

reaching the \$50,000 cap as described in this proposal is to help defray licensing costs associated with the trading of these products, while still capping member organizations' fees enough to attract volume from other exchanges. The purpose of allowing the QCE, QCX and FXI products to be charged the normal (not fixed) firm-related charges is to generate revenue (that was previously capped) because these are not the products in which the Exchange is seeking to attract firm-related volume from other exchanges.

In addition to the foregoing, the Exchange proposes to make a minor change to its Summary of Equity Option Charges to delete the word "transaction" from the reference to the firm/proprietary facilitation option transaction charge and to delete reference to the QQQ license fees of \$0.10 per contract side from the Summary of Index Option and FXI Options Charges, as this language is unnecessary.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act¹² in general, and furthers the objectives of Section 6(b)(4) of the Act¹³ in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members and issuers and other persons using its facilities.

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 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

No written comments were either solicited or received.

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

The foregoing proposal has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹⁴ and Rule 19b-4(f)(2)¹⁵ thereunder as a proposal establishing or changing a due, fee, or other charge imposed by the self-regulatory organization. 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.¹⁶

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 Number SR-Phlx-2004-70 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-2004-70. 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 Room. 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-2004-70 and should

be submitted on or before January 7, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,
Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #10003]

State of North Carolina (NC-00001)

Pender County and the contiguous counties of Bladen, Brunswick, Columbus, Duplin, New Hanover, Onslow, and Sampson in the State of North Carolina constitute a disaster area as a result of damages caused by tornadoes created from remnants of Hurricane Charley that occurred August 12-13, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on February 8, 2005 and for economic injury until the close of business on September 9, 2005 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere:	6.375
Homeowners Without Credit Available Elsewhere:	3.187
Businesses With Credit Available Elsewhere:	5.800
Businesses and Non-Profit Organizations Without Credit Available Elsewhere:	2.900
Others (Including Non-Profit Organizations) With Credit Available Elsewhere:	4.875
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere:	2.900

The number assigned to this disaster for physical damage is 10003 and for economic damage is 10004.

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

Dated: December 9, 2004.

Hector V. Barreto,
Administrator.

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¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(4).

¹⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁵ 17 CFR 240.19b-4(f)(2).

¹⁶ See supra note 3.

¹⁷ 17 CFR 200.30-3(a)(12).