

(ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, as amended, 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. Please include File Number SR-NYSE-2004-43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-NYSE-2004-43. 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-NSYE-2004-43 and should be submitted on or before September 23, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-2038 Filed 9-1-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50276; File No. SR-PHLX-2004-55]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to NASDAQ-100 Index Tracking StockSM Equity Transaction Charges

August 26, 2004.

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 August 13, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and at the same time is granting accelerated approval of the proposed rule change.

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

The Phlx proposes to retroactively apply its amended schedule of fees and charges to replace the tiered equity transaction charges with a single per share charge for equity transactions from July 1, 2004 through July 30, 2004.³

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange filed a proposed rule change, Securities Exchange Act Release No. 50106 (July 28, 2004), 69 FR 47197 (August 4, 2004) (SR-PHLX-2004-40), which amended the Summary of Equity Charges portion of the fee schedule by replacing the total shares per transaction charge with a single per share charge. The NASDAQ-100 Index Tracking StockSM fee schedule, which contains a duplicate tiered fee schedule as contained in the Summary of Equity Charges, was inadvertently omitted from that filing. This filing seeks to amend the replicated tiered fee schedule which is displayed in the NASDAQ-100 Index Tracking StockSM in the same fashion as it was amended in the Summary of Equity Charges portion of the fee schedule for the period July 1 through July 30, 2004. The Exchange has filed a proposed rule change, SR-PHLX-2004-52, designated as effective upon filing, to cover QQQSM transactions on or after August 2, 2004. See Securities Exchange Act Release No. 50174 (August 10, 2004), 69 FR 51137 (August 17, 2004).

in NASDAQ-100 Index Tracking StockSM (known as QQQSM).⁴ Below is the text of the proposed rule change. Proposed new language is in *italics*; deletions are in brackets.

* * * * *

NASDAQ-100 INDEX TRACKING STOCKSM FEE SCHEDULE

Phlx Fee Schedule	
Customer	
PACE	none ⁵
Non-PACE.	
Transaction	\$.0035 per share
[Charge] Fee.	[Rate per Share]
[First 500 shares	\$0.00
Next 2,000 shares	0.0075
Remaining shares ..	0.005]
\$50 maximum fee	
per trade side..	

⁵ 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 ITS 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.

* * * * *

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 its proposal and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item III 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 the proposed rule change is to remain competitive and

⁴ Nasdaq-100®, Nasdaq-100 Index®, Nasdaq®, The Nasdaq Stock Market®, Nasdaq-100 SharesSM, Nasdaq-100 TrustSM, Nasdaq-100 Index Tracking StockSM and QQQSM are trademarks or service marks of The Nasdaq Stock Market, Inc. ("Nasdaq") and have been licensed for use for certain purposes by the Philadelphia Stock Exchange pursuant to a License Agreement with Nasdaq. The Nasdaq-100 Index® ("Index") is determined, composed and calculated by Nasdaq without regard to the Licensee, the Nasdaq-100 TrustSM, or the beneficial owners of Nasdaq-100 SharesSM. Nasdaq has complete control and sole discretion in determining, comprising or calculating the Index or in modifying in any way its method for determining, comprising or calculating the Index in the future.

foster growth of the equity floor brokerage business by seeking to increase volume. This proposal seeks to retroactively replace the current tiered fee schedule for non-PACE NASDAQ-100 Index Tracking StockSM trades with a single per share charge of \$.0035, subject to a cap of \$50 per trade side for equity transactions traded from July 1, 2004 through July 30, 2004.⁵ Previously, the tiered fee schedule was based on total shares per transaction. Recently, the Exchange's other equity transaction charges, with the exception of the NASDAQ-100 Index Tracking StockSM, were replaced with a single per share charge of \$.0035.⁶

For trades prior to August 2, 2004, the NASDAQ-100 Index Tracking StockSM used the same tiered fee schedule as was previously present in the Summary of Equity Charges fee schedule.⁷ For example, for the first 500 shares the transaction fee is \$0, for the next 2,000 shares the transaction fee is \$.0075 on a per share basis, and thereafter, for any remaining shares the transaction fee is \$.005 on a per share basis. This proposal would amend the fee schedule to a single per share charge of \$.0035 for such transactions traded from July 1, 2004 through July 30, 2004, thereby conforming the fees to the Summary of Equity Charges, which were likewise amended to reflect this change.⁸

In addition, the term "charge" is being replaced with the term "fee" for the purpose of clarity.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with Section 6(b) of the Act⁹ in general, and furthers the objectives of Section 6(b)(4)

of the Act¹⁰ in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members and would allow the equity floor to remain competitive and encourage growth.

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

The Phlx 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 Phlx states that no written comments were either solicited or received.

III. 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. Please include File Number SR-PHLX-2004-55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-PHLX-2004-55. 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 the 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-2004-55 and should be submitted on or before September 23, 2004.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change as a Pilot Program

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹¹ Specifically, the Commission believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹² which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

The Commission notes that this proposal, which permits the retroactive application of non-PACE NASDAQ-100 Index Tracking StockSM equity transaction charges to the period from July 1, 2004 through July 30, 2004, reflects a change to the Phlx fee schedule which was inadvertently omitted from the filing exhibit of SR-PHLX-2004-40.¹³ Further, the Commission notes that the Phlx states that the Exchange membership was provided with adequate notification of this fee amendment.

