

As noted above, we have already prepared test questions and can add them to the Series 3 and Series 30 question banks with a minimum of effort. We will be able to update the Series 3 and Series 30 examinations quickly if our review indicates that it is either necessary or cost-effective or if either the SEC or the CFTC so requests. We will, of course, need enough lead-time for test preparation services to update their course materials so that new applicants can study the appropriate material before taking the examination, but the entire process should not take more than four months.

## 2. Statutory Basis

The rule change is authorized by, and consistent with, section 15A(k) of the Act.<sup>13</sup>

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

The rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act and the Commodity Exchange Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

NFA did not publish the rule changes to the membership for comment. NFA did not receive comment letters concerning the rule change.

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

The proposed rule change became effective on December 24, 2003.

Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Exchange Act.<sup>14</sup>

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted

electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-NFA-2003-04. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 these filings also will be available for inspection and copying at the principal office of NFA. All submissions should refer to File No. SR-NFA-2003-04 and should be submitted by February 10, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49057; File No. SR-Phlx-2003-83]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Equity Floor Brokerage Assessment Fees**

January 12, 2004.

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 December 29, 2003, 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, II, and III, below, which Items have been prepared by the Phlx. On January 9, 2004, the Phlx submitted an amendment to the proposed rule

change. 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 Phlx proposes to amend its schedule of dues, fees, and charges by: (1) Permanently adopting a monthly fee of \$250 for each member who derives his/her primary income from floor brokerage business conducted on the *equity floor* of the Exchange; (2) eliminating the *equity floor* brokerage assessment fee of 5 percent of net floor brokerage income, which had been waived through December 31, 2003; and (3) clarifying that the \$250 monthly charge is assessed on members who derive their primary income from brokerage business conducted on the equity floor of the Exchange, as opposed to the options or foreign currency floors of the Exchange.<sup>3</sup>

The Exchange previously suspended its equity floor brokerage assessment fee of 5 percent of net floor brokerage income through December 31, 2003 and adopted a monthly fee of \$250 for each member who derives his/her primary income from equity floor brokerage business.<sup>4</sup> The Exchange intends to adopt permanently the \$250 monthly fee beginning on January 2004 and to eliminate the equity floor brokerage fee of 5 percent beginning on January 1, 2004.

The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and the Commission.

### **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

<sup>3</sup> For purposes of this proposed rule change, floor brokerage business conducted on the Exchange includes orders that are received on the equity floor of the Phlx, even if those orders are executed on an exchange other than the Phlx. For purposes of the \$250 monthly fee, "primary income" means that the member derives at least 80 percent of gross income generated from Phlx floor-based activities from his/her brokerage business conducted on the equity floor of the Exchange.

<sup>4</sup> See Securities Exchange Act Release No. 46875 (November 21, 2002), 67 FR 72014 (December 3, 2002) (SR-Phlx-2002-70). While the reference to the floor brokerage was updated on the Exchange's summary of equity charges, the additional reference on the QQQ schedule was not similarly updated. Therefore, the QQQ equity fee schedule will also be updated with the proposed changes described herein.

<sup>13</sup> 15 U.S.C. 78o-3(k).

<sup>14</sup> 15 U.S.C. 78s(b)(1).

<sup>15</sup> 17 CFR 200.30-3(a)(75).

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

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

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 purpose of the proposed rule change is to attract business to the Exchange. Specifically, the Exchange believes that permanently waiving the equity floor brokerage fee of 5 percent of net floor brokerage income and implementing a modest monthly fee of \$250 should encourage floor brokers to send additional order flow to the Exchange and enhance the competitiveness of the Exchange. Charging a flat \$250 monthly charge would also simplify Phlx accounting procedures and billing. In addition, specifying that the \$250 monthly charge would be assessed on members who derive their primary income from brokerage business conducted on the equity floor of the Exchange should help to avoid any member confusion with respect to the billing of the floor brokerage assessment.

**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>5</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>6</sup> in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges 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, as amended, has become effective

immediately pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>7</sup> and Rule 19b-4(f)(2)<sup>8</sup> thereunder because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, as amended, 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.<sup>9</sup>

**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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-Phlx-2003-83. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, your comments should be sent in hardcopy or by e-mail but not by both methods. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2003-83 and should be submitted by February 10, 2004.

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>8</sup> 17 CFR 240.19b-4(f)(2).

<sup>9</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the period to commence on January 9, 2004, the date on which the Exchange filed Amendment No. 1.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**Environmental Impact Statement:  
Dallas and Ellis Counties, Texas**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Supplemental notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public of a change in the study limits of an Environmental Impact Statement being prepared for a proposed transportation project in Dallas and Ellis Counties, Texas.

**FOR FURTHER INFORMATION CONTACT:** Mr. Salvador Deocampo, District Engineer, Federal Highway Administration, 300 East 8th Street, Room 826, Austin, Texas 78701, Telephone 512-536-5950.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Texas Department of Transportation (TXDOT) and the Dallas County Department of Public Works, is preparing an Environmental Impact Statement (EIS) on the proposal to build Loop 9, a new location highway, from US 287 to IH 20 in Southern Dallas and Northern Ellis Counties. A previous notice, published in the Federal and State Registers identified the study limits as SH 360 to IH 20. Due to changes in the proposed alignment location in the vicinity of SH 360, the study limits have been changed from "SH 360 to IH 20" to "US 287 to IH 20". The study corridor is still approximately 40 miles.

From a regional perspective, there is still a great demand for additional east-west transportation capacity and access throughout the limits of the corridor. Over the last 30 years, this area has experienced tremendous growth and has more than quadrupled in population. A Major Investment Study (MIS) will be integrated with the EIS. The Loop 9 facility is included in the Mobility 2025 Update: The Metropolitan Transportation Plan as a new location staged parkway calling for the preservation of right-of-way through this corridor. The environmental study will examine viable alternatives and potential transportation modes including the No-Build; Transportation

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>6</sup> 15 U.S.C. 78f(b)(4).