

In connection with these revisions to Exchange Rule 11.3, the Exchange is also removing the language in Exchange Rule 11.3 relating to minimum price variations in bonds. The Exchange does not trade bonds and has not traded bonds for several years.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>10</sup> in general, and Section 6(b)(5) of the Act,<sup>11</sup> in particular, in that it is designed to promote just and equitable principles of trade and to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, generally, in that it protects investors and the public interest. The Exchange also believes that the proposal is consistent with the quoting restrictions of Rule 612 of Regulation NMS.

### 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

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

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

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days after the date of the filing, or such 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) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> The Exchange has asked the Commission to waive the 30-

day operative delay and allow the proposed rule change to become operative on January 31, 2006, the compliance date for Rule 612. The Commission hereby grants that request.<sup>14</sup> The Commission believes that waiving the operative delay is consistent with the protection of investors and the public interest. The Commission previously has considered whether, for NMS stocks, quoting below \$1.00 in sub-penny increments should be permitted. The Commission determined that it should and codified that view in Rule 612(b) of Regulation NMS.<sup>15</sup> The Exchange's proposal to permit its members to make bids or offers—in NMS stocks that are listed on Nasdaq—priced below \$1.00 in increments as small as \$0.0001 is consistent with Rule 612(b) and raises no new regulatory issues.

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](mailto:rule-comments@sec.gov). Please include File Number SR-NSX-2006-02 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-NSX-2006-02. 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

<sup>14</sup> For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>15</sup> See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37555 (June 29, 2005).

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 such filing will also be available for inspection and copying at the principal office of the Exchange. 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-NSX-2006-02 and should be submitted on or before February 28, 2006.

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

Nancy M. Morris,  
Secretary.

[FR Doc. E6-1615 Filed 2-6-06; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-53197; File No. SR-Phlx-2006-08]

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

January 31, 2006.

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 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

<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.

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

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

<sup>13</sup> 17 CFR 240.19b-4(f)(6). Pursuant to Rule 19b-4(f)(6)(iii) under the Act, the Exchange is required to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive this requirement.

Act<sup>3</sup> and Rule 19b-4(f)(1) thereunder,<sup>4</sup> 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 *italicized*:

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.

\* \* \* \* \*

### 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.<sup>5</sup> 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.

##### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>6</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>7</sup> 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

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

<sup>6</sup> 15 U.S.C. 78f(b).

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

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 Act<sup>8</sup> and Rule 19b-4(f)(1) thereunder<sup>9</sup> 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 action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.<sup>10</sup>

### 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](mailto: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

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(f)(1).

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

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

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

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 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 February 28, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Nancy M. Morris**,  
Secretary.

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BILLING CODE 8010-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No.: FAA-2005-20109]

#### Proposed Grant of Exemption; Ameriflight, Inc.

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

**ACTION:** Notice; Request for comments.

**SUMMARY:** This notice contains the text of a proposed grant of exemption from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of the FAA's regulatory activities. Neither publication or this notice nor the inclusion or omission of information in the text of the proposed exemption is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments must be received on or before March 9, 2006.

**ADDRESSES:** You may send comments [identified by Docket Number FAA-

2005-20109] using any of the following methods:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.
- Governmentwide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.
- Fax: 1-202-493-2251.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Katherine Perfetti, Air Transportation Division, Flight Standards Service, Room 831, 800 Independence Avenue, SW., Washington, DC 20591, telephone: (202) 267-3760, e-mail: [Katherine.perfetti@faa.gov](mailto:Katherine.perfetti@faa.gov).

#### SUPPLEMENTARY INFORMATION

##### Comments Invited

The FAA invites interested persons to submit written comments, data, and views on the agency's analysis contained in the proposed grant of exemption contained below. The most helpful comments reference a specific portion of the analysis, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed grant of exemption. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this notice between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.).

You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://dms.dot.gov>. Before acting on this

proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

#### The Proposal

On January 13, 2005, Mr. John W. Hazlet, Jr., Vice President of Flight, Ameriflight, Inc. (Ameriflight) petitioned the FAA for relief from § 119.3 of Title 14, Code of Federal Regulations (14 CFR) to allow Ameriflight to operate certain EMBRAER Brasilia EMB-120 (EMB-120) airplanes with a maximum payload capacity greater than 7,500 pounds in all-cargo service under part 135 rather than part 121. This petition was denied on February 4, 2005, because Ameriflight sought to comply with certain sections of part 121 instead of complying with all the applicable sections of 121. In addition, Ameriflight did not show how its situation was different from the general class of regulated entities. On March 22, and April 5, 2005, Ameriflight petitioned the FAA for a reconsideration of Denial of Exemption No. 8480. The FAA has reconsidered its position and is considering granting Ameriflight's petition. The FAA is publishing the text of this proposed grant for comment because the increase in the payload capacity for all-cargo operations is a change to the basic applicability standards contained in part 119 and could potentially have broader applicability to other all-cargo operations. Further, the part 125/135 Aviation Rulemaking Committee (ARC) has submitted a recommendation on this subject. That recommendation has broader applicability and higher payload capacity limits than proposed by Ameriflight. The ARC recommendation is currently under consideration by the FAA for general rulemaking action. Although elements of the ARC's recommendation were considered in the FAA's analysis of this petition, the FAA's decision to grant this exemption is based solely on the merits of Ameriflight's petition. The entire content of the proposed grant of exemption, including the FAA's analysis and conditions and limitations of the grant follows:

<sup>11</sup> 17 CFR 200.30-3(a)(12).