

immediate re-entry pursuant to proposed NYSE Rule 104.10(6)(iv)(c)(III).

Lastly, conforming changes to NYSE Rule 104.10 have been made consistent with the changes noted above, including necessary numbering changes to certain provisions and certain non-substantive language changes. For example, current NYSE Rule 104.10(6)(i)(D) which governs the ability of the Crowd to prevent the specialist, when liquidating or decreasing a position, from trading on parity with the Crowd during a manual transaction has been re-numbered NYSE Rule 104.10(5)(i)(a)(I)(d). NYSE Rules 70 and 123 have been amended to reflect this provision's new rule number.

The proposed amendments are intended to enhance the specialist's ability to effect transactions for its dealer account to provide support to the Hybrid Market. Under the proposed rule change specialists will, to a greater degree, be able to position themselves to provide more liquidity against the market trend and thus moderate volatility. The proposed amendments provide needed flexibility for specialists to better adapt to the new challenges of the Hybrid Market.

## 2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)<sup>14</sup> that an exchange have rules that are designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

### *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 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*

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**

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 NYSE 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. 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-NYSE-2006-76 on the subject line.

#### *Paper Comments*

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-NYSE-2006-76. 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 such filing also will be available for inspection and copying at the principal office of the NYSE.

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-NYSE-2006-76 and should be submitted on or before October 19, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Nancy M. Morris,**  
*Secretary.*

[FR Doc. 06-8355 Filed 9-26-06; 10:59 am]

**BILLING CODE 8010-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-54485; File No. SR-Phlx-2006-56]

### **Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto Relating to Amending the Summary of Index Option and FXI Options Charges and the \$60,000 "Firm Related" Equity Option and Index Option Cap**

September 22, 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 August 31, 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 Exchange. On September 19, 2006, the Exchange submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The Phlx has designated this proposal as one changing a fee imposed by the Phlx under section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder,<sup>5</sup> which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule

<sup>15</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>3</sup> Amendment No. 1 ("Amendment No. 1") removes all references in the proposed rule change that relate to clarifying who may receive payment for order flow funds in connection with the Exchange's payment for order flow program.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

<sup>14</sup> 15 U.S.C. 78f(b)(5).

change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to remove the reference to options listed on the iShares FTSE/Xinhua China 25 Index Fund ("FXI Options") from the Exchange's Summary of Index Option and FXI Options Charges. Therefore, the Exchange proposes to charge transactions involving FXI Options according to the Exchange's Summary of Equity Option Charges, which would, in turn, include payment for order flow charges, effective for trades settling on or after September 1, 2006.

The Exchange also proposes to delete references to Full-size index options ("QCX") and Mini index options ("QCE") on the Nasdaq Composite Index, Inc.<sup>6</sup> from its current Summary of Index Option and FXI Options Charges and \$60,000 "Firm Related" Equity Option and Index Option Cap, as these products are no longer listed or traded at the Exchange.

The text of the proposed rule change is available on the Exchange's Web site at <http://www.Phlx.com>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

### 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, as amended, and discussed any comments it received on the proposed rule change, as amended. 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 states that it currently charges transactions involving FXI options, an equity option, according to the Exchange's Summary of Index Option and FXI Options Charges. The Exchange states that it began charging FXI Options in the same manner that the Exchange charges for index options

beginning with transactions settling on or after October 19, 2004. The Exchange believed, at that time, that charging FXI Options according to the rates set forth in the Exchange's Summary of Index Option and FXI Options Charges was reasonable for these types of products because the higher charges were to help defray some of the license fees incurred by the Exchange in connection with the listing and trading of FXI Options.

The Exchange states that the purpose of this proposal is to remain competitive with other exchanges that also trade FXI Options pursuant to their respective equity option fee schedules. By assessing transactions involving FXI Options according to the Exchange's Summary of Equity Option Charges, the Exchange believes that the transaction fees would be the same or lower than the charges currently assessed, which should, in turn, encourage more FXI Options business to be transacted on the Exchange. In addition, because FXI Options would now be subject to the Exchange's fee schedule, a payment for order flow fee, as set forth on the Exchange's Summary of Equity Option Charges, may now be charged on FXI Option transactions, which the Exchange believes may also encourage additional order flow.<sup>7</sup>

The Exchange states that the purpose of removing references to QCX and QCE from the Exchange's current Summary of Index Option and FXI Options Charges and \$60,000 "Firm Related" Equity Option and Index Option Cap is to update these fee schedules to reflect the fact that these products have been delisted from, and therefore no longer trade on, the Exchange.

