

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

1. Purpose

Currently, PCX rule 6.82(e)(3) states that in the absence of extraordinary circumstances, as determined by the Options Allocation Committee, no LMM may be allocated more than 10% of the number of issues traded on the options floor. The Exchange proposes to amend PCX Rule 6.82(e)(3) to increase the percentage of issues that the Options Allocation Committee may allocate to an LMM from 10% to 15% of the number of issues traded on the options floor.

The Exchange proposes this change for several reasons. First, the Exchange recently filed with the Commission a proposed rule change which the Exchange anticipates will reduce the total number of issues traded on the options floor.² The Exchange believes that the Continued Listing Fee will cause a significant number of issues to be delisted, thus lowering the total number of issues that an LMM may hold.³

Second, the Exchange believes that it is necessary in today's competitive environment to provide flexibility to LMMs to allow them to be allocated additional issues. The Exchange proposes this change to allow its LMMs to be on equal footing with specialists and Designated Primary Market Makers ("DPMs") on other options exchanges with respect to the number of issues that may be allocated to them.⁴ The

Exchange believes that the current 10% cap is unnecessarily low and that an increase in concentration levels is consistent with rules and guidelines of other options exchanges.

2. Statutory Basis

The PCX believes that proposed rule change is consistent with Section 6(b)⁵ of the Act, in general, and furthers the objectives of Section 6(b)(5),⁶ in particular, because it is designed to facilitate transactions in securities, perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change 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

Written comments on the proposed rule change were neither solicited nor received.

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

Within 35 days of the 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 reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the 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

options classes allocated to a DPM if the DPM meets two of the following three criteria: (1) the number of classes allocated to the DPM is 25% or more of the total number of classes traded on the CBOE (excluding DJX, NDX, OEX, and SPX); (2) the volume in the classes allocated to the DPM is 25% or more of the total volume of CBOE (excluding DJX, NDX, OEX, and SPX); and (3) the number of appointments held by the DPM is 25% or more of the total number of DPM appointments effective on CBOE.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR-PCX-99-35 and should be submitted by November 22, 1999.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99-28455 Filed 10-29-99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-42058; File No. SR-Phlx-99-43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Assessment of a Capital Funding Fee

October 22, 1999.

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 October 1, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

² See File No. SR-PCX-99-32. The proposal establishes a Continued Listing Fee that is designed to more fairly allocate the costs and expenses involved in supporting the trading of all listed options and to eliminate unfair burdens on options issues that generate revenue above the threshold of \$500 per month. Under the proposal, the PCX will calculate all volume-based, trading-related revenues generated by each option issue over a trailing average of three calendar months to determine whether an option issue meets the \$500 threshold. The PCX will assess a Continued Listing Fee on each option issue that fails to produce revenue of more than \$500 per month through a combined total of transaction, comparison and data entry fees over the trailing average of three calendar months. The proposal is pending with the Commission.

³ For example, if the Exchange lists 800 issues, then under current PCX rule 6.82(e)(3) an LMM may be allocated up to 80 (10% of 800) of those issues. If the Exchange delists 200 of those issues, leaving a total of 600 issues listed on the Exchange, then an LMM may be allocated up to 60 issues (10% of 600).

⁴ In this regard, the PCX represents that it is not aware of any limitations under American Stock Exchange ("Amex") rules in the number of issues in which an Amex specialist may be registered. In addition, the PCX notes that Chicago Board Options Exchange ("CBOE") Regulatory Circular RG99-135 states that CBOE's Modified Trading System Appointment Committee will review the number of

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

The Phlx is proposing to amend its schedule of dues, fees, and charges to charge the owners of each of the 505 Exchange memberships a monthly capital funding fee of \$1,500 per membership.³ This fee will remain in effect for 36 consecutive months and will provide funding for capital improvements.

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 Exchange 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. The Exchange 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 Phlx is proposing to amend its fee schedule to include a monthly fee of \$1,500, per membership, charged to each owner of the Exchange's 505 memberships.⁴ The monthly fee will be due on the last business day of the previous calendar month. Thus, the owner is responsible for paying the entire subsequent month's fee on the last business day of the prior month. The Exchange intends to segregate the funds generated from this \$1,500 fee from Phlx's general funds. This fee will remain in effect for 36 consecutive months. At the end of the 36-month period, the Exchange will reevaluate its long-term financing plan to determine whether this fee should continue.

This monthly fee will be treated like a contribution to capital and will provide funding for technological improvements and other capital needs.⁵

³ Telephone conversation between Marla Chidsey, Law Clark, Division of Market Regulation, Commission, and Cynthia Hoekstra, Counsel, Phlx (October 20, 1999).

⁴ For the purposes of this proposal, an "owner" means any person or entity who holds equitable title to a membership in the Exchange.

⁵ This fee is distinguished from the technology fee that the Exchange implemented in 1997. The technology fee was intended to cover system software modifications, upgrades to the operating systems on the Exchange's trading floors, Year 2000

Specifically, it is intended to fund capital purchases, including hardware for capacity upgrades, development efforts for decimalization, trading floor expansion, and communication enhancements. The revenue from the fees will assist in allowing the Exchange to remain competitive in the current capital markets environment.

2. Statutory Basis

For these reasons, the Exchange believes that the proposed rule change is consistent with Section 6 of the Act,⁶ in general, and with Section 6(b)(4),⁷ in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members. The Exchange believes that the capital funding fee is reasonable and equitable because it is imposed on every seat owner and will provide important funding for capital improvements. In reviewing this proposal, the Commission has considered its impact of efficiency, competition, and capital formation.⁸

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

The Exchange represents that it does not believe that the proposed rule 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 Exchange has neither solicited or received written comments on the proposed rule change.

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

The foregoing proposed rule change has become immediately effective upon filing pursuant to Rule 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2)¹⁰ thereunder because it establishes a due, fee, or other charge. At any time within 60 days of the filing of such 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

modifications, specific system development costs, hardware upgrades to handle expected increased trading volumes, and anticipated increases due to SIAC and OPRA communication changes. See Securities Exchange Act Release No. 38394 (March 12, 1997) 62 FR 13204 (March 19, 1997) SR-Phlx-97-099).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78c(f).

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

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 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 Phlx. All submissions should refer to File No. SR-Phlx-99-43 and should be submitted by November 22, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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DEPARTMENT OF STATE

[Public Notice 3150]

Culturally Significant Objects Imported for Exhibition Determinations: "Raphael and Titian: The Renaissance Portrait"

DEPARTMENT: United States Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority of October 19, 1999, I hereby determine that the objects to be included in the exhibition

¹¹ 17 CFR 200.30-3(a)(12).