organization as defined in Regulation Section 1.3(d) under the Commodity Exchange Act,[5] board of trade, contract market, and registered futures association of which the clearing member is a member or participant; and (iv) in the case of a non-U.S. clearing member, any non-U.S. regulatory agency or instrumentality or independent organization or exchange having jurisdiction over the non-U.S.clearing member or of which the non-U.S. clearing member is a member or participant.

These amendments will enhance the effectiveness of OCC's financial surveillance program by providing OCC with material information, some of which it currently does not receive, concerning a clearing member's financial condition. For example, many of OCC's clearing members are also registered as futures commission merchants (''FCMs'') under the Commodity Exchange Act and as such are subject to the financial reporting requirements of the CFTC and the early warning notice requirements of commodity self-regulatory organizations. Because of differences in the early warning notice criteria used by the commodity regulatory organizations and those used by the securities regulatory organizations, events triggering early warning notice requirements for an FCM (*e.g.*, net capital below a specified percentage of segregated funds) would not necessarily create an early warning notice requirement for a registered broker-dealer. Consequently, under OCC's current rules, a situation could occur that would require a clearing member to give early warning notice to its commodity regulatory authority but would not require the clearing member to give notice to OCC. Accordingly, requiring a clearing member to provide OCC with early warning notices which it is required to provide to any other regulatory organization should assist OCC in assessing the ongoing creditworthiness of its clearing members.

There is potential overlap between the requirements of new paragraph (a) and existing paragraph (c) [previously paragraph (b)] whereby a non-U.S. clearing member might be required to notify OCC of a notice from a non-U.S. regulatory agency pursuant to both paragraphs.[6] However, the overlap should not impose an inappropriate burden on non-U.S. clearing members because the requirement to notify OCC of an event can be satisfied by the same notice to OCC even if the requirement arises under both paragraphs.

II. Discussions

Section 17A(b)(3)(F) of the Act[7] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. The Commission believes the rule change is consistent with OCC's obligation to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible because it increases the effectiveness of OCC's financial surveillance program. Revisions to Rule 303 concerning early warning notices enables OCC to receive material information concerning a clearing member's financial condition that it does not receive currently. The early warning notices should assist OCC in assessing the ongoing creditworthiness of its clearing members and thus should help OCC to safeguard securities and funds in OCC's custody or control.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–97–05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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[5] 17 CFR 1.3(d).

[6] Paragraph (c) of Rule 303 currently provides that an exempt non-U.S. clearing member must notify OCC promptly of any violation on its part of the rules or regulations of its non-U.S. regulatory agency or any notice received from such agency that alleges a violation of such rules or regulations, informs the non-U.S. clearing member that it may violate such rules or regulations, or informs the non-U.S. clearing member that it has triggered any provision relating to early warning notices contained in such rules or regulations.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39744; File No. SR–PHLX–98–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. to Amend its Examination Fees to Pass Through Costs

March 11, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 17, 1998, 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 self-regulatory organization (''SRO''). 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, pursuant to Rule 19b–4,[2] proposes to amend its examination fee to include a provision which will allow the Phlx to pass through to a member or participant organization the costs incurred from contracting with another SRO to conduct an examination on behalf of the Phlx. The text of the proposed rule change is available at the Office of the Secretary, the Phlx or at the Commission.

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 SRO 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 SRO has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

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

1. Purpose

Pursuant to Section 17(b) of the Act,[3] the Exchange administers its examination program, which requires broker-dealers designated to an SRO to be examined for compliance with applicable financial responsibility rules on a periodic basis. The Exchange conducts reviews of organizations for which the Exchange is the Designated Examining Authority. The reviews focus on an organization's compliance with applicable financial and recordkeeping requirements including net capital, books and records maintenance, Regulation T and financial reporting requirements. Effective January 1, 1995, the Phlx adopted a $1,000 per month examination fee applicable to member and participant organizations for which the Phlx acts as a Designated Examining Authority.[4] The fee was adopted due to the substantial expense and time involved in conducting a proper examination of the member firms.[5]

In the past, the Exchange has entered into agreements with other SROs to conduct examinations of firms that are solely members of the Phlx.[6] The Exchange may contract with another SRO to perform an examination for various reasons, such as the location of the firm or where the type of business in which the firm is engaged may be more suited to another SRO's area of expertise. Generally, the Exchange only enters into such agreements where the firm designated to the Phlx has a retail customer base. Certain SROs have the resources and the expertise to examine firms that carry out customer accounts. Therefore, those SROs have a higher degree of experience in examination requirements pertinent to carrying customer accounts (e.g., sales practices, reserve and possession/control requirements).

However, these arrangements typically require that the Phlx pay 2.5 times the median salary for examiners and supervisors of the contracted SRO, resulting in a significant cost to the Exchange. Therefore, in the event that the Phlx determines to refer an examination to another SRO, the proposal would allow the Exchange to collect its costs directly from the member or participant organization. Members who are required to pay the pass through costs of an examination would not be required to pay the $1,000 examination fee charged to those members for which the Exchange conducts the examination.

2. Statutory Basis

The Exchange represents that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(4)[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among the Exchange's members and other persons using its facilities.

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

The foregoing rule change constitutes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and subparagraph (e)(2) of Rule 19b–4 thereunder.[10]

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. 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 at 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 submissions should refer to File No. SR–Phlx–98–11 and should be submitted by April 8, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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[3] 15 U.S.C. § 78q(b).

[4] *See* Securities Exchange Act Release No. 35091 (December 12, 1994), 59 FR 65558 (December 20, 1994) (SR–PHLX–94–66).

[5] There are a number of exemptions to the fee including, inactive organizations, organizations that operate from the trading floors, organizations that incur Phlx or Stock Clearing Corporation transaction fees on a monthly basis and organizations affiliated with an exempt active organization. Any organization that can demonstrate that it has derived at least 25% of its revenues in a calendar quarter from floor trading activity will be deemed to be ''operating from the trading floors'' and therefore, is exempt from the $1,000 per month examination fee. *See* Securities Exchange Act Release No. 38416 (March 18, 1997), 62 FR 14176 (March 25, 1997) (SR–PHLX–97–10).

[6] These agreements are entered into pursuant to Rule 17d–2 under the Act. 17 CFR 240.17d–2.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(e)(2).

[11] 15 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–98–3553]

Marine Transportation System: Waterways, Ports, and Their Intermodal Connections

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings; request for comments.

SUMMARY: The Coast Guard and the Maritime Administration, together with several other federal agencies, are holding seven two-day regional listening sessions to receive information concerning the current state and future needs of the U.S. marine transportation system—the waterways, ports, and their intermodal connections. This notice announces the dates and locations of the remaining six listening sessions. These listening sessions are a first step in developing a customer-based strategy to work together to ensure waterways,