

market makers, institutions, and other market participants. Accordingly, Nasdaq believes that the proposal will foster cooperation and coordination with persons engaged in facilitating securities transactions and will remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in 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

Written comments were neither solicited nor received.

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 self-regulatory organization 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 is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 NASD. All submissions should refer to File No. SR-NASD-99-09 and should be submitted by April 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³²

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41130; File No. SR-NYSE-99-7]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to an Examination Fee for the Trading Assistant Qualification Examination

March 3, 1999.

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 February 16, 1999, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 proposed rule change consists of the adoption of a \$150 fee for candidates in connection with the new Trading Assistant Qualification Examination ("Series 25") to be given by the NYSE.

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 NYSE 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 NYSE 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 \$150 fee for the new Series 25 examination is to offset the costs associated with development, implementation, administration and maintenance of that examination by the Exchange.

Exchange Rule 35 dictates the terms under which an employee of a member or member organization may be admitted to the Exchange Trading Floor. Recent amendments to Rule 35 require Trading Assistant, *i.e.*, Post Clerks and Booth Clerks, to be qualified by passing appropriate qualification examinations and by meeting appropriate training requirements.³ The Exchange anticipates that administration of the Series 25 Examination will commence in March 1999.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(4) of the Act,⁴ which permits the rules of an exchange to provide for the equitable allocation of reasonable dues, fees and other charges among the members, issuers and other persons using its services.

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

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.

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

Comments were neither solicited nor 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) of the Act⁵ and subparagraph (f) of Rule 19b-4 thereunder because the proposal is establishing or changing a due, fee or other charge.⁶ At any time within 60 days of the filing of such proposed rule

³ See Securities Exchange Act Release No. 40944 (January 13, 1999), 64 FR 3330 (January 21, 1999) (order approving File No. SR-NYSE-98-36).

⁴ 15 U.S.C. 78f(b)(4).

⁵ 15 U.S.C. 78(b)(3)(A)(ii).

⁶ 17 CFR 240.19b-4(f).

³² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

change, the Commission may summarily abrogate such action 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 proposal 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. 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 at 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SY-NYSE-99-07 and should be submitted by April 1, 1999.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41136; File No. SR-Phlx-00-02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Changing the Required Minimum Value Size for an Opening Transaction in FLEX Equity Options

March 3, 1999.

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

19, 1999, 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 self-regulatory organization. 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 1079 to change the required minimum value size for an opening transaction in any FLEX equity option series which has no open interest to the lesser of 250 contracts or the number of contracts overlying \$1 million of the underlying securities. Below is the text of the proposed rule change. Deletions are in brackets; additions are italicized.

Rule 1079.

(a)(1)-(7) No change.

(8) Minimum size—

(A) Opening—If there is no open interest in the particular series when an RFQ³ is submitted, the minimum size of an RFQ is:

(i) \$10 million underlying equivalent value, respecting FLEX market index options, and \$5 million underlying equivalent value respecting FLEX industry options; and

(ii) [250 contracts, respecting FLEX equity options;] *the lesser of 250 contracts or the number of contracts having \$1 million of underlying equivalent value, with respect to FLEX equity options.*

* * * * *

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 Exchange is proposing to change the minimum value size for opening transactions, other than FLEX Quotes responsive to a FLEX Request for Quotes, in any FLEX equity option series in which there is no open interest at the time the Request for Quotes is submitted. Currently, Exchange Rule 1079 states that the minimum value size for these opening transactions shall be 250 contracts. The Exchange is proposing to amend this rule to change the minimum value size for these transactions to the lesser of 250 contracts or the number of contracts overlying \$1 million of the underlying securities.

The Exchange is proposing this change because it believes the current rule is unduly restrictive. The rule was originally put in place to limit participation in FLEX equity options to sophisticated, high net worth individuals.⁴ The Exchange believes, however, that limiting participation in FLEX equity options based solely on the number of contracts purchased may diminish liquidity and trading interest in FLEX equity options on higher priced equities. The Exchange believes the value of the securities underlying the FLEX equity options is an equally valid restraint as the number of contracts and, if set at the appropriate limit, can also prevent the participation of investors who do not have adequate resources. In fact, the limitation on the minimum value size for opening transactions in FLEX market index options and FLEX industry index options is tied to the same type of standard, the underlying equivalent value.⁵ The Exchange believes the number of contracts overlying \$1 million in underlying securities is adequate to provide the requisite amount of investor protection. An opening transaction in a FLEX equity option series on a stock priced at \$40.01 or more would reach this \$1 million limit before it would reach the contract size limit, *i.e.*, 250 contracts times the multiplier (100) times the stock price (\$40.01) totals \$1,000,250 in underlying value.

Currently, an investor can purchase 250 contracts in a FLEX equity series on lower priced stocks, meeting the minimum requirement without reaching

⁴ Securities Exchange Act Release No. 37691 (September 17, 1996), 61 FR 50060 (September 24, 1996) (adopting SR-Phlx-96-38).

⁵ See Exchange Rule 1079(a)(8)(A)(i).

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Exchange Rule 1079(a)(7) defines an RFQ as a Request-for-Quote.