

proposed, RBO 01-08 creates a formal process that: (i) Would disclose listing requirements set forth in PCX Rule 3.6; (ii) would specify quantitative and qualitative criteria considered by the OLC in evaluating listing candidates; (iii) would clarify procedures for submission of listing proposals; and (iv) would establish procedures for the reporting of OLC decisions to requesting members. The PCX believes that the proposed rule and guidelines would provide for a reasonable time frame for review and decision making on all listing proposals.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of section 6(b)(5),<sup>9</sup> in particular, in that it is designed to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and protect investors and the public interest by ensuring that all listing proposals are properly reviewed.

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

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

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

The PCX did not solicit or receive written comments on the proposed rule change.

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

Within 35 days of the date of 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 reasons for so finding or (ii) as to which the PCX consents, the Commission will:

(A) By order approve the proposed rule change, or

management; (iv) other significant developments that may be expected to materially affect the company and its shareholders; and (v) the Exchange's internal competitive objectives and system utilization concerns. The Exchange also may take notice of other bona-fide business considerations that will be documented and maintained in the OLC minutes.

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

<sup>9</sup> 15 U.S.C. 78f(b)(5).

(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 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 PCX. All submissions should refer to the File No. SR-PCX-00-47 and should be submitted by May 4, 2001. For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Jonathan G. Katz,  
Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 44155; File No. SR-Phlx-01-09]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Adopting a Monthly Fee for Electronic Communication Networks

April 5, 2001.

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 January 31, 2001, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission")

<sup>10</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.

the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. The Phlx amended the proposed rule change on March 30, 2001.<sup>3</sup> 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 adopt a \$2,500 monthly fee, on a one year pilot basis,<sup>4</sup> for electronic communications networks ("ECNs")<sup>5</sup> that are member organizations and send order flow to the Exchange's equity trading floor. The proposed fee would apply to ECN trades where the ECN is not acting as a specialist or a floor broker, but rather an order flow provider. The proposed fee is in lieu of the equity transaction value charge that would normally apply to. The Phlx fee schedule is available at the Commission and at the Phlx.

### II. Self-Regulatory Organization's Statements Regarding 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 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 the Statutory Basis for, the Proposed Rule Change*

##### 1. Purpose

The proposed fee is intended to attract equity order flow from ECNs to the Exchange by substituting a fixed

<sup>3</sup> The Phlx submitted a new Form 19b-4, which replaces and supersedes the original filing in its entirety.

<sup>4</sup> Thereafter, the Exchange may file to extend the fee, possibly only for ECNs that have achieved a certain average daily Phlx equity volume.

<sup>5</sup> ECNs shall mean any electronic system that widely disseminates to third parties orders entered therein by an Exchange market maker or over-the-counter ("OTC") market maker, and permits such orders to be executed against in whole or in part. The term ECN shall not include: Any system that crosses multiple orders at one or more specified times at a specified price set by the ECN, algorithm, or by any derivative pricing mechanism and does not allow orders to be crossed or executed against directly by participants outside of such times; or, any system operated by or on behalf of an OTC market-maker or exchange market-maker that executes customer orders primarily against the account of such market maker as principal, other than riskless principal. See SEC Rule 11Ac1-1(a)(5).

monthly fee, in light of the potential for high volumes of order flow from ECNs.<sup>6</sup> During the pilot program, the monthly fee would apply to ECN order flow to the Exchange's equity trading floor, including from ECNs that either became members or began sending order flow after the commencement of the pilot period. The proposed fee only would apply to trades where the ECN was not acting as a Phlx specialist or floor broker.<sup>7</sup>

Currently, no ECN operates from the Exchange's equity trading floor as a floor broker or specialist unit. If, however, an ECN did operate from the equity trading floor, it would be subject to various floor-related fees respecting its floor operation.<sup>8</sup> In addition, an ECN's transactions as a floor broker would be subject to the equity transaction value charge, and its specialist trades would be subject to other charges.<sup>9</sup> Even if the ECN was acting as a floor broker or specialist with respect to some trades, those trades for which it was not acting as a floor broker or specialist, but rather an ECN, would be subject only to the flat monthly fee and not other transaction charges.

