

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2) thereunder,<sup>7</sup> because the proposed rule change establishes or changes a due, fee or other charge applicable only to a member of the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.<sup>8</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 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-PCX-2004-125 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-PCX-2004-125. 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 the Exchange. 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-PCX-2004-125 and should be submitted on or before February 22, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

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

[FR Doc. E5-360 Filed 1-31-05; 8:45 am]

**BILLING CODE 8010-01-U**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51080; File No. SR-Phlx-2004-51]

**Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Phlx Regulation 5, Visitors and Applicants**

January 26, 2005.

On October 7, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to update Phlx Regulation 5, Visitors and Applicants, enacted as a rule of order and decorum under Phlx Rule 60. On December 6, 2004, Phlx filed Amendment No. 1 to the proposed rule

change.<sup>3</sup> The proposed rule change, as amended, was published for comment in the **Federal Register** on December 22, 2004.<sup>4</sup> The Commission received no comments on the proposal.

Phlx is amending its Phlx Regulation 5 to more accurately reflect its current practices. The Exchange amended Phlx Regulation 5 in 1992 to create an "applicant" status for prospective Exchange members.<sup>5</sup> A person who fell into the applicant category was issued an Applicant Access Card and Floor Badge that would allow for unescorted floor access until the application process was complete. Phlx no longer issues such Applicant Access Cards and Floor Badges to applicants, but instead requires applicants to register as on-floor trading personnel pursuant to Phlx Rule 620(b), Trading Floor Registration. Applicants are now issued the same access cards as are issued to Phlx members, and their access to the floor is governed by Phlx Rule 620(b), rather than Regulation 5. Phlx proposes to return Regulation 5 to its pre-1992 wording, which governs only guest access to the floor. Phlx members who do not adhere to the procedures set forth in Regulation 5 would be subject to sanction.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act<sup>7</sup> because ensuring that unauthorized persons do not have improper access to the Exchange floor is consistent with the protection of investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>8</sup> that the proposed rule change (File No. SR-Phlx-2004-51), as amended, be, and it hereby is, approved.

<sup>3</sup> Amendment No. 1 replaced the original filing in its entirety. Amendment No. 1 clarified that violations of Regulation 5 would be enforced against members and not the guests themselves, and added a description for the Applicant Access Card.

<sup>4</sup> See Securities Exchange Act Release No. 50851 (December 14, 2004), 69 FR 76816.

<sup>5</sup> See Securities Exchange Act Release No. 30416 (February 26, 1992), 57 FR 7836 (March 4, 1992) (approving File No. SR-Phlx-91-06).

<sup>6</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> For purposes of calculating the 60-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 January 13, 2005, the date the Exchange filed Amendment No. 2 to the proposed rule change. See 15 U.S.C. 78s(b)(3)(C).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

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

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

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E5-367 Filed 1-31-05; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### **Bay Partners LS Fund, L.P., License No. 09/79-0423; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest**

Notice is hereby given that Bay Partners LS Fund, L.P., 10600 N. De Anza Boulevard, Suite 100, Cupertino, CA 95014, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 107.730). Bay Partners LS Fund, L.P. proposes to provide equity/debt security financing to IPWireless, Inc. The financing is contemplated for operating expenses and for general corporate purposes.

The financing is brought within the purview of § 107.730(a)(1) of the Regulations because Bay Partners SBIC II, L.P., John Freidenrich, Neal Dempsey, Christopher Noble and Loring Knoblauch, all Associates of Bay Partners LS Fund, L.P., own more than ten percent of IPWireless, Inc.

Notice is hereby given that any interested person may submit written comments on the transaction to the Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

Dated: January 12, 2005.

