

and district improvements, and make conforming changes to the PTMP, if any are required.

Building space within the district totals approximately 400,000 square feet (sf). Building 1801 includes a historic structure of approximately 173,000 sf and non-historic additions (or "wings") totaling approximately 124,700 sf. Pursuant to draft planning and design guidelines, non-historic portions of the hospital building may be removed. Although not required, replacement construction up to an amount equivalent to the square footage removed, not to exceed 130,000 sf, may be considered within the district.

Proposed Alternatives

The following four project alternatives are being considered for evaluation in the EA. These include a "no action" alternative required by the NEPA, which in this case will constitute the land use scenario analyzed in the PTMP EIS. Three action alternatives, each with differences in the treatment of Building 1801 and in the proposed amount and location of demolition and new replacement construction, will also be evaluated. The Trust's selected action at the conclusion of the environmental review process may combine various elements of the alternatives, or fall within the range they represent.

Alternative 1: Rehabilitation/No New Construction (PTMP or No Action Alternative)—This alternative would rehabilitate buildings within the PHSB district to accommodate residential (*i.e.*, a mix of senior housing/assisted living and market rate housing) and educational uses. No building demolition or replacement construction would occur, and therefore the existing total building area of 400,000 sf would be maintained. The historic concentration of development would be retained on the lower plateau (*i.e.*, the PHSB complex). The three-acre Battery Caulfield site, on the northern end of the district on the upper plateau, would remain in the short term as a Trust maintenance/corporation yard. The historic portion of Building 1801 and its non-historic additions (including the seven-story end wings and large one-story connector in front of the original main entry) would be rehabilitated for residential use (approximately 200 units) together with the historic housing on Wyman Terrace (approximately 11 units). Other ancillary buildings in the district would be rehabilitated for a variety of educational and supporting uses. Outlying buildings (Buildings 1450, 1818 and 1819) would remain as Trust maintenance facilities.

Alternative 2: Rehabilitation/Infill Construction—This alternative would rehabilitate historic buildings within the PHSB district, and would concentrate development on the lower plateau primarily for residential use (between 300 and 390 units total). Both the historic portion and non-historic wings of Building 1801 would be rehabilitated. Approximately 17,000 sf of non-historic buildings, including the front connector and the two-story additions at the rear of Building 1801, would be removed and replaced with an equivalent amount of compatible infill construction at locations on the lower plateau that conform to the draft planning and design guidelines. No new buildings would be constructed on the Battery Caulfield site, which would remain in the short term as a Trust maintenance/corporation yard. This alternative may also include a new underground parking facility beneath Building 1801 to increase landscaped open space on the lower plateau.

Alternative 3: Rehabilitation/Demolition—This alternative would rehabilitate historic buildings within the PHSB district, remove the wings of Building 1801, and provide no replacement construction at Battery Caulfield or elsewhere within the district. Total square footage in the district would decrease to approximately 275,000 sf. Buildings would be rehabilitated primarily for residential use (between 210 and 230 units total). The Battery Caulfield site would remain in the short term as a Trust maintenance/corporation yard, and outlying buildings would remain as Trust maintenance facilities.

Alternative 4: Rehabilitation/Relocated Construction—This alternative would rehabilitate historic buildings within the PHSB district, remove the non-historic wings and provide for replacement construction within the Battery Caulfield site primarily for residential uses. Several non-historic buildings including the wings and connector in front of Building 1801, the addition to Building 1802, and Building 1803 would be removed and replaced with an equivalent amount of compatible new residential construction (up to 125 units, not to exceed approximately 115,000 sf) within the lower plateau and within Battery Caulfield (approximately 90 units) for a total of 300 to 350 residential units.

Proposed Scoping and Environmental Review

The EA will tier from the PTMP Environmental Impact Statement (EIS) by incorporating by reference, as

appropriate, the information and analysis in the PTMP EIS, and will focus the EA on issues specific to each proposed project alternative. The Trust encourages all interested individuals, organizations and agencies to provide comments on the nature and extent of issues, potential impacts and alternatives to be addressed in the EA. As part of the scoping process, the Trust will conduct a public Trust Board meeting in October or November, at a time and location to be announced, at which the Trust Board will accept oral scoping comments from the public on the proposed action described herein, the alternatives to be studied under the NEPA, and the scope of the EA. For those unable to attend this meeting, an information packet is available upon request (see Contact information below). The Trust will provide informal information updates and notices concerning the project through postings on its Web site at www.presidio.gov, or through its bi-monthly publication, the Presidio Post. The Trust will announce the release of the EA by notice in the Presidio Post, as well as via direct mailing and other means. At this time, it is expected that the EA will be available for public review in January 2004.

