

elected the fixed fee. If the specialist who has been reallocated the option elects to pay the fixed monthly fee, the new specialist will pay a pro-rata amount of the original fixed monthly fee calculation for the month in which the reallocation occurred.¹³

The Exchange represents that when the same option is reallocated to another specialist that has elected the fixed monthly fee, that specialist's fixed monthly fee will then increase using the same methodology and time period as the original specialist unit for that option, which should, in turn, result in a revenue neutral outcome to the Exchange.

The changes to the fixed monthly fee as set forth in this proposal are scheduled to be in effect for transactions settling on or after July 1, 2004 through August 31, 2004.

A copy of the Specialist Unit Fixed Monthly Fee Schedule of the Exchange's fee schedule is available at Phlx and at the Commission.

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 more equitably assess fixed monthly fees in situations where a specialist unit relinquishes an option. By allowing the specialist unit to decrease its fixed monthly fee by the amount of the option that was relinquished, provided another specialist unit is allocated the option within 30 days and elects to pay a fixed monthly fee, the fixed monthly fee for the affected specialist units should more equitably reflect the appropriate amount of the fixed monthly fee. In addition, the Exchange represents that this proposal

¹³ If a specialist unit relinquishes an option and no other specialist unit has been allocated the option within 30 days, the specialist unit relinquishing the option may not reduce the amount of its fixed monthly fee.

should maintain the same revenue stream to the Exchange.

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 Act¹⁴ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁵ 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 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 has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁶ and subparagraph (f)(2) of Rule 19b-4¹⁷ thereunder, because the proposed rule change establishes or changes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed 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. Please include File

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(4).

¹⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁷ 17 CFR 240.19b-4(f)(2).

Number SR-Phlx-2004-42 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-2004-42. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your 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. Copies of such filing also will be available for inspection and copying at the principal office of 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-2004-42 and should be submitted on or before September 20, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁸

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3615]

State of Florida (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective August 24, 2004, the above numbered declaration is hereby amended to include Flagler County as a disaster area

¹⁸ 17 CFR 200.30-3(a)(12).

due to damages caused by Tropical Storm Bonnie and Hurricane Charley occurring on August 11, 2004, and continuing. All counties contiguous to the above named primary county have previously been declared. All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 12, 2004 and for economic injury the deadline is May 13, 2005.

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

Dated: August 24, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 04-19756 Filed 8-27-04; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Declaration of Disaster #P047; State of Kansas; Amendment #2

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective July 25, 2004, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on June 12, 2004, and continuing through July 25, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 4, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: August 20, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04-19758 Filed 8-27-04; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3608]

State of West Virginia (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective August 19, 2004, the above numbered declaration is hereby amended to include Mingo County as a disaster area due to damages caused by severe storms, flooding, and landslides occurring on July 22, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous county of

McDowell in the State of West Virginia; Martin and Pike Counties in the Commonwealth of Kentucky; and Buchanan County in the Commonwealth of Virginia may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

The numbers assigned to this disaster for economic injury are 9ZP9 for Kentucky and 9ZQ1 for Virginia.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 5, 2004 and for economic injury the deadline is May 6, 2005.

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

Dated: August 20, 2004.

Cheri L. Cannon,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04-19757 Filed 8-27-04; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Public Federal Regulatory Enforcement Fairness Hearing; Region VI Regulatory Fairness Board

The Small Business Administration Region VI Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Hearing on Friday, October 1, 2004 at 8:30 a.m. at the Greater Albuquerque Chamber of Commerce, Willard Board Room, 115 Gold Avenue, SW., Albuquerque, New Mexico 87102, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Anthony J. McMahon or Susan Chavez in writing or by fax, in order to be put on the agenda. Anthony J. McMahon, District Director, SBA New Mexico District Office, 625 Silver Avenue, SW., Suite 320, Albuquerque, NM 87102, phone (505) 346-6767, fax (202) 481-0301, e-mail: Anthony.McMahon@sba.gov. Susan Chavez, Assistant District Director for Entrepreneurial Development, SBA New Mexico District Office, phone (505) 346-6759, fax (202) 481-5723, e-mail: Susan.Chavez@sba.gov.

For more information, see our Web site at <http://www.sba.gov/ombudsman>.

Dated: August 24, 2004.

Peter Sorum,

Senior Advisor, Office of the National Ombudsman.

[FR Doc. 04-19759 Filed 8-27-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for a Change in Use of Aeronautical Property at Concord Municipal Airport, Concord, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for public comments.

SUMMARY: The FAA is requesting public comment on the City of Concord, New Hampshire's request to change a portion (29.22 acres) of Airport property from aeronautical use to non-aeronautical use. The property is located off Chennell Drive in the approach to Runway 30 in Concord, New Hampshire and is currently undeveloped. The terrain and location of the parcel does not allow the property to be used for aviation development. Upon disposition the property will be used as a multi-use business park. There were no Federal funds used in the acquisition of this property. A navigation easement will be retained by the City.

The disposition of proceeds from the disposal of airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

DATES: Comments must be received on or before September 29, 2004.

ADDRESSES: Documents are available for review by appointment by contacting Mr. Kenneth Lurvey, Business Development Coordinator, City Hall, 41 Green Street, Concord, NH 03301, Telephone (603) 225-8595 and by contacting Donna R. Witte, Federal Aviation Administration, 16 New England Executive Park, Burlington, Massachusetts, Telephone (781) 238-7624.

FOR FURTHER INFORMATION CONTACT: Donna R. Witte at the Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Telephone (781) 238-7624.

SUPPLEMENTARY INFORMATION: Section 125 of The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21) requires the FAA to provide an opportunity for public notice and comment to the "waiver" or