

section 34(b) of the Act by making a material misrepresentation to the Commission in the Application ("Order Finding Violations").² The Commission is issuing this notice of the Commission's intention to rescind the Exemptive Order on the basis of the Order Finding Violations.

Hearing or Notification of Hearing: An order rescinding the Exemptive Order will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary. Hearing requests should be received by the Commission by 5:30 p.m. on September 25, 2006. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 100 F Street, NE., Washington, DC 20549-1090.

FOR FURTHER INFORMATION CONTACT: Nadya B. Roytblat, Assistant Director, at 202-551-6821 (Division of Investment Management, Office of Investment Company Regulation).

Background

1. Each Applicant is a closed-end investment company registered under the Act. The Exemptive Order granted each Applicant relief from section 19(b) of the Act and rule 19b-1 under the Act so that the Applicant may make up to twelve distributions of long-term capital gains in any one taxable year in accordance with the Applicants' distribution policy with respect to its common stock. Section 19(b) and rule 19b-1 generally limit to one the number of distributions of long-term capital gains that a registered investment company may make each year. The Exemptive Order was issued pursuant to the Commission's authority set forth in section 6(c) of the Act which provides, in relevant part, that the Commission, by order upon application, may exempt any person from any provision of the Act or any rule under the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. DSC, a Delaware corporation, provides accounting and administrative services to the Applicants. According to the Order Finding Violations, DSC was

responsible for determining the amount and composition of the Applicants' distributions to shareholders; providing the Applicants' transfer agent, dividend disbursing agent, and custodian with information necessary to effect payment of dividends and distributions; and preparing and filing all reports and notices required by the Federal securities laws and regulations, including any notices required by section 19(a) of the Act.

3. Section 19(a) of the Act and rule 19a-1 under the Act make it unlawful for a registered investment company to pay any dividend or make any distribution in the nature of a dividend payment, wholly or partly, from any source other than net income unless such payment is accompanied by a written statement which adequately discloses the source of such payment ("section 19(a) notice"). According to the Order Finding Violations, from January 2000 through March 2004, the Applicants, among others, made distributions to their common shareholders that, in large part, were a return of the shareholders' capital, and none of the distributions was accompanied by the required section 19(a) notice. Thus, during the relevant time period, the Applicants failed to provide the section 19(a) notices required by the Act. The Order Finding Violations found that DSC caused and aided and abetted the Applicants' violations of section 19(a) and rule 19a-1.

4. The Order Finding Violations also found that the Exemptive Order was granted, in part, on the basis of a representation in the Application that the Applicants were providing the required 19(a) notices to their shareholders, but that the representation was an untrue statement of a material fact. The Application was prepared by DSC on behalf of the Applicants. The Order Finding Violations thus found that DSC violated section 34(b) of the Act. Section 34(b) of the Act, in relevant part, makes it unlawful for any person to make any untrue statement of a material fact in any application filed pursuant to the Act.

Legal Analysis

Section 38(a) of the Act states, in relevant part, that the Commission shall have authority to rescind an order as is necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in the Act. The Commission issues orders under section 6(c) of the Act, such as the Exemptive Order, based on the representations, and subject to the terms and conditions, contained in the applications seeking

the orders. If an application contains an untrue statement of a material fact, the Commission cannot properly exercise its power to make the findings required by section 6(c) of the Act.³ The Commission therefore believes that it is necessary and appropriate to the exercise of the powers conferred upon the Commission in section 6(c) of the Act to rescind the Exemptive Order on the basis of the Order Finding Violations.

By the Commission.

Nancy M. Morris,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54396]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Declaration of Effectiveness of the Philadelphia Stock Exchange Fingerprinting Plan

August 31, 2006.

On July 17, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities and Exchange Commission ("Commission") a fingerprint plan ("Plan") pursuant to Rule 17f-2(c)¹ under the Securities Exchange Act of 1934 ("Act").² A copy of the Plan is attached as Exhibit A.

The Phlx believes that the Plan will facilitate compliance by Exchange members with Section 17(f)(2) of the Act and Rule 17f-2 thereunder by providing a facility for the fingerprints of directors, partners, officers and employees of Exchange members to be submitted to the Attorney General of the United States and processed electronically.

Under the Plan, all persons who are seeking registration with the Phlx or are currently registered with the Phlx submit fingerprint cards or fingerprint results to the NASD, which then forwards the fingerprints to the Federal Bureau of Investigation ("FBI") (the fingerprint processing arm of the Attorney General). The FBI identifies submitted fingerprints, retrieves relevant criminal history information, and returns fingerprint reports to the NASD. Phlx members will be able to

³ The Commission also reiterates that any exemption provided by an order issued under the Act is available only to a person that complies with the terms and conditions set forth in the application based on which the exemption was granted.

¹ 17 CFR 240.17f-2(c).

² 15 U.S.C. 78a et seq.

² In the Matter of Delaware Service Company Inc., Release No. IC-27473, Administrative Proceeding File No. 3-12403 (August 31, 2006).

view the status and results of fingerprints, including any relevant criminal history information, through the NASD's Web Central Registration Depository (Web CRD®) system after submission to the Attorney General.