Contact

To request the information packet, provide comments or obtain information on meeting locations, please contact John Pelka, NEPA Compliance Coordinator, the Presidio Trust, 34 Graham Street, P.O. Box 29052, San Francisco, CA 94129-0052 (fax: 415/561-2790) or phsh@presidiotrust.gov. NEPA scoping comments must be postmarked or transmitted not later than November 26, 2003.

Dated: September 2, 2003.

Karen A. Cook,
General Counsel.

[FR Doc. 03-22886 Filed 9-8-03; 8:45 am]

BILLING CODE 4310-4R-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48428; File No. SR-CHX-2003-22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Stock Exchange, Inc., Relating to Membership Dues and Fees

September 2, 2003.

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 July 30, 2003, the Chicago Stock Exchange, Inc. ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which the CHX has prepared. On August 22, 2003, the CHX filed Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, has been filed by Phlx under Rule 19b-4(f)(2) under the Act.⁴ The Commission is publishing this notice to solicit comments on the

proposed rule change, as amended, from interested persons.

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

The CHX proposes to amend its membership dues and fees schedule (the "Fee Schedule"), effective August 1, 2003, to (1) modify the Fee Schedule by reducing transaction fees for executions through floor brokers (and market makers) that exceed specific thresholds, while eliminating the caps previously associated with those transaction fees;

(2) re-bill fees associated with the use of the NYFIX system⁵ that exceed \$15,000 each month to floor brokers, based on their use of the system; and (3) modify the floor broker earned credit program to permit floor brokers to receive additional earned credits if certain events occur.

The text of the proposed rule change is below. Proposed additions are in *italics* and proposed deletions are in [brackets].

MEMBERSHIP DUES AND FEES

* * * * *

F. Transaction and Order Processing Fees

1.-3.(No change to text)

4. Transaction Fees

a.-d.(No change to text).

e. In Nasdaq/NM securities, agency executions executed through a floor broker and market maker executions. \$.0025 per share (up to a maximum of \$100 per side), *subject to the fee reduction described in (i), below.*

f. In Dual Trading System issues, agency executions executed through a floor broker and market maker executions. \$.0035 per share (up to a maximum of \$100 per side), *subject to the fee reduction described in (i), below.*

g. (No change to text)

h. [Effective January 1, 2003,] The monthly maximum[s] for transaction fees for orders sent via MAX is \$10,000 or, if less, \$.40 per 100 average monthly gross round lot shares.

[(1) Maximum monthly transaction fees for orders via MAX]

[\$10,000]

[(2) Maximum monthly transaction fee for transactions in NASDAQ/NMS Securities (other than transactions included in (1) above)]

[\$110,000]

[(3) Maximum monthly transaction fee for transactions in Dual Trading System Securities (other than transactions included in (1) above)]

[\$110,000]

[(4) Maximum monthly transaction fees shall not exceed the lesser of that specified in (1), (2) or (3) above, or \$.40 per 100 average monthly gross round lot shares.]

i. *Effective August 1, 2003, the per-share fees described in (e) and (f) above will be reduced on shares traded above a total monthly charge of \$150,000 (within each section) as follows:*

Fees are reduced by 25% on additional shares traded that would otherwise generate a total monthly charge above \$150,000 and below \$200,000;

Fees are reduced by 50% on additional shares traded that would otherwise generate a total monthly charge at or above \$200,000 and below \$250,000; and

Fees are reduced by 75% on additional shares traded that would otherwise generate a total monthly charge at or above \$250,000.

* * * * *

H. EQUIPMENT, INFORMATION SERVICES AND TECHNOLOGY CHARGES

* * * * *

NYFIX Network and Connection Charges All NYFIX charges above \$15,000 per month will be re-billed monthly to member firms that access the NYFIX network, based on the proportion of each firm's use of the network during the month.

* * * * *

M. Credits

1. (No change to text)

2. Floor Broker Credits

a. **Earned Credits.** Total monthly fees owed by a floor broker to the Exchange will be reduced by the application of the following Earned Credit (and floor brokers will be paid each month for any unused credits):

Earned Credit—Average Daily Billable Shares × Average Rate per Billable Share × Credit Percentage × 8.

