

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-53197; File No. SR-Phlx-2006-08)

January 31, 2006

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Exchange Rule 715

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 January 26, 2006, 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, II and III below, which Items have been prepared by the Phlx. The Phlx filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act³ and Rule 19b-4(f)(1) thereunder,⁴ and consequently the proposal was effective upon filing with the Commission. 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 Phlx proposes to amend Exchange Rule 715, Monthly Payment and Reporting, to clarify that equity floor members are no longer required to submit a monthly report of net commissions on transactions effected on the floor of the Exchange. Exchange Rule 715 is set forth below, with new text underlined:

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(1).

Rule 715.

Monthly Payment and Reporting

(a) Each member and member organization shall submit to the Exchange's Controller, in such form as the Exchange may prescribe, a monthly report of net commissions on transactions, other than equity transactions, effected on the Floor of the Exchange during the preceding month together with a check payable to the Exchange for the appropriate fee. Said reports and fees must be received by the Exchange on or before the 28th calendar day following the month covered by the report, unless the Exchange is not open for business on such day, in which event the report is to be filed and the fees are to be paid on the next business day.

(b) A member or member organization may, in writing, request that the Controller grant an extension of not more than five business days to file such reports or pay such fees. The Controller has the discretion to grant or deny such extension requests.

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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 Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The Phlx 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 amending Exchange Rule 715 is to update this rule to reflect that monthly reports of net commissions are no longer required to be submitted in connection with equity transactions. This clarification should help avoid any member confusion as it relates to the floor brokerage assessment. No fee changes are being made pursuant to this proposal.

Previously, the Exchange adopted a monthly fee of \$250 for each member who derives his/her primary income from floor brokerage business conducted on the equity floor of the Exchange and eliminated the equity floor brokerage assessment fee of five percent of net floor brokerage income.⁵ The Exchange waived the equity floor brokerage assessment and implemented the flat monthly fee of \$250 to encourage floor brokers to send additional order flow to the Exchange and to simplify Phlx accounting procedures and billing. Thus, because the equity floor brokerage assessment is no longer based on net commissions, equity floor members do not need to submit monthly reports of net commissions, as required by Exchange Rule 715. Equity option and index option members and foreign currency participants, however, are still required to submit monthly reports because their floor brokerage assessment continues to be imposed based on monthly net floor brokerage income.

⁵ See Securities Exchange Act Release No. 49057 (January 12, 2004), 69 FR 2808 (January 20, 2004) (SR-Phlx-2003-83).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(5) of the Act⁷ in particular, in that it should help to foster cooperation and coordination with persons engaged in the regulating, clearing, settling, processing information with respect to and facilitating transactions in securities by clarifying that a floor brokerage assessment form is not required to be completed in connection with the assessment of the flat monthly fee of \$250.

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

The Phlx believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

The Phlx has neither solicited nor received comments on the proposed rule change.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A) of the Act⁸ and Rule 19b-4(f)(1) thereunder⁹ because it constitutes a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule. 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

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f)(1).

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹⁰

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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-Phlx-2006-08 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2006-08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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

¹⁰ See Section 19(b)(3)(C), 15 U.S.C. 78s(b)(3)(C).

such filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2006-08 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

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

Nancy M. Morris
Secretary

¹¹ 17 CFR 200.30-3(a)(12).