

Directed Order trading model. Payment for order flow programs are in place at each of the other options exchanges in varying amounts and covering various options. The Exchange states that the revenue generated by the payment for order flow fee, as outlined in this proposed rule change, is intended to be used by Participating specialist units and Directed ROTs to compete for order flow in equity options listed for trading on the Exchange. The Exchange believes that, in today's competitive environment, changing its payment for order flow program to compete more directly with other options exchanges is important and appropriate.

The Exchange further represents that the purpose of modifying the time periods in which to elect to participate or not to participate in the Exchange's payment for order flow program is to accommodate Participating Specialists and Directed ROTs who would make individual payment for order flow arrangements.

## 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 Act<sup>31</sup> in general, and furthers the objectives of sections 6(b)(4) and 6(b)(5) of the Act<sup>32</sup> in particular, in that it is an equitable allocation of reasonable fees among Phlx members and that it is designed to enable the Exchange to compete with other markets in attracting customer order flow. Because the payment for order flow fees are collected only from member organizations respecting customer transactions, the Phlx believes that there is a direct and fair correlation between those members who fund the payment for order flow fee program and those who receive the benefits of the program. The Exchange states that Participating specialists and Directed ROTs potentially benefit from additional customer order flow. In addition, the Phlx believes that the proposed payment for order flow fees would serve to enhance the competitiveness of the Phlx and its members and that this proposal therefore is consistent with and furthers the objectives of the Act, including section 6(b)(5) thereof,<sup>33</sup> which requires the rules of exchanges to be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that attracting more

order flow to the Exchange, should, in turn, result in increased liquidity, tighter markets, and more competition 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 been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>34</sup> and Rule 19b-4(f)(2)<sup>35</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of such 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.

## V. 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-2005-37 on the subject line.

### Paper comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303. All submissions should refer to File Number SR-Phlx-2005-37.

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-2005-37 and should be submitted on or before July 20, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>36</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51910; File No. SR-Phlx-2005-34]

### Self-Regulatory Organizations: Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to the Electronic Submission of Financial Reports

June 22, 2005.

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> notice is hereby given that on May 9, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described

<sup>31</sup> 15 U.S.C. 78f(b).

<sup>32</sup> 15 U.S.C. 78f(b)(4)-(5).

<sup>33</sup> 15 U.S.C. 78f(b)(5).

<sup>34</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>35</sup> 17 CFR 240.19b-4(f)(2).

<sup>36</sup> CFR 200.30-3(a)(12).

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

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

in items I, II, and III below, which Items have been prepared by the Phlx. On June 13, 2005, Phlx filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The Exchange has designated this proposal as a practice with respect to the administration of an existing rule pursuant to section 19(b)(3)(A)(i) of the Act,<sup>4</sup> and Rule 19b4(f)(1) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.<sup>6</sup>

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx, pursuant to section 19(b)(1)<sup>7</sup> and Rule 19b-4 thereunder,<sup>8</sup> proposes to amend Exchange Rule 703. The proposed amendment would require Phlx members that compute net capital or positive net liquid assets and for which the Exchange is their designated examining authority ("DEA"), to submit electronically certain financial reports to the Exchange in lieu of manual filings.

The text of the proposed rule change is below. New text is italicized.

\* \* \* \* \*

### Rule 703. Financial Responsibility and Reporting

(a)-(f) No change.

#### Commentary

.01 No Change

.02 *Organizations designated to the Exchange for financial responsibility pursuant to SEC Rule 17d-1 and subject to SEC Rules 15c3-1 and 17a-5 or exempt from SEC Rule 15c3-1 and maintaining net liquid assets in accordance with Rule 703(a), must file electronically with the Exchange's Examinations Department, utilizing such method as required by the Exchange, FOCUS Reports and filings required by SEC Rule 17a-5(a) and (b)*

<sup>3</sup> The effective date of the original proposed rule change is May 9, 2005 and the effective date of the amendment is June 13, 2005. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on June 13, 2005, the date on which the Phlx submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>5</sup> 17 CFR 240.19b-4(f)(1).

<sup>6</sup> In an e-mail from Angela Dunn, Director, Phlx, to E. David Hwa, Special Counsel, Division of Market Regulation, Commission, dated June 17, 2005, Phlx agreed to minor revisions by Commission staff made to the rule change and this notice.

<sup>7</sup> 15 U.S.C. 78s(b)(1).

<sup>8</sup> 17 CFR 240.19b-4.

