

operative immediately upon filing with the Commission.

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.<sup>18</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-Phlx-2006-02 on the subject line.

##### *Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-9303.

All submissions should refer to File Number SR-Phlx-2006-02. 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 such 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

<sup>18</sup> See Rule 19b-4(f)(6)(iii), 17 CFR 240.19b-4(f)(6)(iii).

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2006-02 and should be submitted on or before February 15, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53139; File No. SR-Phlx-2005-67]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to the Maintenance, Retention, and Furnishing of Books, Records, and Other Information Regarding Payment for Order Flow

January 18, 2006.

On November 3, 2005, 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 amend Phlx Rule 760 (Maintenance, Retention and Furnishing of Books, Records and Other Information) to incorporate recent changes to the Exchange's payment for order flow program. On November 22, 2005, the Exchange 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 14, 2005.<sup>4</sup> The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

The Exchange recently amended its payment for order flow program for trades settling on or after October 1, 2005 ("October program").<sup>5</sup> The

<sup>19</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> Amendment No. 1 provided clarifying language to Phlx Rule 760 and the purpose section of the filing.

<sup>4</sup> Securities Exchange Act Release No. 52903 (December 7, 2005), 70 FR 74082 (December 14, 2005) (SR-Phlx-2005-67).

<sup>5</sup> The October program is in effect as a pilot program that is scheduled to expire on May 27, 2006. See Securities Exchange Act Release No.

Exchange represented that Registered Options Traders who receive electronically-delivered orders directed to them ("Directed ROTs") may, pursuant to the October program, direct the Exchange to make payments to order flow providers on their behalf.<sup>6</sup> Thus, the Exchange proposed to amend the Supplementary Material to Phlx Rule 760 to clarify that these Directed ROTs would now be required to retain records relating to payment for order flow arrangements.<sup>7</sup> The Exchange also proposed to amend the Supplementary Material to Phlx Rule 760 because the Exchange's current payment for order flow program no longer tracks payments to order flow providers on an option by option basis. In addition, the Exchange noted that specialists and specialist units no longer need to maintain records relating to the use, transfer, and distribution of payment for order flow funds because they would now direct the Exchange to make payments to order flow providers on their behalf. The Exchange further proposed to specifically request that books and records regarding the rate (whether on a per contract or flat fee basis) that is paid to order flow providers and the basis for the amount that Directed ROTs, specialists, and specialist units direct the Exchange to pay to order flow providers be maintained and made available as may be requested by the Exchange.

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>8</sup> The Commission believes that the proposed rule change, as amended, is consistent with section 6(b)(5) of the Act<sup>9</sup> in that this proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and

52568 (October 6, 2005), 70 FR 60120 (October 14, 2005) (SR-Phlx-2005-58).

<sup>6</sup> The Exchange represented that under previous payment for order flow programs, specialist units requested reimbursement from the Exchange for monies they paid to order flow providers. Pursuant to the October program, the available payment for order flow funds would be disbursed by the Exchange according to the instructions of the specialist units and Directed ROTs.

<sup>7</sup> The Exchange represented that specialists/specialist units are already specifically required to maintain these books and records.

<sup>8</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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

facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. The Commission believes that the proposed rule change clarifies the parties that must maintain records relating to payment for order flow arrangements and the nature of the records to be maintained. The Commission also believes that the proposed rule change would assist the Exchange in determining whether its payment for order flow program is being carried out in accordance with the Exchange's requirements.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-Phlx-2005-67), as amended, is approved.

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

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8010-01-P

essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Litchfield, New London, Tolland, Windham

The Interest Rates are:

	Percent
Other (including non-profit organizations) with credit available elsewhere .....	4.750
Businesses and non-profit organizations without credit available elsewhere .....	4.00

The number assigned to this disaster for physical damage is 10325.

(Catalog of Federal Domestic Assistance Number 59008)

Bridget M. Dusenbury,

Acting Associate Administrator for Disaster Assistance.

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BILLING CODE 8025-01-P

applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Big Stone, Clay, Lac Qui Parle, Lincoln, Norman, Stevens, Traverse, Wilkin, Yellow Medicine.

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere .....	5.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere .....	4.000

The number assigned to this disaster for physical damage is 10327.

(Catalog of Federal Domestic Assistance Number 59008)

Bridget M. Dusenbury,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. E6-936 Filed 1-24-06; 8:45 am]

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**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration # 10325]

**Connecticut Disaster # CT-00003'**

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Connecticut (FEMA-1619-DR), dated 12/16/2005.

Incident: Severe Storms and Flooding. Incident Period: 10/14/2005 through 10/15/2005.

Effective Date: 12/16/2005.

Physical Loan Application Deadline Date: 02/14/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 12/16/2005, applications for Private Non-Profit organizations that provide

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration # 10327]

**Minnesota Disaster # MN-00003**

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Minnesota (FEMA-1622-DR), dated 01/04/2006.

Incident: Severe Winter Storm. Incident Period: 11/27/2005 through 11/29/2005.

Effective Date: 01/04/2006.

Physical Loan Application Deadline Date: 03/06/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 01/04/2006, applications for Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration # 10274]

**North Dakota Disaster # ND-00004**

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of North Dakota (FEMA-1616-DR), dated 11/21/2005.

Incident: Severe Winter Storm and Record and Near-Record Snow. Incident Period: 10/04/2005 through 10/06/2005.

Effective Date: 01/13/2006.

Physical Loan Application Deadline Date: 01/23/2006.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, National Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of North Dakota, dated 11/21/2005, is hereby amended to include the following areas as adversely affected by the disaster.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

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