**Jaime Guzman-Fournier,**

*Acting Associate Administrator for Investment.*

[FR Doc. 05-1775 Filed 1-31-05; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### **Region IX Regulatory Fairness Board; Public Federal Regulatory Enforcement Fairness Hearing**

The Small Business Administration Region IX Regulatory Fairness Board and the SBA Office of the National

Ombudsman will hold a Public Hearing on Tuesday, March 1, 2005 at 8:30 a.m. at the City of Anaheim, Gordon Hoyt Center, 201 South Anaheim Blvd., 2nd floor, Anaheim, CA 92805, phone (714) 765-4323, to receive comments and testimony from small business owners, small government entities, and small non-profit organizations concerning regulatory enforcement and compliance actions taken by federal agencies.

Anyone wishing to attend or to make a presentation must contact Dace Pavlovskis in writing or by fax, in order to be put on the agenda. Dace Pavlovskis, District Counsel, SBA Santa Ana District Office, 200 Santa Ana Blvd., Suite 700, Santa Ana, CA 92701, phone (714) 550-7420 Ext. 3601, fax (202) 481-0901, e-mail: [Dace.Pavlovskis@sba.gov](mailto:Dace.Pavlovskis@sba.gov).

For more information, see our Web site at <http://www.sba.gov/ombudsman>.

Dated: January 26, 2005.

**Peter Sorum,**

*Senior Advisor, Office of the National Ombudsman.*

[FR Doc. 05-1774 Filed 1-31-05; 8:45 am]

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## DEPARTMENT OF STATE

### **[Public Notice 4983]**

### **Certification Under Section 584(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Div. D, P.L. 108-447)**

Pursuant to the authority vested in me as Secretary of State, including under section 584(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2005 (Div. D, P.L. 108-447), I hereby certify that:

1. The role of the Guatemalan military has been limited, in doctrine and practice, to substantially those activities in defense of Guatemala's sovereignty and territorial integrity that are permitted by the 1996 Peace Accords, and that the Government of Guatemala is taking steps to pass a new governing law of the Army (Ley Constitutiva del Ejercito).

2. The Guatemalan military is cooperating with civilian judicial authorities, including providing full cooperation on access to witnesses, documents and classified intelligence files, in investigations and prosecutions of military personnel who have been implicated in human rights violations and other criminal activity.

3. The Government of Guatemala is working with the United Nations to

resolve legal impediments to the establishment of the Commission for the Investigation of Illegal Groups and Clandestine Security Organizations (CICIACS), so that CICIACS can effectively accomplish its mission of investigating and bringing to justice illegal groups and members of clandestine security organizations.

4. The Government of Guatemala is continuing its efforts to make the military budget process transparent and accessible to civilian authorities and to the public, for both present and past expenditures.

5. The Government of Guatemala is working to facilitate the prompt establishment of an office in Guatemala of the United Nations High Commissioner for Human Rights with the unimpeded authority to investigate and report on human rights in Guatemala.

6. The Government of Guatemala is taking steps to increase its efforts to combat narcotics trafficking and organized crime.

This certification shall be published in the **Federal Register** and copies shall be transmitted to the appropriate committees of Congress.

Dated: January 25, 2005.

**Colin L. Powell,**

*Secretary of State, Department of State.*

[FR Doc. 05-1846 Filed 1-31-05; 8:45 am]

BILLING CODE 4710-29-P

## DEPARTMENT OF TRANSPORTATION

### **Federal Aviation Administration**

### **Performance-Based Operations Aviation Rulemaking Committee**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** This document announces a public meeting in which the Federal Aviation Administration (FAA) and members of the Performance-Based Operations Aviation Rulemaking Committee (PARC) will discuss the activities of the PARC since the Federal Aviation Administrator chartered the group in February 2004.

**DATES:** The public meeting will be held February 23-24, 2005, in Phoenix, AZ, and will begin at 9 a.m. each day. Registration will begin at 8:30 a.m. each day.

**ADDRESSES:** The public meeting will be held at Honeywell International Inc., 21111 N. 19th Ave., Phoenix, AZ.

You can find an electronic copy of informational materials for the meeting,

<sup>9</sup> 17 CFR 200.30-3(a)(12).