The Commission finds good cause for approving the proposed rule change prior to the 30th day of the date of publication of notice of filing thereof in the **Federal Register**. The Commission notes that the proposed charges are substantially similar to those in SR-PHLX-2004-40, relating to equity transaction charges generally, and SR-PHLX-2004-52, relating to non-PACE NASDAQ-100 Index Tracking StockSM equity transaction charges specifically, both filings of which were immediately

⁵ 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 ITS 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. See footnote 5 of the NASDAQ-100 Index Tracking StockSM Fee Schedule.

⁶ The exclusion of the NASDAQ-100 Index Tracking StockSM was inadvertent. See *supra* footnote 3.

⁷ The fee is charged only to members of the Phlx. Telephone conversation between Angela Saccomandi Dunn, Counsel, Phlx, and David Liu, Attorney, Division of Market Regulation ("Division"), Commission, on August 20, 2004. See Securities Exchange Act Release Nos. 50106 (July 28, 2004), 69 FR 47197 (August 4, 2004) (SR-PHLX-2004-40); and 50174 (August 10, 2004), 69 FR 51137 (August 17, 2004) (SR-PHLX-2004-52).

⁸ Telephone conversation between Angela Saccomandi Dunn, Counsel, Phlx, and David Liu, Attorney, Division, Commission, on August 20, 2004. See Securities Exchange Act Release No. 50106 (July 28, 2004), 69 FR 47197 (August 4, 2004) (SR-PHLX-2004-40).

⁹ 15 U.S.C. 78f(b).

¹⁰ 15 U.S.C. 78f(b)(4).

¹¹ The Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78f(b)(4).

¹³ See Securities Exchange Act Release No. 50106 (July 28, 2004), 69 FR 47197 (August 4, 2004) (SR-PHLX-2004-40).

effective upon filing and which, as of August 24, 2004, have not received any comments regarding the proposed transaction charges.¹⁴ In addition, except for the first 500 shares of a transaction, the proposed charges would lower fees charged for non-PACE NASDAQ-100 Index Tracking StockSM transactions. Finally, the Commission notes that this change will promote consistency in the Exchange's fee schedule by conforming the non-PACE NASDAQ-100 Index Tracking StockSM equity transaction charge to the Phlx's equity transaction charges generally for the period from July 1, 2004 through July 30, 2004. Therefore, the Commission finds that there is good cause, consistent with Section 19(b)(2) of the Act,¹⁵ to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (File No. SR-PHLX-2004-55) be approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. E4-2020 Filed 9-1-04; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3617]

State of California

Shasta County and the contiguous counties Lassen, Modoc, Plumas, Siskiyou, Tehama, and Trinity in the State of California constitute a disaster area as a result of two wildland fires known as the Bear Fire and the French Fire. The fires began on August 11, 2004 and continue to burn. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 25, 2004 and for economic injury until the close of business on May 25, 2005 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, PO Box 419004, Sacramento, CA 95841-9004.

¹⁴ See Securities Exchange Act Release Nos. 50106 (July 28, 2004), 69 FR 47197 (August 4, 2004) (SR-PHLX-2004-40); and 50174 (August 10, 2004), 69 FR 51137 (August 17, 2004) (SR-PHLX-2004-52).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.375
Homeowners without credit available elsewhere	3.187
Businesses with credit available elsewhere	5.800
Businesses and non-profit organizations without credit available elsewhere	2.900
Others (including non-profit organizations) with credit available elsewhere	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	2.900

The number assigned to this disaster for physical damage is 361705 and for economic damage is 9ZQ200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: August 25, 2004.

Hector V. Barreto,
Administrator.

[FR Doc. 04-20019 Filed 9-1-04; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Public Notice 4811]

Culturally Significant Objects Imported for Exhibition Determinations: "Dukes and Angels: Art From the Court of Burgundy (1364-1419)"

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Dukes and Angels: Art from the Court of Burgundy (1364-1419)" imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at The Cleveland Museum of Art, Cleveland, Ohio, from on or about October 24, 2004 to on or about January 9, 2005, and at

possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr R. Sulzysky, the Office of the Legal Adviser, Department of State, (telephone: 202/619-5078). The address is: Department of State, SA-44, and 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: August 25, 2004.

C. Miller Crouch,
Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04-20041 Filed 9-1-04; 8:45 am]

BILLING CODE 4710-08-P

DEPARTMENT OF STATE

[Public Notice 4810]

Culturally Significant Objects Imported for Exhibition Determinations: "Tiwanaku: Ancestors of the Inca"

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition "Tiwanaku: Ancestors of the Inca," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners. I also determine that the exhibition or display of the exhibit objects at the Denver Art Museum, Denver, CO, from on or about October 16, 2004, to on or about January 23, 2005, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Julianne Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: (202) 619-6529). The