##### 2. Statutory Basis

The Exchange believes that its proposal, as amended, is consistent with section 6(b) of the Act<sup>8</sup> in general, and furthers the objectives of sections 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.

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

The Exchange does not believe that the proposed rule change, as amended, will 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

No written comments were either solicited or received.

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

The foregoing proposed rule change, as amended, has been designated as a fee change pursuant to section 19(b)(3)(A)(ii) of the Act<sup>10</sup> and Rule 19b-4(f)(2)<sup>11</sup> thereunder, because it establishes or changes a due, fee, or other charge imposed by the Exchange. Accordingly, the proposal, as amended, will take effect upon filing with the Commission. At any time within 60 days of the filing of such 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>12</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, as amended, 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-2006-56 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-2006-56. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>12</sup> The effective date of the original proposed rule change is August 31, 2006, and the effective date of Amendment No. 1 is September 19, 2006. For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change, as amended, the Commission considers the period to commence on September 19, 2006, the date on which the Exchange submitted Amendment No. 1. See 15 U.S.C. 78s(b)(3)(C).

<sup>6</sup> The Nasdaq Composite Index<sup>®</sup> is a registered trademark of The Nasdaq Stock Market LLC, and is licensed for use by Phlx.

<sup>7</sup> Specialist units and Directed Registered Options Traders elect to opt into or out of the Exchange's payment for order flow program.

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

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

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 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-2006-56 and should be submitted on or before October 19, 2006.

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

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E6-15926 Filed 9-27-06; 8:45 am]

**BILLING CODE 8010-01-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending September 8, 2006

The following Agreements were filed with the Department of Transportation under the sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* OST-2006-25785.

*Date Filed:* September 5, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:*

MAIL VOTE NUMBER S 085, Resolution 743b—Baggage Identification Chart, Intended effective date: February 1, 2007.

*Docket Number:* OST-2006-25789.

*Date Filed:* September 5, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:*

Composite Passenger Tariff

Coordinating Conference, Composite Resolutions (Memo 1329),

Minutes: Composite Meeting of

Passenger Tariff Coordinating

Conferences, (Memo 1338),

Intended effective date: April 1, 2007.

*Docket Number:* OST-2006-25790.

*Date Filed:* September 5, 2006.

*Parties:* Members of the International Air Transport Association.

*Subject:*

Composite Passenger Tariff

Coordinating Conference, Composite Resolutions 012, 017f (Memo 1330),

Minutes: Composite Meeting of

Passenger Tariff Coordinating

Conferences, (Memo 1338),

Intended effective date: April 1, 2007.

*Docket Number:* OST-2006-25791.

*Date Filed:* September 5, 2006

*Parties:* Members of the International Air Transport Association.

*Subject:*

Composite Passenger Tariff

Coordinating Conference, Composite Resolutions 300, 301 (Memo 1331),

Minutes: Composite Meeting of

Passenger Tariff Coordinating

Conferences, (Memo 1338),

Intended effective date: April 1, 2007.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E6-15945 Filed 9-27-06; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending September 8, 2006

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption

of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST-1995-656.

*Date Filed:* September 8, 2006.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* September 29, 2006.

*Description:* Application of US

Airways, Inc. requesting renewal of its certificate of public convenience and necessity for Route 737, which authorizes US Airways to engage in scheduled foreign air transportation of persons, property and mail between Philadelphia, PA, and Boston, MA, on the one hand, and Madrid, Barcelona, Malaga, and Palma de Mallorca, Spain, on the other.

**Renee V. Wright,**

*Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. E6-15944 Filed 9-27-06; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-6 (Sub-No. 444X)]

#### BNSF Railway Company— Abandonment Exemption—in Flathead County, MT

BNSF Railway Company (BNSF) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon a .42-mile rail line that extends between Engineering Station 189 + 36 and Engineering Station 167 + 00, near Kalispell in Flathead County, MT. The line traverses United States Postal Service Zip Code 59901.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or had been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under

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