Proposed Rule Change by Philadelphia Stock Exchange

Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

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<th>Initial</th>
<th>Amendment</th>
<th>Withdrawal</th>
<th>Section 19(b)(2)</th>
<th>Section 19(b)(3)(A)</th>
<th>Section 19(b)(3)(B)</th>
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Description

Provide a brief description of the proposed rule change (limit 250 characters).

Implementation of an appeal fee

Contact Information

Provide the name, telephone number and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the proposed rule change.

First Name: Angela
Title: Director and Counsel
E-mail: angela.dunn@phlx.com
 Telephone: (215) 496-5692
Fax: (215) 496-6729

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

Date: 12/08/2006
By: Angela Saccomandi Dunn
Title: Director and Counsel

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.
The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission’s permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e., partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.
1. **Text of the Proposed Rule Change**

The Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")\(^1\) and Rule 19b-4 thereunder,\(^2\) proposes to adopt a $250.00 Appeal Fee for Appeals to the Board of Governors from decisions of Standing Committees.\(^3\) A decision of the Business Conduct Committee, the Hearing Officer or a Hearing Panel, pursuant to Exchange Rule 960.9 and By-Law Article XI, Section 11-3, will not be subject to the Appeal Fee. The Appeal Fee, which will be paid by appellant at the time of filing an appeal, will be refunded to the appellant in the event the Board of Governors overturns the decision of the Standing Committee.

This fee will become effective January 1, 2007.

A notice of the proposed rule change for publication in the Federal Register is attached hereto as **Exhibit 1**

The Appeal Fee for Appeals to the Board of Governors will be added to the Exchange’s Fee Schedule as the last line of Appendix A as follows:

New text is underlined.

### Appendix A

* * * * *

**Appeal Fee for Appeals to the Board of Governors**\(^{17}\) $ 250.00

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\(^3\) See Exchange By-Law Article X, Section 10-1.
This fee will apply to an appeal from a decision of a Standing Committee with the exception of appeals from a decision of the Business Conduct Committee, the Hearing Officer or Hearing Panels. This fee will be refunded to appellant in the event the Board of Governors overturns the decision of the Standing Committee.

2. **Procedures of the Self-Regulatory Organization**

The Executive Committee, pursuant to delegated authority, approved the proposal for filing with the Securities and Exchange Commission ("SEC" or "Commission") on November 13, 2006.

Questions and comments on the proposed rule change may be directed to Angela Saccomandi Dunn, Director and Counsel, at (215) 496-5692, or Edith Hallahan, Senior Vice President and Deputy General Counsel, at (215) 496-5179.

3. **Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

a. **Purpose**

The purpose of the proposed rule change is to reduce the number of frivolous appeals by assessing a fee for all appeals that are upheld. Currently, three Governors hear appeals from decisions of Standing Committees, with the exception of an appeal from the Nominating, Elections and Governance Committee, which is heard by a majority of Governors who are not then candidates for office. The appeal may require several hours of time from each Governor. It is believed that the appeal process is subject to abuse by members, participants, member organizations and participant organizations who incur no downside to filing repeated appeals, whether valid or otherwise. Currently, the ease with which an appeal can be filed and receive a “second look” at no cost, creates a potential for abuse. This fee will become effective January 1, 2007.
Decisions of the Business Conduct Committee, the Hearing Officer or a Hearing Panel, pursuant to Exchange Rule 960.9 and By-Law Article XI, Section 11-3, will not be subject to the Appeal Fee. At this time, the Exchange does not believe that there have been numerous frivolous disciplinary appeals to warrant such a fee.

b. **Statutory Basis**

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act\(^4\) in general, and furthers the objectives of Section 6(b)(5)\(^5\) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove the impediments to and perfect the mechanism of a free and open market and a national market system. Finally, the proposed rule change furthers the objectives of Section 6(b)(4) of the Act\(^6\) in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

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

The Phlx does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

5. **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.


6. **Extension of Time Period for Commission Action**

The Exchange does not consent to an extension of the time period for Commission action.

7. **Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

The foregoing proposed rule change establishes or changes a due, fee, or other charge applicable only to a member pursuant to Section 19(b)(3)(A)(ii) of the Act\(^7\) and Rule 19b-4(f)(2)\(^8\) thereunder. Accordingly, the proposal will take effect upon filing with the Commission. 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 purposes of the Act.

8. **Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

The proposed rule change is based on an approved rule change filed by the NYSE Arca, Inc.\(^9\)

9. **Exhibits**

   1. Notice of proposed rule for publication in the *Federal Register*.

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SECURITIES AND EXCHANGE COMMISSION
(Release No.                  ; File No. SR-Phlx-2006-84)

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of
Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Adopt an Appeal Fee

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 ______________________ 2006,
the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities
and Exchange Commission ("SEC" or "Commission") the proposed rule change as
described in Items I, II, and III, below, which Items have been prepared by the Phlx. 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, pursuant to Section 19(b)(1) of the Act\(^3\) and Rule 19b-4 thereunder,\(^4\)
proposes to adopt a $250.00 Appeal Fee for Appeals to the Board of Governors from
decisions of Standing Committees\(^5\), with the exception of a decision of the Business
Conduct Committee, the Hearing Officer or a Hearing Panel, pursuant to Exchange Rule
960.9 and By-Law Article XI, Section 11-3, will be subject to the Appeal Fee. The
Appeal Fee, which will be paid by appellant at the time of filing an appeal, will be


\(^5\) *See* Exchange By-Law Article X, Section 10-1.
refunded to the appellant in the event the Board of Governors overturns the decision of the Standing Committee.

This fee will become effective January 1, 2007.

The Appeal Fee for Appeals to the Board of Governors will be added to the Exchange’s Fee Schedule as the last line of Appendix A as follows:

The text of the proposed rule change is available on the Exchange’s website at www.phlx.com.

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 proposed rule change. 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 the proposed rule change is to reduce the number of frivolous appeals by assessing a fee for all appeals that are upheld. Currently, three Governors hear appeals from decisions of Standing Committees, with the exception of an appeal from the Nominating, Elections and Governance Committee, which is heard by a majority of Governors who are not then candidates for office. The appeal may require several hours of time from each Governor. It is believed that the appeal process is subject to abuse by members, participants, member organizations and participant
organizations who incur no downside to filing repeated appeals, whether valid or otherwise. Currently, the ease with which an appeal can be filed and receive a “second look” at no cost, creates a potential for abuse. This fee will become effective January 1, 2007.

Decisions of the Business Conduct Committee, the Hearing Officer or a Hearing Panel, pursuant to Exchange Rule 960.9 and By-Law Article XI, Section 11-3, will not be subject to the Appeal Fee. At this time, the Exchange does not believe that there have been numerous frivolous disciplinary appeals to warrant such a fee.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act in general, and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove the impediments to and perfect the mechanism of a free and open market and a national market system. Finally, the proposed rule change furthers the objectives of Section 6(b)(4) of the Act in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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 has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act\(^9\) and paragraph (f)(2) of Rule 19b-4\(^10\) thereunder. 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 purposes 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 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-2006-84 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-2006-84. 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 the 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-2006-84 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.\(^\text{11}\)

Nancy M. Morris
Secretary

\(^{11}\) 17 CFR 200.30-3(a)(12).