The Commission has reviewed the procedures detailed in the Plan and believes that the Plan is consistent with the public interest and the protection of investors. Thus, the Commission declares the Plan effective.

The Commission notes that securities industry fingerprinting procedures are in a state of flux due to rapidly advancing technology. In the event that an industry-wide standard is adopted or becomes prevalent and in the event that this Plan substantially differs therefrom, the Commission would expect the Phlx to revise its fingerprint plan to incorporate the industry-wide standard.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Nancy M. Morris,
Secretary.

Exhibit A—Philadelphia Stock Exchange Fingerprinting Plan

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submits this amendment to its Fingerprinting Plan ("Amended Fingerprinting Plan") pursuant to Section 17(f)(2) of the Securities Exchange Act of 1934 ("Act") and Rule 17f-2(c) thereunder. This Amended Fingerprinting Plan supersedes and replaces the Exchange's current fingerprinting plan.⁴ The purpose of this Amended Fingerprinting Plan is to facilitate compliance by Exchange Members with Section 17(f)(2) of the Act and Rule 17f-2 thereunder by providing a facility for the fingerprints of directors, partners, officers and employees of Exchange members to be submitted to the Attorney General of the United States and processed electronically.

The Exchange has established an arrangement with the National Association of Securities Dealers, Inc. ("NASD") to permit all individuals that must be registered or approved by the Exchange ("registered persons") to be electronically registered with the Exchange through the NASD's Web Central Registration Depository ("Web CRD"). Web CRD is a Web-based system that provides broker-dealers and their associated persons with "one-stop

filing" with the Commission, the NASD and other self-regulatory organizations and regulators. Web CRD is operated by the NASD and is used by participating regulators in connection with registering and licensing broker-dealers and their associated persons. Pursuant to its Memorandum of Understanding with the NASD⁵, all members submit hard copy fingerprint cards or results of processed cards to the NASD.

In connection with the arrangement with the NASD, all persons who are seeking registration with the Exchange or are currently registered with the Exchange, submit fingerprint cards or fingerprint results to the NASD for processing and/or submission to the Attorney General. The Attorney General provides the NASD with fingerprint processing results for persons seeking registration, and the results are provided to the members. The NASD notifies the Exchange if the fingerprint results received by the NASD contain information indicating that the person is subject to a statutory disqualification. In such an instance, the Exchange reviews the fingerprint results to determine the possible existence of a statutory disqualification as defined in Section 3(a)(39) of the Act, and takes appropriate action, if necessary, concerning eligibility or continued eligibility of the individual for employment or association with an Exchange member. Any maintenance of fingerprint records by the Exchange shall be for the Exchange's own administrative purposes, and the Exchange is not undertaking to maintain fingerprint records on behalf of Exchange members pursuant to Rule 17f-2(d)(2). The Exchange advises its members and member applicants of any fees charged in connection with processing of fingerprints pursuant to the Amended Fingerprinting Plan. The Exchange will file any such Exchange member fees with the Commission pursuant to Section 19(b) of the Act.

The Exchange shall not be liable for losses or damages of any kind in connection with the fingerprint services, as a result of a failure to properly follow the procedures described above, or as a result of lost or delayed fingerprint cards, fingerprint records, or fingerprint processing results, or as a result of any action by the Exchange or the Exchange's failure to take action in connection with this Amended Fingerprinting Plan.

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⁵ The Exchange and NASD executed a Memorandum of Understanding on September 22, 2005.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54397; File No. SR-BSE-2005-11]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto Relating to Rules to Allow the Listing and Trading of Options on Indices on the Boston Options Exchange

August 31, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 5, 2005, the Boston Stock Exchange, Inc. ("BSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On July 12, 2006, BSE filed Amendment No. 1 to the proposed rule change.³ On August 29, 2006, BSE filed Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice and order to solicit comments on the proposal from interested persons and to approve the proposed rule change, as amended, on an accelerated basis.

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

BSE proposes to adopt rules which would allow the Boston Options Exchange ("BOX") to list and trade options on indices, including rules pursuant to Rule 19b-4(e) for the listing and trading of broad-based index options.⁵ BSE also seeks approval herein for BOX to list and trade index options and long term index options ("LEAPs") on the full value of the Nasdaq 100 index ("NDX"), the one tenth value of the Nasdaq 100 index ("MNX"), and the Russell 2000 Index ("RUT"). The text of the proposed rule change, as amended is available on BSE's Web site (<http://www.bostonstock.com>), at BSE's

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Amendment No. 1 replaced and superseded the original rule filing in its entirety.

⁴ In Amendment No. 2, BSE removed its proposal to have generic listing standards for narrow-based options and added its proposal to list and trade options and long term index options on the full value of the Nasdaq 100 index, the one tenth value of the Nasdaq 100 index and the Russell 2000 index. Amendment No. 2 replaced and superseded the original rule filing in its entirety.

⁵ 17 CFR 240.19b-4(e).

³ 17 CFR 200.30-3(a)(17)(iii).

⁴ The Exchange's current fingerprinting plan was approved on a permanent basis by the Securities and Exchange Commission ("Commission") on December 23, 1976. See Securities Exchange Act Release No. 13105, 42 FR 753 (January 4, 1977).