

shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) <sup>12</sup> of the Act and Rule 19b-4(f)(6) <sup>13</sup> thereunder.<sup>14</sup>

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Phlx seeks to have the proposed rule change become operative immediately upon filing so that the Exchange may remain competitive with other exchanges with similar rules in effect.

The Commission, consistent with the protection of investors and the public interest, has determined to waive the 30-day operative date and make the proposed rule change operative immediately upon filing, in order to allow the Phlx to compete for broker-dealer orders by removing any distinction between broker-dealer and customer orders with respect to the size for which the Exchange is firm at its disseminated price and the Exchange's guaranteed AUTO-X size.<sup>15</sup> 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, 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 No. SR-Phlx-2003-18 and should be submitted by May 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-9034 Filed 4-11-03; 8:45 am]

**Editorial Note:** Due to numerous footnote errors, this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Monday, April 14, 2003 at 68 FR 17976-17979.

[FR Doc. R3-9034 Filed 5-19-03; 8:45 am]

**BILLING CODE 1505-01-D**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47647; File No. SR-Phlx-2003-20]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Adopt a License Fee for Transactions in DIAMONDS® Exchange Traded Funds

April 8, 2003.

**Editorial Note:** Due to numerous footnote errors, this document is being reprinted in its entirety. It was originally printed in the **Federal Register** on Monday, April 14, 2003 at 68 FR 17979-17982.

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> notice is hereby given that on March 28, 2003, 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 and II below, which Items have been prepared by the Exchange. 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 Exchange proposes to amend its Summary of Equity Charges to adopt a license fee of \$0.00025 per share per trade side for sides greater than 500 shares, with no maximum fee per trade side charged to Non-PACE Customers<sup>3</sup> and Electronic Communications Networks ("ECNs"),<sup>4</sup> and a license fee of \$0.0005 per share per trade side, with no maximum fee per trade side charged to specialists for transactions on the Phlx in the DIAMONDS® Exchange Traded Funds ("DIAMONDS").<sup>5</sup> The Exchange also proposes to make minor, technical changes to its equity fee schedule to make corresponding references to the proposed fees. All other equity charges currently assessed by the Phlx will be imposed where applicable.<sup>6</sup>

The Exchange proposes to implement this fee as of April 1, 2003, the date that

<sup>3</sup> PACE is the acronym for the Exchange's Automated Communication and Execution System, which is the Exchange's order routing, delivery, execution and reporting system for its equity trading floor. See Exchange Rules 229 and 229A.

<sup>4</sup> ECNs shall mean any electronic system that widely disseminates to third parties orders entered therein by an Exchange market maker or over-the-counter ("OTC") market maker, and permits such orders to be executed against in whole or in part; except that the term ECN shall not include: any system that crosses multiple orders at one or more specified times at a specified price set by the ECN, algorithm, or by any derivative pricing mechanism and does not allow orders to be crossed or executed against directly by participants outside of such times; or, any system operated by or on behalf of an OTC market-maker or exchange market-maker that executes customer orders primarily against the account of such market maker as principal, other than riskless principal.

<sup>5</sup> Dow Jones®, "The DowSM," "Dow 30SM," "Dow Jones Industrial AverageSM," "Dow Jones IndustrialsSM," "DJIA SM," "DIAMONDS®" and "The Market's Measure®" are trademarks of Dow Jones & Company, Inc. ("Dow Jones") and have been licensed for use for certain purposes by the Philadelphia Stock Exchange, Inc., pursuant to a License Agreement with Dow Jones. The DIAMONDS Trust, based on the DJIA, is not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in the DIAMONDS Trust.

<sup>6</sup> These charges may include equity transaction charges, an equity floor brokerage assessment, an equity floor brokerage transaction fee, an off-Exchange trade information fee, an SEC fee, a remote information access fee, an Electronic Communications Network fee, an outbound Inter-Market Trading System ("ITS") fee and a net inbound ITS credit. Additionally, the PACE Specialist charge does not apply because specialists are not eligible for further PACE volume discounts. See Securities Exchange Act No. 44259 (May 4, 2001), 66 FR 23962 (May 10, 2001) (SR-Phlx-2001-41).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

<sup>15</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

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

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

it began trading in the DIAMONDS.<sup>7</sup> forth below. New text is in italics.  
Text of the proposed rule change is set Deleted text is in brackets.

