information for integration with trade and quotation information to provide NASD with an accurate time-sequenced record of orders and transactions to detect for possible violations of NASD rules and other securities laws and regulations. NASD recognizes that the trading in OTC equity securities is often more manual than Nasdaq Stock Market equity securities, and while this may result in additional burdens on member firms to capture this data electronically, NASD believes that reporting information related to OTC equity securities is critical to its surveillance program. The Commission believes that it is consistent with the Act for NASD to expand the OATS reporting requirements to include OTC equity securities to assist it in detecting possible fraud or manipulation in the trading of such securities in order to help protect investors.

In addition, the Commission believes that the technical changes proposed by NASD, which NASD has noted are needed in light of Nasdaq's operation as a national securities exchange, are not only consistent with the Act, but also necessary to clarify NASD's rules.

## V. Solicitation of Comments Concerning Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 to 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 Number SR–NASD–2005–101 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASD–2005–101. 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 the filing also will be available for inspection and copying at the principal office of NASD. 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–NASD–2005–101 and should be submitted on or before November 7, 2006.

## VI. Accelerated Approval of Amendment No. 1

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after publication for comment in the **Federal Register** pursuant to Section 19(b)(2) of the Act.[34] As discussed in greater detail above, in Amendment No. 1, NASD proposed revisions to clarify that member firms do not need to comply with the OATS reporting obligations with respect to an OTC equity security until a symbol has been assigned to that security. In addition, in response to a comment letter, it proposed to exclude DPPs from the definition of OTC equity security. Because two commenters raised issues specific to the timing of the proposed rule change, NASD also proposed an extended implementation period in Amendment No. 1. Finally, NASD proposed two technical changes in Amendment No. 1 that are necessary to reflect the commencement of Nasdaq as a national securities exchange.

Since the changes proposed in Amendment No. 1 address commenter concerns and make changes that the Commission believes will help clarify the proposed rule change and should assist firms by providing greater guidance, as well as time for testing systems to help ensure compliance with the rule, and it does not raise any new issues of regulatory concern, the Commission finds good cause to accelerate approval of Amendment No. 1, consistent with Section 15A(b)(6) of the Act[35] and Section 19(b) of the Act.[36]

## VII. Conclusion

*It is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (File No. SR–NASD–2005–101), as amended, be and hereby is, approved, and that Amendment No. 1 is approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[38]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6–17167 Filed 10–16–06; 8:45 am]

BILLING CODE 8011–01–P

[34] 15 U.S.C. 78s(b)(2).

[35] 15 U.S.C. 78*o*–3(b)(6).

[36] 15 U.S.C. 78s(b).

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–54411A; File No. SR–NASD–2004–171]**

## Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Rule 2340 Concerning Customer Account Statements

October 6, 2006.

### Correction

FR Doc. E6–15186, beginning on page 54105 in the issue of September 13, 2006,[1] contained an incorrect footnote. On page 54107, in the 1st column, footnote 24 provided an incomplete description of an explanation of an interpretive position in Securities Exchange Act Release No. 31511.

The corrected citation to Release No. 31511 in footnote 24 reads as follows:

''*See* Securities Exchange Act Release No. 31511 (Nov. 24, 1992), 57 FR 56973 (Dec. 2, 1992) (amending the SEC's net capital rule and explaining the staff's interpretation that to avoid more stringent capital requirements under the rule, an introducing firm must ''have in place a clearing agreement with a registered broker-dealer that states, for the purposes of SIPA and the Commission's financial responsibility rules, customers are customers of the clearing, and not the introducing, firm. Furthermore, the clearing firm must issue account statements directly to customers. Each statement must contain the name and telephone number of a

[1] *See* Securities Exchange Act Release No. 54411 (Sept. 7, 2006), 71 FR 54105 (Sept. 13, 2006).

responsible individual at the clearing firm whom a customer can contact with inquiries regarding the customer's account.'').''

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6–17180 Filed 10–16–06; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–54576; File No. SR–Phlx–2006–57]**

## Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Appeals From a Hearing Officer or Hearing Panel Decision

October 5, 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 October 3, 2006, the Philadelphia Stock Exchange, Inc. (''Phlx'' 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 Phlx. The Phlx filed the proposed rule change as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] 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.

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

The Phlx proposes to amend Exchange By-Law Article XI, Section 11–3 to update the By-laws to make a minor clarifying change to reflect the fact that appeals can now be heard from a Hearing Officer or Hearing Panel decision. The proposed amendment to By-Law Article XI, Section 11–3 is set forth below. *Italics* indicate new text.

**ARTICLE XI Appeals**

* * * * *

Sec. 11–3. Appeal from Decisions of *Hearing Officer, Hearing Panel or* Business Conduct Committee

(a) No change.

(b) No change.

* * * * *

### 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 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 Exchange recently created the new staff position of a ''Hearing Officer,'' who, along with two other Hearing Panelists, will hear contested disciplinary matters that were previously heard by a panel appointed by the Chair of the Business Conduct Committee (''BCC'').[5] In connection with creating the Hearing Officer position, the Exchange amended By-Law Article X, Section 10–11, which governs the BCC, and Exchange Rules 960 and 970, the disciplinary rules. The purpose of this proposal is to update Exchange By-Law Article XI to reflect, based on the recent changes described above, that a decision from the Hearing Officer or Hearing Panel can now be appealed to the Exchange's Board of Governors.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that this proposal should help to protect investors and the public interest by clarifying that appeals can now be heard from a Hearing Officer or Hearing Panel decision.

*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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9]

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.

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[10] However, Rule 19b–4(f)(6)(iii)[11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx provided the Commission with written notice of its intent to file this proposed rule change at least five business days prior to the date of filing of the proposed rule change. In addition, the Phlx has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change makes Phlx By-Law Article XI, Section 11–3 consistent with changes previously approved by the Commission.[12] For this reason, the Commission designates the

[2] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 54011 (June 16, 2006), 71 FR 36157 (June 23, 2006) (SR–Phlx–2005–65).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] *Id.*

[12] *See supra* note 5.