

## 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 had 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

According to the Phlx, the Exchange reinstated its payment for order flow program in November, 2002.<sup>6</sup> Under the program, the Phlx charges ROTs a per-contract fee with respect to their transactions in the top 120 most actively traded equity options issues, subject to certain exceptions.<sup>7</sup> The fees are set forth on the Phlx's ROT Equity Option Payment for Order Flow Charges Schedule.

#### 1. Purpose

The purpose of the proposed rule change is to establish the payment for order flow fees for the top 120 equity options for trades settling on or after May 1, 2004 through July 31, 2004. The Phlx will file with the Commission a proposed rule change to address changes to the fee schedule for subsequent time periods. The Phlx is not making any other changes to its payment for order flow program at this time.

#### 2. Statutory Basis

The Exchange believes that this proposal to amend its schedule of dues, fees and charges would be an equitable allocation of reasonable fees among Phlx members, and that the proposal is consistent with Section 6(b) of the Act<sup>8</sup>

<sup>6</sup> See Securities Exchange Act Release No. 47090 (December 23, 2002), 68 FR 141 (January 2, 2003) (SR-Phlx-2002-75).

<sup>7</sup> The payment for order flow fee does not apply to specialist transactions or to transactions between: (1) A ROT and a specialist; (2) a ROT and a ROT; (3) a ROT and a firm; and (4) a ROT and a broker-dealer. According to the Phlx, the fee is not imposed with respect to the above-specified transactions because the primary focus of the program is to attract order flow from customers. The payment for order flow fee also does not apply to index or foreign currency options.

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

and furthers the objectives of Section 6(b)(4) of the Act.<sup>9</sup>

### 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

The Phlx neither solicited nor received written comments on this proposal.

## 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 Act<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</sup> thereunder. Accordingly, the proposal has taken effect upon filing with the Commission. At any time within 60 days after the filing of the proposed rule change, the Commission may summarily abrogate the 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. Comments may be submitted by any of the following methods:

#### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2004-28 on the subject line.

#### Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2004-28. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 Section, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2004-28 and should be submitted on or before June 2, 2004.

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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## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

**DATES:** Submit comments on or before July 12, 2004.

**ADDRESSES:** Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Bruce Hodgman, Deputy District

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

Director, Arizona District Office, Small Business Administration, 2828 North Central Avenue, Suite 800, Arizona, AZ 85004.

**FOR FURTHER INFORMATION CONTACT:**

Bruce Hodgman, Deputy District Director, 604-745-7200 or Curtis B. Rich, Management Analyst, 202-205-7030.

**SUPPLEMENTARY INFORMATION:**

*Title:* "SBA Interactive Loan Qualifier".

*Description of Respondents:* General Public that is interested in determining if they meet the basic loan requirements for a SBA guaranteed loan.

*Form No.:* N/A.

*Annual Responses:* 100.

*Annual Burden:* 30.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

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**SMALL BUSINESS ADMINISTRATION**

**Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest**

Notice is hereby given that Grosvenor Special Ventures IV, L.P. ("Grosvenor"), 1808 Eye Street, NW., Washington, DC 20006, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under section 312 of the Act and section 107.730, Financings which Constitute Conflicts of Interest, of the Small Business Administration ("SBA") rules and regulations (13 CFR 107.730 (2003)). Grosvenor proposes to provide equity financing to InphoMatch, Inc. ("InphoMatch"), 4511 Singer Court, Suite 300, Chantilly, Virginia 20152. The financing is contemplated for expansion activities and working capital.

The financing is brought within the purview of section 107.730(a)(1) of the Regulations because Grosvenor Venture Partners IV (QP), LP, an Associate of Grosvenor, currently owns greater than 10 percent of InphoMatch, and therefore InphoMatch is considered an Associate of Grosvenor as defined in section 107.50 of the Regulations.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: May 6, 2004.

**Jeffrey D. Pierson,**

*Associate Administrator for Investment.*

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**SOCIAL SECURITY ADMINISTRATION**

**Agency Information Collection Activities: Proposed Request and Comment Request**

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW, Washington, DC 20503, Fax: 202-395-6974. (SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

1. *Request for Change in Time/Place of Disability Hearing—20 CFR 404.914(c)(2) and 416.1414(c)(2)—0960-0348.* The information on Form SSA-

769 is used by SSA and the State Disability Determination Services (DDSs) to provide claimants with a structured format to exercise their right to request a change in the time or place of a scheduled disability hearing. The information is to be used as a basis for granting or denying requests for changes and for rescheduling hearings. The respondents are claimants who wish to request a change in the time or place of their disability hearing.

*Type of Request:* Extension of an OMB-approved information collection.

*Number of Respondents:* 7,483.

*Frequency of Response:* 1.

*Average Burden Per Response:* 8 minutes.

*Estimated Annual Burden:* 998 hours.

2. *Disability Hearing Officer's Report of Disability Hearing—20 CFR 416.1407, 404.917, and 416.1417—0960-0440.* The information on Form SSA-1205-BK is used by the Disability Hearing Officers (DHOs) at the Social Security Administration (SSA) as a guide to conducting and recording disability hearings. It ensures that all of the pertinent issues are considered. The respondents are DHOs in the State Disability Determination Services and Federal DHOs.

*Type of Request:* Extension of an OMB-approved information collection.

*Number of Respondents:* 100,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 60 minutes.

*Estimated Annual Burden:* 100,000 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410-965-0454, or by writing to the address listed above.

1. *Farm Self-Employment Questionnaire—20 CFR 404.1095—0960-0061.* Section 211(a) of the Social Security Act requires the existence of a trade or business as a prerequisite for determining whether an individual or partnership may have "net earnings from self-employment." Form SSA-7156 elicits the information necessary to determine the existence of an agricultural trade or business and subsequent covered earnings for Social Security entitlement purposes. The respondents are applicants for Social Security benefits, whose entitlement depends on whether the worker has covered earnings from self-employment as a farmer.