

issues of regulatory concern. For these reasons, the Commission, consistent with the protection of investors and the public interest, has waived the 30-day operative date requirement for this proposed rule change, and has determined to designate the proposed rule change as operative on August 18, 2004, the date it was submitted to the Commission.

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 public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>20</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. 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-2004-54 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-2004-54. 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 offices 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-2004-54 and should be submitted on or before October 7, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>21</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-2202 Filed 9-15-04; 8:45 am]

**BILLING CODE 8010-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50342; File No. SR-Phlx-2004-16]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change, and Amendment No. 1 Thereto, by the Philadelphia Stock Exchange, Inc. Relating to Exchange Rules 1083(g) and (h), To Modify the Definitions of "Firm Customer Quote Size" and "Firm Principal Quote Size"**

September 9, 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 February 13, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to 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 August 11, 2004, the Phlx submitted Amendment No. 1 to the proposed rule change.<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 amend its rules relating to the Plan for the Purpose of Creating and Operating an Intermarket Option Linkage ("Linkage Plan").

The text of the proposed rule change, as amended, is below. Proposed additions are in *italics*. Proposed deletions are in [brackets].

\* \* \* \* \*

#### **Intermarket Linkage**

##### **Rule 1083. Definitions**

The following terms shall have the meaning specified in this Rule solely for the purpose of Rules 1083 through 1087:

(a)-(f) (No change).

(g) "Firm Customer Quote Size" with respect to a P/A Order means the lesser of (a) the number of option contracts that the Participant Exchange sending a P/A Order guarantees it will automatically execute at its disseminated price in a series of an Eligible Option Class for Public Customer orders entered directly for execution in that market; or (b) the number of option contracts that the Participant Exchange receiving a P/A Order guarantees it will automatically execute at its disseminated price in a series of an Eligible Option Class for Public Customer orders entered directly for execution in that market. This number shall be at least 10, *unless the receiving Participant is disseminating a quotation of less than 10 contracts, in which case this number may equal such quotation size.*

(h) "Firm Principal Quote Size" means the number of options contracts that a Participant Exchange guarantees it will execute at its disseminated price for incoming Principal Orders in an Eligible Option Class. This number shall be at least 10[.], *however if the Participant is disseminating a quotation size of less than 10 contracts, this number may equal such quotation size.*

(i)-(u) (No change).

\* \* \* \* \*

#### **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 comments it had received on the proposed rule change. The text of these statements may be examined at the

<sup>20</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the proposal to have been filed on September 3, 2004, the date the Phlx filed Amendment No. 2.

<sup>21</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.

<sup>3</sup> See Letter from Richard S. Rudolph, Phlx, Director and Counsel to Deborah Lassman Flynn, Assistant Director, Division of Market Regulation, Commission, dated August 10, 2004 ("Amendment No. 1"). In Amendment No. 1, the Phlx amended the proposed rule text to clarify that the general requirement that the Exchange's Firm Customer Quote Size ("FCQS") and Firm Principal Quote Size ("FPQS") be at least 10 contracts would not apply if the Phlx were disseminating a quotation of fewer than 10 contracts. In that case, the Exchange may establish a FCQS or FPQS equal to its disseminated size.

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 eliminate the requirement that the Phlx members that participate in the Linkage Plan be firm for incoming Principal and Principal Acting as Agent ("P/A") Orders for a size of at least 10 contracts where the Exchange's disseminated size is less than 10 contracts. The proposed rule change would allow Phlx members that participate in the Linkage Plan to execute inbound Principal and P/A Orders at their actual disseminated size as opposed to a minimum quote size.<sup>4</sup>

The proposed rule change represents another step towards the execution of all order types at the Exchange's disseminated price up to its actual disseminated size, rather than the execution of orders at the Exchange's disseminated price up to an artificially designated size. The Commission has approved several Exchange rule amendments that require Phlx responsible brokers or dealers to be firm for their actual disseminated size,<sup>5</sup> as well as amendments providing automatic executions at the Exchange's disseminated size, rather than a pre-set "AUTO-X guarantee."<sup>6</sup>

The purpose of the instant proposed rule change is to eliminate the artificial 10 contract minimum contained in the definition of "FCQS" and "FPQS" in the Exchange's rules. Specifically, the proposed rule change would allow Phlx members that participate in the Linkage Plan to execute inbound P/A and Principal Orders at the actual size of the disseminated quote.<sup>7</sup> Currently,

Exchange Rules 1083(g) and (h) impose the obligation on the Phlx specialist to execute an order at a minimum guaranteed size of 10 contracts despite the fact that the actual disseminated size may be less than 10 contracts.<sup>8</sup> The proposed rule change would permit the Phlx to execute inbound Linkage orders at the Exchange's actual disseminated size. The proposed rule change would eliminate the artificial minimum guaranteed size of 10 contracts, and would therefore require Phlx specialists to be firm at the Exchange's disseminated price for their actual disseminated size.

