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 Section, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at *http://www.ficc.com/gov/gov.docs.jsp?NS-query=*. All submissions should refer to File No. SR–FICC–2004–03 and should be submitted by April 1, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–5552 Filed 3–10–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49368; File No. SR–MSRB–2004–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Interpretation of Rules G–37, on Political Contributions and Prohibitions on Municipal Securities Business, and G–38, on Consultants

March 5, 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 February 25, 2004, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB has filed with the SEC a proposed rule change consisting of a notice of interpretation concerning Rules G–37, on political contributions and prohibitions on municipal securities business, and G–38, on consultants. The text of the proposed rule change is set forth below.

* * * * *

Questions and Answers: Rule G–37

1.

Q. Are dealers required to identify the type of contributor (*i.e.* dealer, dealer controlled PAC, MFP, MFP controlled PAC, or non-MFP executive officer) when completing Form G–37/G–38?

A. Yes. Rule G–37 (e)(i)(2) requires dealers to report to the Board on its Form G–37/G–38 the contribution or payment amount made *and* the contributor category of each of the following persons and entities making such contributions or payments during each calendar quarter: the broker, dealer or municipal securities dealer; each municipal finance professional; each non-MFP executive officer; and each political action committee controlled by the broker, dealer or municipal securities dealer or by any municipal finance professional. It is not sufficient to list contributors as ''employee'' or ''registered representative.'' For each contribution listed on the Form G–37/G–38, one of the specified contributor categories must be identified.

2.

Q. How should contributions to officials of issuers who are seeking federal office be reported on Form G–37/G–38?

A. Under Rule G–37, contributions given to officials of issuers who are seeking election to federal office, such as the U.S. House of Representatives, Senate or the Presidency, must be reported on the dealer's quarterly Form G–37/G–38 unless they meet the *de minimis* exception. When reporting these contributions, dealers must report information identifying the issuer official. Firms may additionally report information identifying the federal office sought. For example, if a sitting Governor of a state were running for a seat in the U.S. House of Representatives, and the Governor is an ''official of an issuer,'' the form must list the state where the official is serving as Governor, and the Governor's complete name and title. Dealers may also report the federal office sought by the issuer official.

Questions and Answers: Rule G–38

1.

Q: Pursuant to Rule G–38, what information is a dealer required to disclose regarding money paid to its consultants?

A: Rule G–38 requires that dealers disclose information relating to money paid to consultants in three separate areas on Form G–37/G–38. These disclosures relate to the consultant's compensation arrangement, dollar amounts paid to the consultant in connection with specific municipal securities business, and the total dollar amount paid to the consultant during the reporting period.

Dealers should describe their consultants' ''compensation arrangements'' clearly and with as much specificity as possible. The arrangement should correlate with the information reported on the form concerning the ''total dollar amount paid'' to the consultant during the reporting period. It is not sufficient to disclose a compensation arrangement in vague or generalized terms, such as ''a monthly retainer not related to any specific transaction,'' ''a percentage of net revenues received for transactions with xyz issuer,'' or ''a percentage of management fees and takedown from specified transactions.'' Dealers must report information on their consultants' compensation arrangements with specificity, for example, by providing the dollar amount of the monthly retainer or the numeric formulations used to calculate compensation. Dealers should also provide the dollar amount or numeric formulations used to calculate success fees, discretionary bonuses, and similar payments made or to be made to consultants. For example, it is not sufficient to report that a discretionary bonus or success fee will be ''equal to a percentage of the net investment banking fees received on certain transactions.'' Rather, the dealer should disclose the fee or payment as a *specific* (numeric) percentage of profits.

Dealers also are required to disclose on Form G–37/G–38 information relating to ''municipal securities business obtained or retained'' by the consultant. This section of the form requires the dealer to list each item of business separately and, if applicable, to indicate the dollar amount paid to the consultant in connection with each item of municipal securities business listed. Dealers are reminded to list the relevant municipal securities business obtained or retained in this section of Form G–37/G–38 even if payments were not paid to the consultant in connection with the listed municipal securities business during that quarter.

