

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-51080; File No. SR-Phlx-2004-51)

January 26, 2005

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to Phlx Regulation 5, Visitors and Applicants

On October 7, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to update Phlx Regulation 5, Visitors and Applicants, enacted as a rule of order and decorum under Phlx Rule 60. On December 6, 2004, Phlx filed Amendment No. 1 to the proposed rule change.<sup>3</sup> The proposed rule change, as amended, was published for comment in the Federal Register on December 22, 2004.<sup>4</sup> The Commission received no comments on the proposal.

Phlx is amending its Phlx Regulation 5 to more accurately reflect its current practices. The Exchange amended Phlx Regulation 5 in 1992 to create an "applicant" status for prospective Exchange members.<sup>5</sup> A person who fell into the applicant category was issued an Applicant Access Card and Floor Badge that would allow for unescorted floor access until the application process was complete. Phlx no longer issues such

---

<sup>1</sup> 15 U.S.C. 78s(b)(1).

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

<sup>3</sup> Amendment No. 1 replaced the original filing in its entirety. Amendment No. 1 clarified that violations of Regulation 5 would be enforced against members and not the guests themselves, and added a description for the Applicant Access Card.

<sup>4</sup> See Securities Exchange Act Release No. 50851 (December 14, 2004), 69 FR 76816.

<sup>5</sup> See Securities Exchange Act Release No. 30416 (February 26, 1992), 57 FR 7836 (March 4, 1992) (approving File No. SR-Phlx-91-06).

Applicant Access Cards and Floor Badges to applicants, but instead requires applicants to register as on-floor trading personnel pursuant to Phlx Rule 620(b), Trading Floor Registration. Applicants are now issued the same access cards as are issued to Phlx members, and their access to the floor is governed by Phlx Rule 620(b), rather than Regulation 5. Phlx proposes to return Regulation 5 to its pre-1992 wording, which governs only guest access to the floor. Phlx members who do not adhere to the procedures set forth in Regulation 5 would be subject to sanction.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>6</sup> In particular, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act<sup>7</sup> because ensuring that unauthorized persons do not have improper access to the Exchange floor is consistent with the protection of investors and the public interest.

---

<sup>6</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f(b)(5).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act<sup>8</sup>, that the proposed rule change (File No. SR-Phlx-2004-51), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

Margaret H. McFarland  
Deputy Secretary

---

<sup>8</sup> 15 U.S.C. 78s(b)(2).

<sup>9</sup> 17 CFR 200.30-3(a)(12).