### Summary of Equity Charges (p 1/3)\*—Equity Transaction Charge I

[Based on total shares per transaction with the exception of specialist trades and PACE trades.<sup>1]</sup>

| Monthly transaction value                                                                 | Rate per share |
|-------------------------------------------------------------------------------------------|----------------|
| First 500 shares                                                                          | \$0.00         |
| Next 2,000 shares                                                                         | 0.0075         |
| Next 7,500 shares                                                                         | 0.005          |
| Remaining shares                                                                          | 0.004          |
| \$50 maximum fee per trade side.                                                          |                |
| License Fee                                                                               |                |
| SPDRs, Standard & Poor's Depositary Receipts**                                            |                |
| Customer Non-PACE and Electronic Communications Network <sup>E</sup> ("ECN") License Fee: |                |
| \$0.00025 per share per trade side for sides greater than 500 shares                      |                |
| No maximum fee per trade side                                                             |                |
| Specialist License Fee:                                                                   |                |
| \$0.00035 per share per trade side                                                        |                |
| No maximum fee per trade side                                                             |                |
| DIAMONDS® Exchange Traded Funds**                                                         |                |
| Customer Non-PACE and Electronic Communications Network <sup>E</sup> ("ECN") License Fee: |                |
| \$0.00025 per share per trade side for sides greater than 500 shares                      |                |
| No maximum fee per trade side                                                             |                |
| Specialist License Fee:                                                                   |                |
| \$0.0005 per share per trade side                                                         |                |
| No maximum fee per trade side                                                             |                |

See Appendix A for additional fees.

I denotes fee eligible for monthly credit of up to \$1,000.

\* Not applicable to transactions in Nasdaq-100 Index Tracking Stock<sup>SM</sup> (see page 4 for fees).

### Summary of Equity Charges (p 2/3)\*—PACE Specialist Charge<sup>2</sup> I

|                                                                                                                     |                       |
|---------------------------------------------------------------------------------------------------------------------|-----------------------|
| \$ .20 per PHLX Specialist Trade against PACE Executions (Not applicable to PACE trades on the opening)             |                       |
| Equity Floor Brokerage Assessment I                                                                                 |                       |
| \$250 monthly charge <sup>3</sup>                                                                                   |                       |
| Equity Floor Brokerage Transaction Fee I                                                                            |                       |
| \$.05 per 100 shares or fraction thereof, for floor broker executing transactions for their own member firms.       |                       |
| SEC Fee                                                                                                             |                       |
| The amount shall be determined by Section 31 of the Securities Exchange Act of 1934.                                |                       |
| Off-Exchange Trade Information Fee I                                                                                |                       |
| \$.10 per DOT trade                                                                                                 |                       |
| Remote Information Access Fee I                                                                                     |                       |
| \$300.00 per month                                                                                                  |                       |
| Electronic Communications Network <sup>E</sup> ("ECN") Fee                                                          |                       |
| \$2,500.00 per month (in lieu of equity transaction charges)                                                        |                       |
| Outbound ITS Fee I (also applicable to transactions in Nasdaq-100 Index Tracking Stock <sup>SM</sup> ) <sup>4</sup> |                       |
| For PACE orders sent over ITS with the customer information attached:                                               |                       |
| 500 shares or less                                                                                                  | \$0.60 per 100 shares |
| 501 to 4,999 shares                                                                                                 | 0.30 per 100 shares   |

### Summary of Equity Charges (p 3/3)

Net Inbound ITS Credit (also applicable to transactions in Nasdaq-100 Index Tracking Stock<sup>SM</sup>)<sup>5</sup>

\$0.30 per 100 shares on the excess, if any, of the number of inbound ITS shares executed over the number of outbound ITS shares sent and executed on a monthly basis.

See Appendix A for additional fees.

I denotes fee eligible for monthly credit of up to \$1,000.

\* Not applicable to transactions in Nasdaq-100 Index Tracking Stock<sup>SM</sup> (see next page for fees).

<sup>E</sup> ECNs shall mean any electronic system that widely disseminates to third parties orders entered therein by an Exchange market maker or over-the-counter ("OTC") market maker, and permits such orders to be executed against in whole or in part; except that the term ECN shall not include: Any system that crosses multiple orders at one or more specified times at a specified price set by the ECN, algorithm, or by any derivative pricing mechanism and does not allow orders to be crossed or executed against directly by participants outside of such times; or, any system operated by or on behalf of an OTC market-maker or exchange market-maker that executes customer orders primarily against the account of such market maker as principal, other than riskless principal.

