

with section 6(b)(5) of the Act,<sup>12</sup> which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change should help to ensure that all registered persons are kept up-to-date on regulatory, compliance, and sales practice-related industry issues. Further, the Commission believes that the proposed rule change will reinforce the importance of compliance with just and equitable principles of trade by exposing all registered industry participants to the full benefits of the Regulatory Element programs, which include a new Regulatory Element module that focuses specifically on ethics.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>13</sup> that the proposed rule change (SR-NYSE-2004-33), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50401; File No. SR-Phlx-2004-39]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Retroactive Application of Permit Holder Fees and Billing Policies

September 16, 2004.

On June 30, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), 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> a proposed rule change to: (1) Apply retroactively a recent amendment to its schedule of fees and charges ("Fee Schedule") that adopted a permit fee category, designated as "Other," for permit holders who did not

fit within any other permit fee categories; (2) apply retroactively a billing policy that set the date of notification for terminating a permit as the date that permit fee billing would cease; and (3) assess retroactively only one monthly permit fee in certain limited situations where two monthly permit fees otherwise would be imposed.<sup>3</sup> The proposal would apply these Fee Schedule changes and billing policies retroactively to February 2, 2004, the date that the permit fees were first imposed. On July 12, 2004, Phlx filed Amendment No. 1 to the proposed rule change.<sup>4</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on August 6, 2004.<sup>5</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>6</sup> and, in particular, the requirements of section 6(b) of the Act<sup>7</sup> and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change, as amended, is consistent with section 6(b)(5) of the Act,<sup>8</sup> which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The proposed rule change would apply recent amendments to the Exchange's Fee Schedule and billing policies retroactively to February 2, 2004, the date that permit fees were first imposed by the Exchange in connection with its recent demutualization.<sup>9</sup> The proposed rule change is intended to remedy the fact that a few permit holders did not fit into any of the permit fee categories initially established by the Exchange

<sup>3</sup> Phlx previously adopted these changes to its Fee Schedule and billing policies in a rule change that was effective on May 3, 2004, the date it was filed with the Commission. See Securities Exchange Act Release No. 49856 (June 15, 2004), 69 FR 3441 (June 21, 2004) (SR-Phlx-2004-32).

<sup>4</sup> See letter from Murray L. Ross, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation, SEC, dated July 9, 2004 ("Amendment No. 1"). In Amendment No. 1, the Exchange removed references in the Fee Schedule to the proposed date that the retroactive fees would take effect.

<sup>5</sup> See Securities Exchange Act Release No. 50129 (July 30, 2004), 69 FR 47970.

<sup>6</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> See Securities Exchange Act Release No. 49098 (January 16, 2004), 69 FR 3974 (January 27, 2004) (Order approving the demutualization of Phlx).

and thus were not subject to permit fees as of February 2, 2004. Thus, the proposed rule change is intended to apply the Exchange's permit fees and permit fee billing practices in an even-handed manner to all Exchange member organizations since the introduction of the permit fees on February 2, 2004.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-Phlx-2004-39), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

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

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## DEPARTMENT OF STATE

[Public Notice 4836]

### Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: International Education Training Program

*Announcement Type:* Cooperative Agreement.

*Funding Opportunity Number:* ECA/A/S/A-05-12.

*Catalog of Federal Domestic Assistance Number:* 00.000.

*Dates:* None.

*Application Deadline:* November 12, 2004.

*Executive Summary:* Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3), including consortia, may submit proposals to train international education professionals from accredited U.S. colleges and universities throughout the United States to work effectively with international students, scholars, international exchange programs, and U.S. study abroad programs and to enhance community involvement with participants in these programs. Funded activities must be open to staff from any accredited U.S. institution of higher education.

### I. Funding Opportunity Description

*Authority:* Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87-256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is "to enable the Government of the

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

<sup>12</sup> 15 U.S.C. 78f(b)(5).

<sup>13</sup> 15 U.S.C. 78s(b)(2).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

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