Finally, dealers are required to disclose on Form G–37/G–38 information relating to ''total dollar amounts paid to the consultant during the reporting period.'' The dealer must report the cumulative total of *all* payments made to its consultant during the particular quarter. Such payments include compensation paid for that quarter (including reimbursed expenses)

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and the total dollar amounts paid, if any, in connection with particular municipal securities business (including discretionary bonuses, success fees or similar payments). The dealer also should report any payments made to its consultant even if such payments were *not* made in connection with a particular item of municipal securities business.

For additional guidance in this area, please review Q&A number 2 (dated November 18, 1996) in the MSRB Rule Book following Rule G–38; this Q&A can also be found on the MSRB's Web site at *http://www.msrb.org/msrb1/rules/notg38.htm.*

2.

Q: If a consultant obtains municipal securities business in one quarter, and the dealer pays the consultant in connection with that business during a subsequent quarter, how should the dealer disclose this information on its Form G–37/G–38?

A: The dealer should disclose on its Form G–37/G–38 in the ''municipal securities business obtained or retained'' section the municipal securities business obtained or retained by its consultant during the relevant quarter whether or not payments connected with that business were made during that quarter. If the dealer subsequently makes a payment to the consultant in connection with that particular business, the dealer should disclose that payment in the ''municipal securities business obtained or retained'' section for the quarter in which such payment was made and should indicate in this section that the business was previously disclosed and the quarter for which it was disclosed (*e.g.*, second quarter 2003). For additional guidance, please review Q&A number 14 (dated February 28, 1996) in the MSRB Rule Book following Rule G–38; this Q&A can also be found on the MSRB's website at *http://www.msrb.org/msrb1/rules/notg38.htm.*

3.

Q: If a dealer has a continuing relationship with a consultant, is the dealer required to list the consultant on its Form G–37/G–38 for each quarterly reporting period even if the dealer did not pay the consultant any compensation and/or the consultant did not undertake any affirmative efforts on behalf of the dealer to obtain or retain municipal securities business during that quarter?

A: Yes, the dealer must continue to list the consultant and disclose the required consultant information for each quarterly reporting period during which there is a continuing relationship even if the consultant received no compensation or other payment from the dealer, and even if the consultant did not undertake any affirmative efforts on behalf of the dealer to obtain or retain municipal securities business.

4.

Q: Under the section of Form G–37/G–38 entitled ''Role to be Performed by Consultant,'' is a dealer required to list the geographic area or areas where the consultant is working on the dealer's behalf?

A: Yes, the dealer must specifically list each state or geographic area where the consultant is working on behalf of the dealer. For additional guidance in this area, please review Q&A number 1 (dated November 18, 1996) in the MSRB Rule Book following Rule G–38; this Q&A can also be found on the MSRB's Web site at *http://www.msrb.org/msrb1/rules/notg38.htm.*

* * * * *

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 MSRB 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 MSRB 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

In reviewing the Forms G–37/G–38 submitted by brokers, dealers and municipal securities dealers (collectively ''dealers''), the MSRB has found that some dealers are not providing the level of detail in the information they disclose as required by Rules G–37 and G–38.

With respect to Rule G–37, some dealers are not correctly identifying the category of contributor on Form G–37/G–38. For example, some dealers will note that an ''employee'' made a contribution instead of a municipal finance professional (''MFP'') or non-MFP executive officer. Also, in some instances where an issuer official is running for federal office (*e.g.*, a state governor running for a seat in the U.S. House of Representatives), firms sometimes note the federal race but not the fact that the candidate currently is an issuer official. The proposed rule change reminds dealers that Rule G–37 requires identification of the contributor category when listing contributions and clarifies how to correctly identify to whom the contribution is made when contributing to issuer officials running for Federal office.

