

with the provisions of section 15A of the Act,⁷ in general and with section 15A(b)(5) of the Act,⁸ in particular, in that it provides for the equitable allocation of reasonable fees among members. The Nasdaq represents that the fee reduction recognizes the changes in pricing that have occurred in the market and are designed to make the fees for Primex competitive with other trading venues. In addition, the Nasdaq represents that the workstation fees will be charged consistently to all members that choose that particular connection option.

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

Written comments were neither solicited nor received.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2) thereunder¹⁰ because it establishes or changes a due, fee, or other charge for use of a Nasdaq system. At any time within 60 days after the filing of this proposed rule change, the Commission may summarily abrogate the rule change, as amended, 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, as amended, 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 NASD. All submissions should refer to File No. SR-NASD-2003-84 and should be submitted by June 26, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

J. Lynn Taylor,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47938; File No. SR-Phlx-2003-22]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Elimination of the Prospectus Delivery Requirement

May 28, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 5, 2003, the Philadelphia Stock Exchange LLC ("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 Exchange. The proposed rule change has been filed by Phlx as a "non-controversial" rule change under Rule 19b-4(f)(6) under the Act.³ 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

Phlx proposes to eliminate all references in its rules to "prospectus" in connection with options trading, due to the fact that standardized options issued by The Options Clearing Corporation (the "OCC") have become exempt from the Securities Act of 1933 ("Securities Act") (except for its antifraud provisions) and from the registration provisions of the Act⁴.

Phlx Rule 1029(b) requires that every member and member organization deliver a current OCC Prospectus to each customer on request (the "Prospectus Delivery Requirement"). The Exchange is proposing to delete Phlx Rule 1029(b) and renumber current Phlx Rule 1029(c) as Phlx Rule 1029(b). A conforming change is being made to the title of Phlx Rule 1029 and to Commentary .03 to eliminate references to a prospectus.

Other Phlx rules refer tangentially to the Prospectus Delivery Requirement, such as Phlx Rules 213 and 454 (each of which refer to exchange-traded options "covered by a prospectus") and Commentary .05 to Phlx Rule 1024 (which makes reference to Phlx Rule 1029).⁵ The Exchange is proposing to delete references to a prospectus in each of these rules. The text of the proposed rule change is available at the Exchange and at the Commission.

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 IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts 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 all references to a "prospectus" in connection with options trading on the Exchange due to the fact that standardized options issued by the OCC have become exempt from the Securities Act (except for its

the Registration Requirements of the Securities Exchange Act of 1934, Securities Act Release No. 8171 and Securities Exchange Act Release No. 47082 (December 23, 2002), 68 FR 188 (January 2, 2003).

⁵ Phlx Rule 784 refers to a prospectus in respect of "options." However, the Exchange represents that the rule is not applied to standardized options, so Phlx is not proposing to amend the language in Phlx Rule 784. Information about standardized options positions held by members and member organizations, that is also requested by Phlx Rule 784 in respect of options, is instead obtained by the Exchange pursuant to Phlx Rule 1003.

⁷ 15 U.S.C. 78o-3.

⁸ 15 U.S.C. 78o-3(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.19b-4(f)(6).

⁴ See Exemption for Standardized Options From Provisions of the Securities Act of 1933 and From