

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

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Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48449; File No. SR-Phlx-2003-55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Philadelphia Stock Exchange, Inc. to Revise Its Schedule of Dues, Fees and Charges to Adopt a Registered Representative Termination Fee

September 4, 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 July 30, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to 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 Phlx amended its proposal on August 21, 2003³ and August 28, 2003.⁴ The Commission is publishing this notice to solicit comments on the

proposed rule change, as amended, from interested persons.

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

The Phlx proposes to amend its schedule of dues, fees and charges to adopt a registered representative⁵ termination fee of \$30.00.⁶ The Exchange implemented this registered representative termination fee on August 18, 2003, a date agreed upon with the National Association of Securities Dealers, Inc. ("NASD"), which notified the Exchange that they were prepared to bill and collect the termination fee consistent with current practice.⁷

Furthermore, the Exchange proposes to add new footnote number twenty (20) and renumbered former footnote number twenty (20) as footnote number twenty-one (21). New footnote number twenty (20) specifies that the registered representatives categories include registered options principals, general securities representatives, general securities sales supervisors and United Kingdom limited general securities registered representatives and shall not apply to "off-floor" traders, as defined in Phlx Rule 604(e), thereby clarifying coverage of the fees.

The schedule of dues, fees and charges is available at the Office of the Secretary, the Phlx, 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, as amended, 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 Phlx proposes to amend its schedule of dues, fees and charges to adopt a registered representative termination fee of \$30.00. The Exchange states that the purpose of the proposed rule change, as amended, is to generate revenue for the Exchange, which should, in turn, help to offset the cost of increased regulatory efforts by the Exchange. The Exchange represents that this fee is comparable to one imposed by the Chicago Board Options Exchange, Inc. and the American Stock Exchange LLC.⁸

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4) of the Act¹⁰ in particular, because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

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

The Exchange does not believe that the proposed rule change, as amended, 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 on the proposed rule change, as amended, were either solicited or received.

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

The proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A)(ii) of the Act¹¹ and subparagraph (f)(2) of Rule 19b-4 thereunder¹² because it establishes or

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter (with exhibits) from Murray L. Ross, Vice President and Corporate Secretary, Phlx, to Cyndi Rodriguez, Special Counsel, Division of Market Regulation ("Division"), Commission, dated August 21, 2003 ("Amendment No. 1"). In Amendment No. 1, the Phlx added a footnote in its schedule of dues, fees and charges clarifying the group of individuals that would be covered under its fees for the registered representative categories and provided an anticipated implementation date for the registered representative termination fee.

⁴ See letter (with exhibits) from Murray L. Ross, Vice President and Corporate Secretary, Phlx, to Cyndi Rodriguez, Special Counsel, Division, Commission, dated August 28, 2003, replacing Form 19b-4 in its entirety ("Amendment No. 2"). In Amendment No. 2, the Phlx made technical changes to its schedule of dues, fees and charges to comply with Form 19b-4 and clarified in its discussion that the implementation date for the proposal was August 18, 2003 and that proposed footnote twenty (20) in its fee schedule would specify that the registered representatives categories include registered options principals, general securities representatives, general securities sales supervisors and United Kingdom limited general securities registered representatives and shall not apply to "off-floor" traders, as defined in Phlx Rule 604(e).

⁵ Registered representative categories include registered options principals, general securities representatives, general securities sales supervisors and United Kingdom limited general securities registered representatives.

⁶ See Exchange Rule 604, Registration and Termination of Registered Persons. This proposal, as amended, does not apply to "off-floor" traders, as defined in Phlx Rule 604(e). The Phlx states that off-floor traders are assessed a separate fee and are not charged the Exchange's registered representative initial, renewal, or transfer fees. See Securities Exchange Act Release No. 47124 (January 3, 2003), 68 FR 1497 (January 10, 2003) (SR-Phlx-2002-84).

⁷ The termination fee was charged beginning on August 18, 2003. Currently, the NASD bills and collects the Exchange's as well as other exchanges' registered representative initial, renewal and transfer fees.

⁸ See Securities Exchange Act Release Nos. 46266 (July 25, 2002), 67 FR 49969 (August 1, 2002) (SR-CBOE-2002-37) and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001) (SR-Amex-2001-22). Both exchanges charge a \$30 registered representative termination fee.

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).