With respect to Rule G–38, the MSRB believes that dealers should be describing their consultants' compensation arrangements and other payments in clear and unequivocal terms, with as much specificity as possible; providing vague or generalized descriptions is not sufficient and does not provide any means to ascertain the dollar amounts paid to consultants. Dealers must provide specific dollar amounts or the specific percentage of formulations used to calculate success fees, discretionary bonuses, and similar payments made or to be made to consultants. In addition, Rule G–38 requires that dealers disclose the state or geographic area where the consultant is working on behalf of the dealer. The proposed rule change clarifies dealers' disclosure obligations concerning, among other things, compensation arrangements with consultants, payments made to consultants that are connected to specific municipal securities business, total quarterly payments made to consultants, and specific geographic areas where a consultant is working on behalf of a dealer.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Section 15B(b)(2)(C) of the Act,[3] which authorizes the MSRB to adopt rules that shall:

> be designed to prevent fraudulent and manipulative acts and practices, 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 municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act in that it provides guidance to dealers that will facilitate their understanding of, and compliance with, existing MSRB rules.

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

The MSRB does not believe that the proposed rule change will impose any

[3] 15 U.S.C. 78o–4(b)(2)(C).

burden on competition not necessary or appropriate in furtherance of the purposes of the Act since it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

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

The MSRB has designated this proposed rule change as constituting a stated policy, practice or interpretation with respect to the meaning, administration or enforcement of an existing MSRB rule under Section 19(b)(3)(A) of the Act,[4] which renders the proposed rule change effective upon filing with the Commission.

At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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.[5]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–MSRB–2004–01. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 MSRB's offices. All submissions should refer to file number SR–MSRB–2004–01 and should be submitted by April 1, 2004.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–5551 Filed 3–10–04; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78s(b)(3)(A).

[5] *See* 15 U.S.C. 78s(b)(3)(C).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49362; File No. SR–Phlx–2004–15]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Modifications to the Fee Schedule To Delete Obsolete Fees and Clarify Language

March 4, 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 February 13, 2004, 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 Phlx. On February 27, 2004, the Phlx amended its proposal.[3] The Exchange filed the proposed rule change under paragraph (f)(2) of Rule 19b–4 under the Act.[4] 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 its schedule of dues, fees and charges (''fee schedule''), as described in detail below, to more accurately reflect charges that are currently imposed by the Exchange on its members. No new dues, fees and charges are being imposed pursuant to this proposed rule change.

The Exchange proposes to delete in their entirety, all charges relating to: (1) ''Summary of Value Line Index Option Charges'' and (2) the ''eVWAP Fee Schedule.'' Additionally, the Exchange proposes to delete from Appendix A of its fee schedule references to the ''Option Mailgram Service'' and ''Quotron Equipment.'' The Phlx also proposed to revise the ''Summary of Equity Charges'' portion of the fee schedule. The proposed rule change would delete the reference to ''Remaining shares, $0.004'' that appears on the last line under the Equity Transaction Charge and, instead, the term ''Remaining shares'' will replace the language that appeared on the transaction fee line that read ''Next 7,500.''[5] The Phlx would make this change to indicate that all remaining shares that are not subject to the $0.0075 equity transaction charge are subject to the $0.005 equity transaction charge, subject to the $50 maximum. The text of the proposed rule change, as amended, is available at the Phlx and 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 Phlx 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 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 make minor modifications to the Exchange's fee schedule to more accurately reflect the charges currently imposed by the Exchange and delete obsolete fees. Both the ''Option Mailgram Service'' fee and the ''Quotron Equipment'' fee are no longer charged by the Exchange; this service and equipment are no longer offered. In addition, eVWAP and Value Line Index

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Angela Saccomandi Dunn, Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated February 26, 2004 (''Amendment No. 1''). In Amendment No. 1, Phlx replaced Exhibit 2 to its Form 19b–4.

[4] 17 CFR 240.19b–4(f)(2).

[5] Applying the amount of $0.004 to the remaining shares is unnecessary, because the $50.00 maximum fee per trade side is reached before the $0.004 can apply.