

Thereafter, the Phlx eliminated the QQQ specialist \$0.002 per share transaction fee for transactions settling on or after February 3, 2003.<sup>12</sup> The Phlx now seeks to eliminate the QQQ specialist transaction fee of \$0.002 per share retroactive to its implementation date through February 2, 2003, and to refund the amounts billed to and collected from the Phlx QQQ specialist unit during the time period in which the QQQ specialist \$0.002 per share transaction fee was in effect.

## 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 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 rectify the effects of a programming error that occurred in connection with the billing of the QQQ specialist \$0.002 per share transaction fee. The QQQ specialist \$0.002 per share transaction fee had been programmed for non-PACE trades only, thereby erroneously excluding PACE trades from it. The Exchange believes that, had the fee been billed as originally filed, the Exchange would have amended or terminated the fee in order to remain competitive in its charges to specialists trading the QQQ product.<sup>13</sup>

This proposal corrects the billing error by eliminating the QQQ specialist fee retroactive to its implementation date and refunding to the Phlx specialist

the QQQ specialist \$0.002 per share transaction fees that were billed and collected, specifically as applied to non-PACE QQQ trades, during the time period that the fee was in effect.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>14</sup> in general, and furthers the objectives of section 6(b)(4) of the Act,<sup>15</sup> in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members. The effect of correcting the QQQ specialist transaction fee billing error in the manner described above will be that the \$0.002 per share charges to the specialist for both QQQ PACE and non-PACE transaction fees would not have been charged at all. The Exchange believes that waiving the QQQ specialist transaction fee and refunding any amounts collected should provide for an equitable way in which to resolve this billing error and minimize confusion by resulting in a situation whereby the fee, in effect, was never implemented.

### 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

No written comments were either solicited or received.

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

The foregoing rule change establishes or changes a due, fee, or charge imposed by the Exchange and, therefore, has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act<sup>16</sup> and Rule 19b-4(f)(2) thereunder.<sup>17</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 purpose 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 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Phlx-2003-33 and should be submitted by July 15, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SMALL BUSINESS ADMINISTRATION

### Reporting and Recordkeeping Requirements Under OMB Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of reporting requirements submitted for OMB review.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

**DATES:** Submit comments on or before July 24, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

**Copies:** Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

**ADDRESSES:** Address all comments concerning this notice to: Agency

See Securities Exchange Act Release Nos. 47385 (February 20, 2003), 68 FR 10295 (March 4, 2003) (SR-Phlx-2003-06), and 43776 (December 28, 2000), 66 FR 1166 (January 5, 2001) (SR-Phlx-00-103). However, the Exchange notes that the QQQ specialist \$0.002 per share transaction fee, as filed, treated PACE and non-PACE trades the same.

<sup>12</sup> See Securities Exchange Act Release No. 47385 (February 20, 2003), 68 FR 10295 (March 4, 2003) (SR-Phlx-2003-06).

<sup>13</sup> Moreover, had the fee been billed correctly, it would have been potentially unduly burdensome to the specialist trading the QQQ, especially in light of decimal trading.

<sup>14</sup> 15 U.S.C. 78f(b).

<sup>15</sup> 15 U.S.C. 78f(b)(4).

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>17</sup> 17 CFR 240.19b-4(f)(2).

<sup>18</sup> 17 CFR 200.30-3(a)(12).