In calculating the above Earned Credit, the following definitions shall apply:

"Average Daily Billable Shares" means, for a given month, (i) Total Billable Shares in Month divided by (ii) Total Trading Days in Month.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Ellen J. Neely, Senior Vice President and General Counsel, CHX to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated August 20, 2003 ("Amendment No. 1"). In Amendment No. 1, the

CHX submitted a new Form 19b-4, which replaced the original filing in its entirety.

⁴ 17 CFR 240.19b-4(f)(2). For purposes of calculating the sixty-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers that period to commence on

August 22, 2003, the date CHX filed Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

⁵ NYFIX USA, LLC provides equipment, software and network services that route orders among subscribers to the system and that help subscribers manage the orders they receive.

H. EQUIPMENT, INFORMATION SERVICES AND TECHNOLOGY CHARGES—Continued

- “Total Billable Shares in Month” means, for a given month, the total number of shares executed on the Exchange by the floor broker for which the Exchange received a transaction fee. Any share executed for which the Exchange did not receive a transaction fee shall not be considered a billable share.
- “Total Trading Days in Month” means, for a given month, the number of business days that the Exchange was open for business during the month. Days in which the Exchange closes early, due to a holiday or otherwise, shall nonetheless be considered a day that the Exchange is open for business.
- “Average Rate per Billable Share” means, for a given month, (i) the total dollar amount of transaction fees received by the Exchange for trades executed on the Exchange by the floor broker divided by (ii) Total Billable Shares in Month.
- “Credit Percentage” means the applicable percentage taken from the following table:

| | | | | | | |
|---------------------------------------|----------------------------|---------------|-----------------|-------------------------|-----|------|
| Average Daily Billable Shares | 0-49,999 | 50,000-99,999 | 100,000-499,999 | 500,000 shares or more. | | |
| Average Rate per Billable Share | Less than \$.0040 | | 20% | 30% | 40% | 50% |
| | \$.0040-\$.0055 | | 40% | 45% | 60% | 75% |
| | Greater than \$.0055 | | 40% | 60% | 80% | 100% |

In any month that the Exchange's Total Billable Shares in Month for all floor brokers exceeds the Exchange's monthly average billable shares for all floor brokers for the first quarter of 2003, the Exchange will distribute 50% of the incremental transaction fee revenue received by the Exchange resulting from that increase in the number of billable shares (the “Additional Revenue”). The Additional Revenue will be distributed to each floor broker in proportion to the floor broker's share of that month's incremental increase in billable shares. (Effective August 1, 2003)

The Earned Credit (together with any Additional Revenue) calculated above for each floor broker shall be decreased by an amount equal to that floor broker's “Credit Reduction Charge,” which shall be calculated as follows:

$$(\text{Floor Broker's Monthly Earned Credit} \div \text{Total CHX Monthly Earned Credits}) \times \text{Exchange Baseline } [\$50,000] = \text{Floor Broker's Credit Reduction Charge.}$$

The “Exchange Baseline” means, for a given month, \$50,000 less any additional revenues (up to \$50,000) realized by the Exchange as a result of the elimination of the monthly caps in August 2003 (SR-CHX-2003-22).

* * * * *

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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX 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 proposed rule change amends the CHX Fee Schedule in several ways. First, the proposal revises the Exchange's fees for agency transactions executed through floor brokers in both over-the-counter (“OTC”) and listed securities by reducing transaction fees for executions that exceed specific thresholds and eliminating the caps associated with those fees.⁶ Specifically, the proposal reduces the per share fees on shares traded above a total monthly charge of \$150,000 by the following percentages: (1) 25% on additional shares traded that would otherwise generate a total monthly charge above \$150,000 and below \$200,000; (2) 50% on additional shares traded that would otherwise generate a total monthly charge at or above \$200,000 and below \$250,000; and (3) 75% on additional shares traded that would otherwise generate a total monthly charge at or above \$250,000. At the same time, the Exchange is eliminating the caps that were previously associated with these transaction fees.⁷

Another change to the Fee Schedule allows the Exchange to re-bill its floor brokers a portion of the network and connection costs associated with providing access to the NYFIX system, which can be used to deliver orders to the trading floor for handling by CHX floor brokers. The Exchange will pay the first \$15,000 each month associated with the use of this system. The Exchange's floor brokers will be

assessed any remaining costs, based on the proportion of each firm's use of the network during the month.

