

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-01-03 and should be submitted by March 14, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43952; File No. SR-Phlx-00-13]

Self-Regulatory Organizations; Order Granting Approval of the Proposed Rule Change, as Amended, by the Philadelphia Stock Exchange, Inc. Relating to Timing Guidelines for Application in Disciplinary Hearings

February 12, 2001.

I. Introduction

On July 13, 2000, 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")¹ and Rule 19b-4 thereunder,² a proposed rule change amending Phlx Rule 960.5(a), (b), (c), and (d) to provide timing guidelines for certain procedures conducted pursuant to Phlx Rule 960.5. On August 23, 2000, the Phlx filed Amendment No. 1 to the proposed rule change.³ On November 9, 2000, the Phlx filed Amendment No. 2 to the proposed rule change.⁴ On November 22, 2000, the Phlx filed Amendment No. 3 to the proposed rule change.⁵ On December 13, 2000, the Phlx filed Amendment No. 4 to the proposed rule change.⁶ Notice of the proposal, as amended, was published in the **Federal Register** on December 28, 2000.⁷ The Commission received no comments on the proposal. On January 11, 2001, the Phlx filed Amendment No. 5 to the proposed rule change.⁸ This

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Letter from Charles Falgie, Director of Enforcement/Counsel, Phlx, to Nancy Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission (Aug. 22, 2000) ("Amendment No. 1"). In Amendment No. 1, the Phlx corrected its rule language and clarified which language of the rule text was to be added and deleted. The Phlx also added a paragraph describing that the proposal would allow the Chair of the Business Conduct Committee ("Committee") to designate another person to oversee the Chairperson's duties pursuant to Phlx rules.

The Phlx indicated that the designee would be a Business Conduct Committee member. Telephone conversation between Charles Falgie, Director of Enforcement/Counsel, Phlx, and Melinda Diller, Attorney, Division, Commission (Sept. 1, 2000).

⁴ See Letter from Charles Falgie, Director of Enforcement/Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission (Nov. 8, 2000) ("Amendment No. 2"). In Amendment No. 2, the Phlx changed the text of the rule language and revised time limits and the manner in which a Respondent's request for a hearing is handled.

⁵ See Letter from Charles Falgie, Director of Enforcement/Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission (Nov. 20, 2000) ("Amendment No. 3"). In Amendment No. 3, the Phlx "marked" the filing and the text of the rule

order approves the proposal, as amended.

II. Description of the Proposal

The Phlx proposes to amend Phlx Rule 960.5 to provide timing guidelines for certain procedures relating to disciplinary hearings. Revised Rule 960.5 proposes to adopt a timing guideline of 120 days for the Chair of the Committee to schedule a hearing date after a hearing has been requested in the written Answer filed by a Respondent in response to a Statement of Charges.⁹ The Phlx also proposes a five business day timing guideline¹⁰ for the Chair of the Committee, or its designee, to schedule a hearing date and name a Hearing Panel after receiving a request from Counsel for the Exchange. If the request for a hearing comes from the Respondent, Counsel for the Exchange must request that a hearing date be set and a Hearing Panel be named within ten business days of receiving Respondent's request.¹¹ Evidence and witness lists must be exchanged between the parties, as well as provided to the members of the

language to indicate the changes made in Amendment No. 2, which were not properly indicated.

⁶ See Letter from Charles Falgie, Director of Enforcement/Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission (Dec. 13, 2000) ("Amendment No. 4"). In Amendment No. 4, the Phlx made a few technical corrections to the text of the proposed rule.

⁷ See Securities Exchange Act Release No. 43757 (December 20, 2000), 65 FR 82432.

⁸ See Letter from Charles Falgie, Director of Enforcement/Counsel, Phlx, to Nancy Sanow, Assistant Director, Division, Commission (Jan. 11, 2001) ("Amendment No. 5"). In Amendment No. 5, the Phlx made a few more technical corrections to the text of the proposed rule. The Phlx also clarified that it inadvertently indicated the addition of the term "its" and the deletion of the term "their" between the terms "Respondent" and "in" in the first sentence under proposed Rule 960.5(a)(1). Telephone conversation between Charles Falgie, Director of Enforcement/Counsel, Phlx, and Sapna C. Patel, Attorney, Division, Commission (Jan. 12, 2001). Because Amendment No. 5 only makes minor technical corrections to the proposed rule text, the Commission is not required to solicit comments on it.

⁹ See also Chicago Board Options Exchange, Rule 17.8. Offers of Settlement, Interpretations and Policies .02 (discussing a similar timing guideline for scheduling a hearing date).

¹⁰ See Amendment No. 2, *supra* note 4; see also Amendment No. 3, *supra* note 5. The Phlx confirmed that Amendment No. 3 incorrectly indicates that the time periods for scheduling the hearing date and for providing a transcript of the hearing to the Hearing Panel members and the Respondents were initially ten days and later amended to five days. However, these time periods have, and will remain, five days throughout the filing. Telephone conversation between Charles Falgie, Director of Enforcement/Counsel, Phlx, and Sapna C. Patel, Law Clerk, Division, Commission (Nov. 27, 2000).

¹¹ See Amendment No. 2, *supra* note 4; see also Amendment No. 3, *supra* note 5.

⁷ 17 CFR 200.30-3(a)(12).