An ECN that only operates as a specialist or floor broker would not have to pay the monthly fee, because it would, instead, be paying the normal transaction charges applicable to floor brokers and specialists.

An ECN would also continue to be subject to, if applicable, the following membership-related fees: Membership dues or Foreign Currency User Fees,

Foreign Currency Option Participation Fee, Capital Funding Fee, Application Fee, Initiation Fee, Transfer Fee, Examinations Fee, Technology Fee, Review/Process Subordinated Loans Fee, Registered Representative Registration Fee, and Off-Floor Trader Initial Registration Fee and Annual Fee.

Because the proposed fee is a flat \$2,500 monthly fee as opposed to a per-transaction fee, it is intended to encourage ECN volume. Currently, the equity transaction value charge (that would otherwise apply to an ECN's equity trades) ranges from \$.015 to \$.14 per \$1,000 of transaction value, with a maximum per trade side of \$50, and various other applicable discounts. Thus, many variables determine whether the proposed monthly \$2,500 fee is generally more favorable than the equity transaction value charge, depending upon the number of trades, size of the trade, and type. As a general matter, the Exchange believes that \$2,500 would be more favorable to the ECN because it is a fixed amount.

The Exchange believes that the monthly ECN fee provides competitive fees with appropriate incentives, thus providing a reasonable method to attract large order flow providers such as ECNs to the Exchange. Additional order flow should enhance liquidity, and improve the Exchange's competitive position in equity trading. The Exchange believes that structuring this fee for ECNs is appropriate, as ECNs are unique in their role as order flow providers to the Exchange. Specifically, ECNs operate a unique electronic agency business, similar to a securities exchange, as opposed to directly executing orders for their own customers as principal or agent.

## 2. Statutory Basis

The Exchange believes that the proposed changes to the Phlx fee schedule are consistent with section 6(b) of the Act,<sup>10</sup> in general, and with section 6(b)(4),<sup>11</sup> in particular, in that they provide for the equitable allocation of reasonable dues, fees and other charges, due to the unique character of ECNs, and because the fixed monthly fee is a reasonable method of attracting a new form of order flow to the Exchange.

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

The Phlx does not believe that the proposed rule change, as amended, 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 Exchange has designated the proposed rule change as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>12</sup> and Rule 19b-4(f)(2) thereunder.<sup>13</sup> Accordingly, the proposal will take effect upon filing with the Commission. At any time within 60 days of the filing of Amendment No. 1 to 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.

### 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 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-01-09 and should be submitted by May 4, 2001.

<sup>6</sup> To recoup costs due from the Exchange to the Commission pursuant to Section 31(b) of the Act, the Exchange proposes to continue to apply such fee to ECNs, as the current fee schedule reflects. This fee consists of one three-hundredth of 1 percent of the aggregate dollar amount of the sales of securities transacted on a national securities exchange, as reflected in the Exchange's fee schedule.

<sup>7</sup> An ECN would incur specialist or floor brokerage transaction fees if it acts as a Phlx specialist or floor broker.

<sup>8</sup> These include the Trading Post/Booth Fee, Contoller Space Fee, Floor Facility Fee, Shelf Space on Equity Option Trading Floor Fee, Computer Equipment Services, Repairs or Replacements Fee, and Computer Relocation Requests Fee. Certain communications fees could also apply, such as the Direct Wire to the Floor Fee, Telephone System Fee, Execution Services/Communication Charge, Stock Execution Machine Registration Fee (Equity Floor), Equity, Option, or FCO Transmission Charge, FCO Pricing Tape, Option Report Service Fee, Quotron Equipment Fee, Instinet, Reuters Equipment Pass-Through Fee and the Option Mailgram Service Fee.