Finally, the proposal modifies the floor broker earned credit program to permit floor brokers to receive additional earned credits if either (a) the number of overall billable shares executed by floor brokers at the Exchange increases in a month over the average number of billable shares executed in a month by floor brokers at the Exchange in the first quarter of 2003 or (b) the Exchange recognizes additional revenues from the changes it has made to its transaction fee schedule as part of this submission. If the number of overall billable shares executed by floor brokers reaches the threshold described above (i.e., it exceeds the average number of billable shares executed by floor brokers during a month in the first quarter of 2003), the Exchange will distribute 50% of the incremental transaction fee revenue that results from that increase in the number of billable shares.⁸ In addition, if the Exchange recognizes additional transaction fee revenues in a particular month as the result of the transaction fee changes it has made in this submission, those revenues will be used to reduce the “credit reduction charge” that now serves to decrease the earned credits available to floor brokers.⁹

All of these fee changes took effect August 1, 2003. Among other things, the fee changes are designed ultimately to increase the Exchange's trading volume in securities traded by its floor brokers and to increase the Exchange's revenues. The Exchange believes that these changes reflect a reasonable allocation of dues, fees and other

⁶ This proposed rule change also affects the fees charged to market makers for their executions on the Exchange.

⁷ The Exchange previously had separate \$110,000 per month caps on transaction fees generated through orders executed, other than through the Midwest Automated Execution System (“MAX”) in OTC and listed securities.

⁸ This additional revenue will be distributed to each floor broker in proportion to the floor broker's share of that month's incremental increase in billable shares.

⁹ The Exchange implemented the credit reduction charge in September 2002. See Securities Exchange Act Release No. 46592 (October 2, 2002), 67 FR 62999 (October 9, 2002) (SR-CHX-2002-28).

charges among its members and that they permit the Exchange's floor brokers to participate in an earned credit program that provides increased, but not unlimited, opportunities to share in certain of the Exchange's revenues that arise from their trading activities.

2. Statutory Basis

The CHX believes that its proposal is consistent with Section 6(b) of the Act¹⁰ in general, and furthers the objectives of Section 6(b)(4) of the Act¹¹ in particular, in that it provides for the equitable allocation of reasonable fees among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CHX does not believe that the proposed rule change, as amended, 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

The CHX neither solicited nor received written comments concerning the proposed rule change, as amended.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the CHX, it has become effective pursuant to Section 19(b)(3)(A) of the Act¹² and Rule 19b-4(f)(2)¹³ thereunder. At any time within 60 days after the submission of the proposed rule change, the Commission may summarily abrogate the 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.

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 filings will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR-CHX-2003-22 and should be submitted by September 30, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁴

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-22856 Filed 9-8-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48413; File No. SR-NASD-2003-127]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify the Fees for the Listing of Additional Shares Program and To Institute a Record-Keeping Fee for Certain Changes by Issuers

August 26, 2003.

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 August 11, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, The Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. 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 the Substance of the Proposed Rule Change

Nasdaq has filed with the Commission a proposed rule change to modify the fees for the listing of additional shares program and to institute a record-keeping fee for certain changes by issuers.

The text of the proposed rule change is below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

4500. Issuer Listing Fees

4510. The Nasdaq National Market

(a) No change.

(b) Additional Shares

(1) No change.

(2) The fee in connection with additional shares shall be \$2,500 [2,000] or \$.01 per additional share, whichever is higher, up to [a maximum of \$22,500 per quarter and] an annual maximum of \$45,000 per issuer. There shall be no fee, however, for issuances of up to 49,999 additional shares per quarter.

(3)-(4) No change.

(c)-(d) No change.

(e) *Record-Keeping Fee*

An issuer that makes a change such as a change to its name, the par value or title of its security, or its symbol shall pay a fee of \$2,500 to The Nasdaq Stock Market, Inc.

4520. The Nasdaq SmallCap Market

(a) No change.

(b) Additional Shares

(1) No change.

(2) The fee in connection with additional shares shall be \$2,500 [2,000] or \$.01 per additional share, whichever is higher, up to [a maximum of \$22,500 per quarter and] an annual maximum of \$45,000 per issuer. There shall be no fee, however, for issuances of up to 49,999 additional shares per quarter.

(3)-(4) No change.

(c)-(d) No change.

(e) *Record-Keeping Fee*

An issuer that makes a change such as a change to its name, the par value or title of its security, or its symbol shall pay a fee of \$2,500 to The Nasdaq Stock Market, Inc.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹⁰ 15 U.S.C. 78f(b).

¹¹ 15 U.S.C. 78f(b)(4).

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b-4(f)(2).

¹⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.