

February 28, 2003.<sup>28</sup> 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.

#### 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 above-mentioned self-regulatory organization. All submissions should refer to the File No. SR-NYSE-2003-04 and should be submitted by March 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>29</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47408; File No. SR-Phlx-2003-09]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Index Option Charges

February 26, 2003.

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 19, 2003, 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 and II 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.

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

The Exchange proposes to amend its schedule of dues, fees and charges by terminating the Index Option Book Charge of \$1000 per month on Phlx specialists in the Exchange's Sector Index Options ("Index Options"), and the \$2000 per month charge on Phlx specialists in the KBW Bank Sector<sup>SM</sup> ("BKX<sup>SM</sup>"), the Oil Service Sector<sup>SM</sup> ("OSX<sup>SM</sup>"), the Semiconductor Sector<sup>SM</sup> ("SOX<sup>SM</sup>") and the Gold and Silver Sector<sup>SM</sup> ("XAU<sup>SM</sup>"). The Index Option Book Charge became effective on January 2, 2003.<sup>3</sup> The text of the proposed rule change is set forth below. Deleted text is in brackets.

#### Summary of Index Option Charges

Option Comparison Charge I (applicable to all trades—except specialist trades)

Registered Option Trader—\$.03 per contract

Firm (Proprietary and Customer Executions)—\$.04 per contract

Option Transaction Charge I

Customer Executions

Market value less than \$1.00\*—\$.20 per contract

Market value \$1.00 or over\*—\$.40 per contract

Firm \*\*—\$.10 per contract

Registered Option Trade—\$.19 per contract

Specialist—\$.14 per contract

[Option Book Charge I

KBW Bank Sector<sup>SM</sup>—\$2,000 per month

Oil Service Sector<sup>SM</sup>

Semiconductor Sector<sup>SM</sup>

Gold and Silver Sector<sup>SM</sup>

All other Index Options—\$1,000 per month]

Option Floor Brokerage Assessment I

5% of net floor brokerage income.

Floor Brokerage Transaction Fee I

\$.05 per contract, for floor brokers executing transactions for their own member firms.

#### Real-Time Risk Management Fee I

\$.0025 per contract for firms/members receiving information on a real-time basis *See Appendix A for additional fees.*

I denotes fee eligible for monthly credit of up to \$1,000.

\* Block transaction for customer executions of 500 to 999 contracts and 1000 contracts and more are eligible for a discount to such charges of 15% and 25% respectively from the stated rates upon submission to the PHLX of a customer option block discount request form with supportive documentation within thirty (30) days of monthly billing date.

\*\* Non-clearing firm members' proprietary transactions are eligible for the "firm" rate based upon submission of a PHLX rebate request form with supportive documentation within thirty (30) days of invoice date.

#### 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 III 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 purpose of the proposed rule change is to terminate the Index Option Book Charge of \$1000 per month on Phlx specialists in the Exchange's Index

<sup>28</sup> For purposes only of accelerating the operative date of this proposal, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>29</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* Securities Exchange Act Release No. 47087 (December 23, 2002), 68 FR 146 (January 2, 2003).