

[Release No. 34-35302; File No. SR-Phlx-94-77]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Philadelphia Stock Exchange, Inc. Relating to the Imposition of an Approved Lessor's Initiation Fee and a Requirement That Approved Lessors Pledge to Abide by the By-Laws and Rules**

January 31, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 11, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with 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 self-regulatory organization. On January 26, 1995, the Exchange submitted to the Commission Amendment No. 1 to the proposed rule change, which is also described below.<sup>1</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend its By-Laws, Article XII, Section 12-8 by adding a new paragraph (e), which would impose an approved lessor's initiation fee of \$1,500.00 and a requirement that approved lessors pledge to abide by the Phlx By-Laws and Rules. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

*By-Laws Article XII, Section 12-8(e)*

*An initiation fee of one thousand five hundred dollars shall be paid to the Corporation by a person or entity upon registration as an approved lessor. Additionally, no registration as an approved lessor shall become effective or entitle such person or entity to the privileges thereof, until such person or a designated representative of such entity has pledged to abide by the By-Laws as they have or shall from time to time amended, and by all rules and regulations adopted pursuant to the By-Laws.*

The Exchange also submits a proposed rule change amending the

Schedule of Fees and Charges to conform to the change in the By-Laws with respect to the initiation fee. The text of the proposed rule change is as follows [new text is italicized; deleted text is bracketed]:

**Initiation Fee:**

The Phlx requires an initiation fee of \$1,500 to be paid by a new member, [or] participant *or an approved lessor*. A lapse in membership or participation for six months or more will necessitate the payment of the initiation fee subsequent to reapplication.<sup>2</sup>

**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 self-regulatory organization 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 self-regulatory organization 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 proposed amendment to Article XII, Section 12-8 of the Exchange's By-Laws would add a new paragraph (e) imposing an approved lessor's<sup>3</sup> initiation fee of \$1,500.00 and a requirement that approved lessors pledge to abide by the By-Laws and Rules of the Exchange. The Exchange is also amending the Schedule of Fees and Charges to conform to the change in the By-Laws with respect to the initiation fee. The Exchange will require that an approved lessor pay the initiation fee upon registration.

The Board of Governors undertook the amendment to the By-Laws to codify the practice of having approved lessors pledge to abide by the By-Laws and

<sup>2</sup> Appendix A of the Schedule of Fees and Charges has also been amended to indicate that the initiation fee will be imposed on "Members, Participants and Approved Lessors."

<sup>3</sup> The term "approved lessor" means a lessor approved by the Exchange under its By-Laws and Rules. See *Philadelphia Stock Exchange Guide*, By-Laws, Article I, Section 1-1(h), (CCH) ¶ 1001. A "lessor" is a holder of equitable title to a membership in the Exchange, including a former member of the Exchange, who has leased legal title to his membership to a lessee and has retained equitable title to such membership. See *Philadelphia Stock Exchange Guide*, By-Laws, Article I, Section 1-1(f), (CCH) ¶ 1001.

Rules of the Exchange.<sup>4</sup> The proposed fee amendments to the By-Laws and the Schedule of Fees and Charges are intended to equalize the treatment of new purchasers of equitable title to Phlx memberships and foreign currency options participations.<sup>5</sup>

**2. Statutory Basis**

The proposed rule change is consistent with Section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees, and other charges amongst its members and other persons using its facilities.

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

The Exchange 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**

With respect to the proposed By-Laws change, the Exchange solicited comments from its memberships by Circular 94-109, dated July 21, 1994. After receiving no written comments on this matter, the Exchange's Board of Governors approved the amendment to the By-Laws for submission to the Commission.

No written comments were solicited or received with respect to the fee change in the Schedule of Fees and Charges.

**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 other 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 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.

<sup>4</sup> The By-Laws already impose this requirement on members. See *Philadelphia Stock Exchange Guide*, By-Laws, Article XII, Section 12-9, (CCH) ¶ 1284.

<sup>5</sup> The Exchange does not require members who lease their memberships to a lessee to register as "approved lessors." Accordingly, the proposed rule change would not impose an additional initiation fee on such members. Conversation with Murray L. Ross, Secretary, Phlx, and Jennifer Choi, Attorney, SEC, dated January 19, 1995.

<sup>1</sup> See letter from Murray L. Ross, Secretary, Phlx, to Sharon Lawson, Assistant Director, SEC, dated January 26, 1995. Amendment No. 1 proposes to amend the Schedule of Fees and Charges to reflect the imposition of an approved lessor's initiation fee.