

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

The Phlx 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**

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) after the date of the filing, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>16</sup> and Rule 19b-4(f)(6) thereunder.<sup>17</sup> 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 must not become operative prior to 30 days after the date of the filing. In addition, a self-regulatory organization filing a proposed rule change under Rule 19b-4(f)(6)(iii) normally must give the Commission written notice of its intent to file the proposed rule change five days prior to the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange provided the five-day pre-filing requirement, but the Exchange has requested that the Commission waive the 30-day operative delay and allow the proposed rule change become operative immediately to promote portfolio weight diversification, reduce Index performance distortion, reduce market impact on the smallest component securities from necessary weight rebalancings, and in general, retain the economic attributes of capitalization weighting.

The Commission believes it is consistent with the protection of investors and the public interest to designate the proposal immediately operative.<sup>18</sup> Accelerating the operative date should permit the Exchange to conform its methodology of the Index to that employed by the sponsor of the Index, KBW. Furthermore, the Commission believes that the proposed change in weighting methodology does not present any new novel regulatory issues, and is similar to proposed rule changes that were approved previously by the Commission.<sup>19</sup> The Commission also finds determinative that the weighting methodology reduces the weighting concentration of components of the Index in a manner similar to that of Phlx Rule 1009A. Accordingly, the Commission designates the proposed rule change to be operative upon filing with the Commission.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether 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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2004-64 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2004-64. 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

<sup>18</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>19</sup> See Securities Exchange Act Release No. 40642 (November 5, 1998), 63 FR 63759 (November 16, 1998) (SR-CBOE-98-43).

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 the Phlx. 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-Phlx-2004-64 and should be submitted on or before November 16, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3629]**

**State of Georgia (Amendment #2)**

In accordance with notices received from the Department of Homeland Security—Federal Emergency Management Agency—effective September 24 and 29, and October 14, 2004, the above numbered declaration is hereby amended to include Clayton and Forsyth Counties as disaster areas due to damages caused by Hurricane Ivan occurring on September 14, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Spalding in the State of Georgia may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

In addition, Banks, Carroll, Cherokee, Dade, Dawson, DeKalb, Early, Elbert, Fannin, Forsyth, Franklin, Fulton, Gilmer, Habersham, Harris, Heard, Lumpkin, Madison, Miller, Pickens, Pike, Rabun, Towns, Union, Upson, White, and Wilkes Counties in the State of Georgia are also eligible under Public Assistance and our disaster loan

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>17</sup> 17 CFR 240.19b-4(f)(6).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

program is available for private non-profit organizations that provide essential services of a governmental nature in those counties.

The Public Assistance number assigned to Georgia is P07208.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 17, 2004, and for economic injury the deadline is June 20, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 19, 2004.

**Cheri L. Cannon,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23958 Filed 10-25-04; 8:45 am]

**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Disaster #3632]**

#### **Commonwealth of Pennsylvania (Amendment #4)**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective October 19, 2004, the above numbered declaration is hereby amended to include Elk and Potter Counties as disaster areas due to damages caused by Tropical Depression Ivan occurring on September 17, 2004, and continuing through October 1, 2004.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Allegany in the State of New York may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 18, 2004, and for economic injury the deadline is June 20, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 20, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23959 Filed 10-25-04; 8:45 am]

**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Disaster #3630]**

#### **Commonwealth of Pennsylvania (Amendment #1)**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective October 19, 2004, the above numbered declaration is hereby amended to include Bedford, Butler, Erie, Huntingdon, Lawrence, Warren and Washington Counties as disaster areas due to damages caused by severe storms and flooding associated with Tropical Depression Frances occurring on September 8 and 9, 2004.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Armstrong, Clarion, Elk, Fayette, Forest, Franklin, Fulton, Greene, Juniata, McKean, Mifflin, Somerset, and Westmoreland in the Commonwealth of Pennsylvania; Allegany County in the State of Maryland; Cattaraugus and Chautauqua Counties in the State of New York; and Brooke, Marshall, and Ohio Counties in the State of West Virginia may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have previously been declared.

The economic injury number assigned to Maryland is 9AH100 and New York is 9AH200.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 18, 2004, and for economic injury the deadline is June 20, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 20, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23961 Filed 10-25-04; 8:45 am]

**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Disaster #3642]**

#### **Commonwealth of Virginia**

As a result of the President's major disaster declaration on October 18, 2004, I find that the independent cities of Salem and Roanoke, and the counties of Alleghany, Craig, Floyd, Giles, Montgomery, Patrick, and Roanoke in the Commonwealth of Virginia constitute a disaster area due to damages caused by severe storms and

flooding from the remnants of Hurricane Jeanne occurring on September 27, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 17, 2004, and for economic injury until the close of business on July 18, 2005, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303-1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Bath, Bedford, Bland, Botetourt, Carroll, Franklin, Henry, Pulaski, and Rockbridge in the Commonwealth of Virginia; Stokes and Surry Counties in the State of North Carolina; and Greenbrier, Mercer, Monroe, and Summers Counties in the State of West Virginia.

The interest rates are:

	Percent
<b>For Physical Damage:</b>	
Homeowners With Credit Available Elsewhere .....	6.375
Homeowners Without Credit Available Elsewhere .....	3.187
Businesses With Credit Available Elsewhere .....	5.800
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	2.900
Others (Including Non-Profit Organizations) With Credit Available Elsewhere .....	4.875
<b>For Economic Injury:</b>	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere ...	2.900

The number assigned to this disaster for physical damage is 364206. For economic injury the number is 9AF400 for Virginia; 9AF500 for North Carolina; and 9AF600 for West Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 19, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

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**BILLING CODE 8025-01-P**

## **SMALL BUSINESS ADMINISTRATION**

### **[Declaration of Disaster #3633]**

#### **State of West Virginia (Amendment #3)**

In accordance with a notice received from the Department of Homeland