<sup>7</sup> The license fees will not be eligible for the monthly credit of up to \$1,000 to be applied against certain fees, dues and charges and other amounts

owed to the Exchange by certain members. See Securities Exchange Act Release No. 44292 (May

11, 2001), 66 FR 27715 (May 18, 2001) (SR-Phlx-2001-49).

Any fees, credits, discounts and other charges in the Exchange's fee schedule which are based upon an equity specialist's specialist activity apply to competing specialists.

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\*\* Dow Jones®, "The Dow<sup>SM</sup>", "Dow 30<sup>SM</sup>", "Dow Jones Industrial Average<sup>SM</sup>", "Dow Jones Industrials<sup>SM</sup>", "DJIA<sup>SM</sup>", "DIAMONDS®" and "The Market's Measure®" are trademarks of Dow Jones & Company, Inc. ("Dow Jones") and have been licensed for use for certain purposes by the Philadelphia Stock Exchange, Inc., pursuant to a License Agreement with Dow Jones. The DIAMONDS Trust, based on the DJIA, is not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in the DIAMONDS Trust.

<sup>1</sup> However, this charge applies where an order, after being delivered to the Exchange by the PACE system is executed by the specialist by way of an outbound commitment, when such outbound ITS commitment reflects the PACE order's clearing information, but does not apply where a PACE trade was executed against an inbound ITS commitment.

<sup>2</sup> This charge does not apply to transactions in Nasdaq-100 Index Tracking Stock<sup>SM</sup> [and] SPDRs and DIAMONDS®.

<sup>3</sup> Applies to each member who derives at least 80% of gross income generated from Phlx floor based activities from his/her floor brokerage business conducted on the Exchange. Floor brokerage business conducted on the Exchange includes orders that are received on the Phlx, even if those orders are executed on an exchange other than the Phlx. The 5% floor brokerage assessment is waived until Dec. 31, 2003 and is scheduled to be reinstated Jan. 1, 2004.

<sup>4</sup> This fee will only apply when the specialist sends an order received over PACE to ITS and receives an execution, if the specialist used the PACE customer's clearing information on the outbound ITS commitment.

<sup>5</sup> This credit will include all inbound and outbound ITS executions, including both PACE and non-PACE and both proprietary and customer commitments.

\* \* \* \* \*

## 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 Exchange 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 III below. The Exchange 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 adopt a license fee that will apply to trading DIAMONDS on the Exchange. The Exchange recently determined to begin trading DIAMONDS. The license fees should help off-set licensing fees incurred by the Exchange associated with the trading of these products on the Exchange.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act,<sup>9</sup> in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members. The Exchange believes that charging members that trade these

products a licensing fee is an equitable means of recovering a portion of the licensing fees incurred by the Exchange.<sup>10</sup>

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

The Exchange does not believe that the proposed rule change will 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

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 establishes or changes a due, fee, or charge imposed by the Exchange and, therefore, has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>11</sup> and Rule 19b-4(f)(2) thereunder.<sup>12</sup> At any time within 60 days of the filing of the proposed rule change, the Commission

<sup>10</sup> With regard to the distinction between Customer PACE and Non-PACE license fees, the Exchange states that it is consistent with its current practice to not impose customer charges for equity transactions delivered through PACE, but to impose customer charges for Non-PACE executions. See, e.g., Securities Exchange Act Release Nos. 47385 (February 20, 2003), 68 FR 10295 (March 4, 2003) (SR-Phlx-2003-06); 44381 (June 1, 2001), 66 FR 31264 (June 11, 2001) (SR-Phlx-2001-57); and 43776 (December 28, 2000), 66 FR 1166 (January 5, 2001) (SR-Phlx-2000-103). Also, consistent with its current practice, the Exchange charges customer transaction fees and specialist transaction fees at different rates. See, e.g., Securities Exchange Act Release Nos. 44381 (June 1, 2001), 66 FR 31264 (June 11, 2001) (SR-Phlx-2001-57); 47109 (December 30, 2002), 68 FR 841 (January 7, 2003) (SR-Phlx-2002-78); and 42332 (January 12, 2000), 65 FR 3517 (January 21, 2000) (SR-Phlx-2000-59).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

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 purpose 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. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Phlx-2003-20 and should be submitted by May 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 03-9035 Filed 4-11-03; 8:45 am]

**Editorial Note:** Due to numerous footnote errors, this document is being reprinted in its

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

<sup>9</sup> 15 U.S.C. 78f(b)(4).