Hearing Panel, not less than eight business days prior to the scheduled hearing date.¹² Counsel for the Exchange must provide a transcript of the hearing to the Hearing Panel members and the Respondent within five business days of receipt of the transcript. The Respondent, along with being provided a copy of the transcript, will be issued a bill for its portion of the costs of the transcript.¹³ The Exchange and the Respondent would bear equally the costs of the transcript, which would include, but will not be limited to, the costs for the court reporter, reproduction of the transcript, and producing copies.¹⁴ The Hearing Panel, on receipt of the transcript, would then have forty-five days to produce a hearing report.¹⁵ Finally, the proposed amendments establish formal procedures for requesting and granting adjournments of the hearing date. Requests would be presented in writing to the presiding person of the Hearing Panel and would be considered for just cause.¹⁶

The proposed amendments also allow the Chair of the Committee to name a designee on behalf of the Committee.¹⁷ This is proposed for administrative purposes, such as the Chair's unavailability due to illness, the need for recusal, or other circumstances which may arise.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act¹⁸ and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 of the Act.¹⁹ Section 6(b)(6) of the Act²⁰ requires the rules of an exchange must provide that Exchange members, and persons associated with Exchange

members, are appropriately disciplined for violations of the provisions of the Act, the rules and regulations thereunder, or the rules of the Exchange. Section 6(b)(7) of the Act²¹ provides that there be a fair procedure for disciplining Exchange members and persons associated with members.

The Commission believes that the Exchange's codification of certain timing guidelines relating to its disciplinary hearing process should foster a prompt, efficient disciplinary process and clarify the procedures for Exchange members and the general public. The Exchange has represented that, although these timing guidelines are not expressly a part of the Exchange's rules, the Exchange has been following these timing guidelines as a part of Exchange procedure. Furthermore, the time periods indicated throughout Phlx Rule 960.5 are similar to time periods employed by other exchanges.²² The Commission believes that, by expressly codifying these timing guidelines for disciplinary hearings, the Exchange will be able to impose and monitor compliance with the guidelines more effectively. The Commission also believes that the proposed rule change will improve the speed, fairness, and efficiency of disciplinary hearings, thereby promoting a fair procedure for the disciplining of Exchange members and persons associated with Exchange members.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with sections 6(b)(6) and 6(b)(7).²³

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,²⁴ that the proposed rule change, as amended (SR-Phlx-00-13) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-4262 Filed 2-20-01; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974; as Amended; Alterations to Existing Systems of Records

AGENCY: Social Security Administration.

ACTION: Notice of minor non-substantive changes to existing systems of records.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(b)(12)), we are issuing public notice of our intent to amend the following existing systems of records to allow disclosure of personally identifiable information to consumer reporting agencies in accordance with 31 U.S.C. 3711(e):

- Master Beneficiary Record, 60-0090,
- Recovery of Overpayment, Accounting and Reporting, 60-0094; and
- Supplemental Security Income Record and Special Veterans Benefits, 60-0103.

We also are modifying the language in the notice entitled, Supplemental Security Income Record and Special Veterans Benefits to: (1) More accurately describe the records maintained in this system of records, and (2) clarify language in routine use numbered 19 for this system of records. We invite public comments on these proposals.

DATES: These changes are effective immediately on February 21, 2001.

ADDRESSES: Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, 3-A-6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401. All comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela McLaughlin, Social Insurance Specialist, Social Security Administration, 3-C-2 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235-6401, telephone (410) 965-3677.

SUPPLEMENTARY INFORMATION:

I. Disclosure to Consumer Reporting Agencies

The Privacy Act of 1974, as amended, (5 U.S.C. 552a(b)(12)) permits Federal agencies to disclose certain information to consumer reporting agencies in accordance with 31 U.S.C. 3711(e) without the consents of the individuals to whom the information pertains. The purpose of this disclosure is provide an incentive for individuals to pay the outstanding debts they owe to the Federal government by including information about these debts in the

¹² See also Cincinnati Stock Exchange, Rule 8.6. Hearings, Sub-Paragraph (b) Notice and List of Documents (discussing a similar time frame for parties to exchange evidence and witness lists).

¹³ See Amendment No. 1, *supra* note 3.

¹⁴ See Amendment No. 1, *supra* note 3.

¹⁵ See also Pacific Exchange, Rule 10.7. Decision (discussing a similar time frame after receipt of the transcript in which to produce a report); see also Amendment No. 2, *supra* note 4; see also Amendment No. 3, *supra* note 5.

¹⁶ See Amendment No. 1, *supra* note 3.

¹⁷ See Amendment No. 1, *supra* note 3.

The Phlx later confirmed that the Chair of the Committee would name the designee on behalf of the Committee. Telephone conversation between Charles Falgie, Director of Enforcement/Counsel, Phlx, and Sapna C. Patel, Attorney, Division, Commission (Jan. 31, 2001).

¹⁸ The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹⁹ 15 U.S.C. 78f(b).

²⁰ 15 U.S.C. 78f(b)(6).

²¹ 15 U.S.C. 78f(b)(7).

²² See *supra* notes 9, 12, and 15.

²³ 15 U.S.C. 78f(b)(6) and 15 U.S.C. 78f(b)(7).

²⁴ 15 U.S.C. 78s(b)(2).

²⁵ 17 CFR 200.30-3(a)(12).