

“currency” (common stock or preferred stock in a for-profit corporation) for the investments, subject to the control and approval of the Commission in the case of preferred stock and if certain ownership or voting thresholds are exceeded. On the other hand, the Plan of Demutualization and the new permit structure also facilitate the fair and reasoned assessment of Members and Member Organizations through a targeted permit fee structure and a potentially unlimited number of Permits.

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

The Exchange does not believe that the proposed rule change would 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*

First, on September 29, 2003, a letter addressed to the Exchange's Board questioned the motives and necessity to demutualize.<sup>51</sup> Thereafter, on October 22, the same persons requested the “demutualization package” and criticized the scheduling of multiple (as opposed to a single) Member and Owner meetings.<sup>52</sup> The Exchange's response letter explained that the materials would be distributed by the next day and that multiple meetings were intended as a scheduling convenience to permit more Members and Owners to attend.<sup>53</sup> Lastly, although not a comment to the Exchange directly, a letter dated October 30, 2003, addressed to Members/Owners of the Phlx, was circulated, stating, among other things, that the Plan of Demutualization is not fair, did not involve Member or Owner input, and urges Members and Owners to vote against it.<sup>54</sup> It also criticizes the elimination of the ability of Members to propose By-law changes and states that the Plan rewards management with up to 10% of the outstanding stock. The Exchange determined to respond to the letter, explaining, among other things, that the reason for the elimination of the Members' right to petition changes to

the By-laws is that Delaware law requires that stockholders amend the By-laws. Furthermore, the Exchange's response explains that the 10% limitation is a ceiling, and not a guarantee.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer 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 Exchange consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

#### **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 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 Phlx. All submissions should refer to file number SR-Phlx-2003–73 and should be submitted by December 24, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>55</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–30062 Filed 12–2–03; 8:45 am]

**BILLING CODE 8010–01–P**

#### **SMALL BUSINESS ADMINISTRATION**

##### **[Declaration of Disaster #3558]**

##### **State of West Virginia; Amendment #1**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective November 22, 2003, the above numbered declaration is hereby amended to include Boone, Calhoun, Clay, Fayette, Gilmer, Greenbrier, Marion, McDowell, Mercer, Monongalia, Monroe, Raleigh, Summers, Webster, Wetzel and Wyoming Counties as disaster areas due to damages caused by severe storms, flooding and landslides occurring on November 11, 2003, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Doddridge, Harrison, Lewis, Marshall, Pocahontas, Preston, Randolph, Ritchie, Taylor, Tyler, Upshur and Wirt in the State of West Virginia; Monroe County in the State of Ohio; Fayette and Greene Counties in the Commonwealth of Pennsylvania; and Alleghany, Bath, Bland, Buchanan, Craig, Giles and Tazewell Counties in the Commonwealth of Virginia may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

The number for economic injury for the Commonwealth of Pennsylvania is 9Y1900 and for the Commonwealth of Virginia is 9Y2000.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is January 20, 2004, and for economic injury the deadline is August 23, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: November 25, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03–30098 Filed 12–2–03; 8:45 am]

**BILLING CODE 8025–01–P**

#### **SMALL BUSINESS ADMINISTRATION**

##### **[Declaration of Disaster #3559]**

##### **Commonwealth of Puerto Rico; Amendment #1**

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective November 24, 2003, the above numbered declaration is hereby

<sup>51</sup> See letter from Joseph D. Carapico, Andrew W. Snyder and Richard B. Feinberg, Penn Mont Securities, to the Board, dated September 29, 2003.

<sup>52</sup> See letter from Joseph D. Carapico, Andrew W. Snyder and Richard B. Feinberg, Penn Mont Securities, to Murray L. Ross, Secretary, Phlx, dated October 22, 2003.

<sup>53</sup> See letter from Murray L. Ross, Secretary, Phlx, to Joseph D. Carapico, Andrew W. Snyder and Richard B. Feinberg, Penn Mont Securities, dated October 22, 2003.

<sup>54</sup> See letter from Richard B. Feinberg, dated October 30, 2003.

<sup>55</sup> 17 CFR 200.30–3(a)(12).