*and Rule 703(c), (d) and (f). Exchange members are still obligated to submit such filings to the Securities and Exchange Commission as specified in the Securities Exchange Act of 1934 ("Act"), as amended, and the rules promulgated under the Act.*

\* \* \* \* \*

### 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 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 create an efficient method of collecting FOCUS reports and other financial filings, including those required by SEC Rules 17a-5(a) and (b) and Rule 703(c), (d) and (f) ("Financial Documents"). Currently, the Financial Documents are provided in hard copy format to Exchange staff. The information is manually key punched by Exchange staff into a database utilized by the Exchange for submissions to the Commission and for collecting monthly financial information. The proposed rule change would require Exchange members, for which the Exchange is their DEA, to electronically submit their Financial Documents to the Exchange, utilizing Exchange proprietary software.

The features of the electronic submission system are designed to eliminate errors and provide more efficient means of gathering necessary financial information. The Exchange expects to provide each user with password and logon identification and create a profile for each user. It is the Exchange's intention to design the software with required fields of entry, as well as edit checks for various balances that are entered by the users. Additionally, the software is intended to automatically provide alerts, if the user is past the due date or the financial information indicates the firm is below a financial requirement when submitting the report. These safeguards

should lead to fewer mistakes and provide users with helpful tools to assist with filings.

The Exchange anticipates it will have the ability to receive summary and exception reports and review the information gathered by the software. The Exchange will submit required financials to the Commission. In summary, the electronic submission process should create a greater likelihood that data from members will be accurate and efficient, as well as utilize fewer Exchange resources.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of section 6(b)(5) of the Act<sup>10</sup> in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

#### 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 been designated as a practice with respect to the administration of an existing rule pursuant to section 19(b)(3)(A)(i)<sup>11</sup> of the Act and Rule 19b-4(f)(1)<sup>12</sup> thereunder. Accordingly, the proposal will take effect upon filing with the Commission. Notwithstanding that this rule change would be effective immediately upon filing, the Exchange will start rolling out member firms onto the electronic filing system on approval of this filing, and after notice to membership, with complete implementation and mandatory rollout by January 2006. 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,

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>12</sup> 17 CFR 240.19b-4(f)(1).

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, 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 S-Phlx-2005-34 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-Phlx-2005-34. 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, 100 F Street, NE., Washington, DC 20549. Copies of the 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-2005-34 and should be submitted on or before July 20, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-369 (Sub-No. 5X)]

#### **Buffalo & Pittsburgh Railroad, Inc.—Discontinuance of Service Exemption—Between Brookville and Mahoning in Jefferson and Armstrong Counties, PA**

Buffalo & Pittsburgh Railroad, Inc. (BPRR) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 40.0-mile portion of a line operated by BPRR between milepost 22.0 south of Brookville in Jefferson County, PA, and milepost 62.0 in Mahoning in Armstrong County, PA.<sup>1</sup> The line traverses United States Postal Service ZIP Codes 15472, 15663, 15770, 15778, 15847, 16232, 16259, 17821, and 17844. BPRR states that it intends to operate over the track between milepost 22.0 and milepost 24.0, and between milepost 56.0 and milepost 62.0, as private sidetracks or spurs.

BPRR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice of governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected

<sup>13</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> Simultaneously with this filing, in STB Docket No. AB-976X, the owner of this line, Pittsburg & Shawmut Railroad, LLC has filed a petition for exemption to abandon the line.

employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 29, 2005,<sup>2</sup> unless stayed pending reconsideration. Petitions to stay and formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), must be filed by July 11, 2005. Petitions to reopen must be filed by July 19, 2005, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to BPRR's representative: Eric M. Hocky, Four Penn Center, Suite 200, 1600 JFK Blvd., Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: June 23, 2005.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

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**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-979X]

#### **Connecticut Southern Railroad, Inc.—Abandonment Exemption—in Hartford County, CT**

Connecticut Southern Railroad, Inc. (CSO) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 942-foot long stub-ended line of railroad extending from milepost 9.4 (Station 5673+42 on the north side of Colonial Drive) to the end of the line at milepost 9.6 (Station 5664+00), in Manchester, Hartford County, CT. The line traverses United States Postal Service ZIP Code 06040.

CSO has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail

<sup>2</sup> Because this is a discontinuance of service proceeding and not an abandonment, there is no need to provide an opportunity for trail use/rail banking or public use condition requests. Likewise, no environmental or historic documentation is required under 49 CFR 1105.6(c)(6) and 1105.8.