

The Phlx 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)(ii) of the Act¹³ and Rule 19b-4(f)(2)¹⁴ 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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-Phlx-2004-09. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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-2004-09 and should be submitted by March 24, 2004.

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

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 04-4718 Filed 3-2-04; 8:45 am]

BILLING CODE 8010-01-P

DEPARTMENT OF STATE

[Public Notice 4635]

Culturally Significant Objects Imported for Exhibition Determinations: "Byzantium: Faith and Power (1261-1557)"

AGENCY: Department of State.

ACTION: Notice; correction.

SUMMARY: On December 12, 2003, notice was published as page 69429 of the **Federal Register** (volume 68, number 239) by the Department of State pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April

15, 2003 [68 FR 19875]. The referenced Notice is corrected to include an additional object in the exhibition "Byzantium: Faith and Power (1261-1557)," imported from abroad for temporary exhibition within the United States, which I determine is of cultural significance. The additional object is imported pursuant to loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at the Metropolitan Museum of Art, New York, NY, from on or about March 15, 2004, to on or about July 4, 2004, and at possible additional venues yet to be determined, is in the national interest. Public notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the additional exhibit object, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619-6529). The address is Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: February 26, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04-4748 Filed 3-2-04; 8:45 am]

BILLING CODE 4710-08-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS-294]

WTO Dispute Settlement Proceeding Regarding Offsets to Calculated Dumping Margins for Instances of Non-Dumping

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: The Office of the United States Trade Representative ("USTR") is providing notice that on February 5, 2004, the European Communities ("EC") requested the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") regarding offsets to calculated dumping margins for instances of non-dumping. On February 16, 2004, the EC submitted to the WTO another request for the establishment of a dispute settlement panel, which the EC described as a "corrected version" of its request of February 5. The EC asserts that various U.S. laws, regulations, administrative procedures, measures and

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(4).

¹³ 15 U.S.C. 78(s)(b)(3)(A)(ii).

¹⁴ 17 CFR 240.19b-4(f)(2).

¹⁵ 17 CFR 200.30-3(a)(12).