<sup>13</sup> 17 CFR 200.30-3(a)(12).

entirety. It was originally printed in the **Federal Register** on Monday, April 14, 2003 at 68 FR 17979-17982.

[FR Doc. R3-9035 Filed 5-19-03; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 4349]

### Advisory Committee on International Economic Policy Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 9 a.m. to 12 noon on Wednesday, June 4, 2003 in Suite 602, Elliott School of International Affairs, George Washington University, 1957 E Street NW, Washington, DC 20052. The meeting will be hosted by Assistant Secretary of State for Economic and Business Affairs E. Anthony Wayne and Committee Chairman R. Michael Gadbaw.

The ACIEP serves the U.S. Government in a solely advisory capacity concerning issues and problems in international economic policy. Proposed topics for the March 6 meeting are rebuilding Iraq and subcommittee reports.

The public may attend these meetings as seating capacity allows. The media are welcome but discussions are off the record. For individuals interested in attending, please provide your name, title, company, or other affiliation, if appropriate, to the Advisory Committee Executive Secretariat by fax (202) 647-5936 (Attention: Gwendolyn Jackson); Tel: (202) 647-0847; or e-mail: [jacksongl@state.gov](mailto:jacksongl@state.gov) by May 30, 2003.

For further information about the meeting, please contact Eliza Koch, ACIEP Secretariat, Office of Economic Policy and Public Diplomacy, Bureau of Economic and Business Affairs, U.S. Department of State, Room 3526, 2201 C Street NW, Washington, DC 20520, Tel (202) 647-1310.

Dated: May 15, 2003.

**Eliza Koch,**

*ACIEP Secretariat, Office of Economic Policy and, Public Diplomacy Bureau of Economic Affairs, Department of State.*

[FR Doc. 03-12677 Filed 5-19-03; 8:45 am]

BILLING CODE 4710-07-P

## DEPARTMENT OF STATE

[Public Notice 4189]

### Overseas Security Advisory Council (OSAC) Meeting Notice: Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on June 24 and 25, 2003 at the Boeing Company, Arlington, Virginia. Pursuant to section 10 (d) of the Federal Advisory Committee Act and 5 U.S.C. 552b (c)(1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda will include updated committee reports, a global threat overview, and other discussions involving sensitive and classified information, and corporate proprietary security information, such as private sector physical and procedural security policies and protective programs and the protection of U.S. business information overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522-1003, phone: 202-663-0533.

Dated: May 8, 2003.

**Joe D. Morton,**

*Director of the Diplomatic Security Service, Department of State.*

[FR Doc. 03-12651 Filed 5-19-03; 8:45 am]

BILLING CODE 4710-24-P

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Fitness Determination of Valley Air Express, Inc.

**AGENCY:** Department of Transportation.

**ACTION:** Notice of Order to Show Cause (Order 2003-5-16), Docket OST-02-13159.

**SUMMARY:** The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Valley Air Express, Inc., fit, willing, and able to provide scheduled passenger operations as a commuter air carrier under 49 U.S.C. 41738.

**Responses:** Objections and answers to objections should be filed in Docket OST-02-13159 and addressed to the Department of Transportation Dockets, SVC-124.1, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, and should be served on all persons listed in

Attachment A to the order. Persons wishing to file objections should do so no later than May 28, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mr. James Lawyer, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-1064.

Dated: May 13, 2003.

**Read C. Van De Water,**

*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 03-12548 Filed 5-19-03; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review Greater Rockford Airport Rockford, IL

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Greater Rockford Airport Authority for the Greater Rockford Airport under the provisions 49 U.S.C. 47501 *et. seq.* (Aviation Safety and Noise Abatement Act) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for the Greater Rockford Airport under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before November 4, 2003.

**EFFECTIVE DATES:** The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is May 8, 2003. The public comment period ends July 7, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Prescott C. Snyder, Airports Environmental Program Manager, 2300 East Devon Avenue, Des Plaines, Illinois 60018. [Telephone Number (847) 294-7538/Fax Number (847) 294-7046] Comments on the proposed noise compatibility program should also be submitted to the above office.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA finds that the noise exposure maps submitted for the Greater Rockford Airport are in