The Exchange believes that executions of Principal and P/A Orders at the Exchange's actual disseminated size should enhance the ability of participants of the Linkage Plan that send Principal and P/A Orders to the Exchange to ascertain the actual number of contracts available at the Exchange's disseminated price, thus resulting in more transparency in the marketplace.

**2. Statutory Basis**

The Phlx believes that the proposed rule is consistent with Section 6(b) of the Act,<sup>9</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>10</sup> in particular in that it is designed to perfect the mechanisms of a free and open market and the national market system, protect investors and the public interest and promote just and equitable principles of trade, by permitting Exchange specialists to provide executions for Linkage Orders at the Exchange's actual disseminated size.

*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 solicited or received with respect to the proposed rule change.

and Counsel, Phlx, and Tim Fox, Attorney, Division, Commission, on September 7, 2004.

<sup>8</sup> Currently, for example, if the Exchange's disseminated size is for 3 contracts and the Phlx receives an inbound eligible P/A or Principal Order with a size of 10 contracts, then Rule 1083 requires that the specialist must execute 10 contracts despite the fact that the Exchange's disseminated size is only 3 contracts.

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

<sup>10</sup> 15 U.S.C. 78f(b)(5).

**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 Phlx consents, the Commission will:

(A) By order approve such proposed rule change, as amended; or

(B) Institute proceedings to determine whether the proposed rule change, as amended, 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 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-2004-16 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-2004-16. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal

<sup>4</sup> At the request of the Exchange, this paragraph has been modified to make clear that the proposed rule change applies exclusively to Phlx members. Telephone conversation between Richard S. Rudolph, Director and Counsel, Phlx, and Tim Fox, Attorney, Division of Market Regulation ("Division"), Commission, on September 7, 2004.

<sup>5</sup> See Securities Exchange Act Release No. 47646 (April 8, 2003), 68 FR 27610 (May 20, 2003) (SR-Phlx-2003-18).

<sup>6</sup> See Securities Exchange Act Release No. 46886 (November 22, 2002), 67 FR 72015 (December 3, 2002) (SR-Phlx-2002-39).

<sup>7</sup> At the Exchange's request, this sentence was modified to make clear that the proposed rule change would permit the execution of Principal and P/A Orders at the actual disseminated size as opposed to the size of the order. Telephone conversation between Richard S. Rudolph, Director

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-2004-16 and should be submitted on or before October 7, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E4-2225 Filed 9-15-04; 8:45 am]

**BILLING CODE 8010-01-P**

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3620]

#### State of Florida; Amendment #2

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective September 9, 2004, the above numbered declaration is hereby amended to include Charlotte, Columbia, DeSoto, Dixie, Gilchrist, Hardee, Hillsborough, Levy, and Marion counties as disaster areas due to damages caused by Hurricane Frances occurring on September 3, 2004, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Hamilton, Lafayette, Sarasota, Suwannee, and Taylor in the State of Florida; and Clinch and Echols 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.

The economic injury number assigned to Georgia is 9ZU400. All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 3, 2004 and for economic injury the deadline is June 6, 2005.

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

Dated: September 10, 2004.

**S. George Camp,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 04-20885 Filed 9-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3621]

#### State of Kansas

Wyandotte County and the contiguous counties of Johnson and Leavenworth in the State of Kansas; and Clay, Jackson, and Platte in the State of Missouri constitute a disaster area due to severe thunderstorms and flash flooding that occurred on August 27, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 8, 2004 and for economic injury until the close of business on June 9, 2005 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Road, Fort Worth, TX 76155-2243.

The interest rates are:

	Percent
For Physical Damage:	
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
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere .....	2.900

The number assigned to this disaster for physical damage is 362106 for Kansas and 362206 for Missouri. The number assigned to this disaster for economic injury is 9ZU200 for Kansas and 9ZU300 for Missouri.

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

Dated: September 9, 2004.

**Hector V. Barreto,**

*Administrator.*

[FR Doc. 04-20819 Filed 9-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P047]

#### State of Kansas; Amendment #4

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective September 1, 2004, the above numbered

Public Assistance declaration is hereby amended to include Barton, Decatur, Marion, Morris, Ness, Pawnee, Sheridan, Thomas, Wabaunsee and Wallace Counties in the State of Kansas as disaster areas due to damages caused by severe storms, flooding, and tornadoes occurring on June 12, 2004, and continuing through July 25, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is October 4, 2004.

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

Dated: September 8, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-20820 Filed 9-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3619]

#### Commonwealth of Virginia; Amendment #1

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective September 8, 2004, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning August 30, 2004, and continuing through September 8, 2004. All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is November 2, 2004 and for economic injury the deadline is June 3, 2005.

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

Dated: September 10, 2004.

**S. George Camp,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 04-20886 Filed 9-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF STATE

### [Public Notice 4830]

#### Culturally Significant Objects Imported for Exhibition Determinations: "Great Expectations: John Singer Sargent Painting Children"

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to

<sup>11</sup> 17 CFR 200.30-3(a)(12).