<sup>9</sup> The PACE Specialist Charge is a fee imposed on specialist transactions only and the Equity Floor Brokerage Assessment and Equity Floor Brokerage Transaction Fee apply to floor brokerage activity.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(4).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>13</sup> 17 CFR 240.19b-4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 01-9115 Filed 4-12-01; 8:45 am]

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## SMALL BUSINESS ADMINISTRATION

### Data Collection Available for Public Comments and Recommendations

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

**DATES:** Submit comments on or before June 12, 2001.

**ADDRESSES:** Send all comments regarding whether these information collections are necessary for the proper performance of the function of the agency, whether the burden estimate is accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Carol Fendler, System Accountant, Office of Small Business Investment, Small Business Administration, 409 3rd Street, S.W., Suite 6300.

**FOR FURTHER INFORMATION CONTACT:** Carol Fendler, System Accountant, (202) 205-7559 or Curtis B. Rich, Management Analyst, (202) 205-7030.

#### SUPPLEMENTARY INFORMATION:

*Title:* Amendments to License Application.

*Form No:* SBA Form 415C.

*Description of Respondents:* Small Business Investment.

*Annual Responses:* 1,200.

*Annual Burden:* 300.

**Jacqueline White,**

*Chief, Administrative Information Branch.*

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## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with P.L. 104-13 effective October 1, 1995,

The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses: (OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503; (SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp 1-A-21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965-4145, or by writing to him at the address listed above.

1. Beneficiary Interview and Auditor's Observations Form-0960-0630. The information collected through the Beneficiary Interview and Auditor's Observations form, SSA-322, will be used by SSA's Office of the Inspector General to interview beneficiaries and/or their caregivers to determine whether representative payees are complying with their duties and responsibilities. Respondents to this collection will be randomly selected Supplemental Security Income (SSI) recipients and Social Security beneficiaries that have representative payees.

*Number of Respondents:* 200.

*Frequency of Response:* 1.

*Average Burden Per Response:* 15 minutes.

*Estimated Annual Burden:* 50 hours.

2. Pain Report—Child—0960-0540. The information collected on form SSA-3371-BK will be used to obtain the types of information specified in the regulations and to provide disability interviewers (and applicants/claimants in self-help situations) with a convenient means of recording the information obtained. This information is used by the State disability determination services (DDS) adjudicators and administrative law judges to assess the effects of symptoms

on functionality for determining disability under the Social Security Act. The respondents are applicants for SSI benefits.

*Number of Respondents:* 250,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 15 minutes.

*Estimated Annual Burden:* 62,500 hours.

3. Modified Benefit Formula Questionnaire—Foreign Pension—0960-0561. The information collected on form SSA-308 is used by SSA to determine exactly how much (if any) of the foreign pension may be used to reduce the amount of the Social Security retirement or disability benefits under the modified benefit formula. The respondents are applicants for Social Security retirement/disability benefits.

*Number of Responses:* 50,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 8,333 hours.

4. Physical Residual Functional Capacity Assessment; Mental Residual Functional Capacity Assessment—0960-0431. The information collected on form SSA-4734 is needed by SSA to assist in the adjudication of disability claims involving physical and/or mental impairments. The form assists the State DDS to evaluate impairment(s) by providing a standardized data collection format to present findings in a clear, concise and consistent manner. The respondents are State DDSs administering Social Security and SSI disability programs.

*Number of Responses:* 1,130,772.

*Frequency of Response:* 1.

*Average Burden Per Response:* 20 minutes.

*Estimated Annual Burden:* 376,924 hours.

5. Earnings Record Information—0960-0505. The information on Form SSA-L3231-C1 is used by SSA to ensure that the proper person is credited with earnings reported for a minor under age 7. The respondents are businesses reporting earnings for children under age 7.

*Number of Respondents:* 20,000.

*Frequency of Response:* 1.

*Average Burden Per Response:* 10 minutes.

*Estimated Annual Burden:* 3,333 hours.

6. Employer Verification of Earnings After Death—0960-0472. The information collected on Form SSA-L4112 is used by SSA to determine whether wages reported by an employer

<sup>14</sup> 17 CFR 200.30-3(a)(12).