

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66097; File No. SR-Phlx-2011-149)

January 4, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving Proposed Rule Change to Delete Exchange Rule 795 “Member Officer or Director”

I. Introduction

On November 3, 2011, NASDAQ OMX PHLX LLC (“Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² a proposed rule change to delete Exchange Rule 795 “Member Officer or Director.” The proposed rule change was published in the Federal Register on November 21, 2011.³ The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of Proposal

The Exchange proposes to delete current Exchange Rule 795 “Member Officer or Director.” Exchange Rule 795 provides that a member of the Exchange shall not be an officer or director of, or own or control, directly or indirectly, a substantial interest in a corporation engaged in the securities business which is not a member organization of the Exchange, except with the written permission of the Exchange.

III. Commission Findings and Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act,⁴ and the rules and regulations thereunder

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 65745 (November 14, 2011), 76 FR 72018.

⁴ 15 U.S.C. 78f.

applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁵ which requires, among other things, that the rules of the exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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.⁶

The Exchange represented that Exchange Rule 795 was adopted prior to the Exchange's demutualization in 2004 and that, prior to demutualization there may have been an interest in the Exchange being notified of, and approving, a member's role in another entity. The Exchange further represented that it has not utilized Exchange Rule 795 in over 10 years and does not believe that the Exchange should be in a position to control an Exchange member's role in another entity.

The Commission believes that the proposal should clarify the Exchange's rulebook by removing an outdated and unused rule. Further, the Commission believes that deletion of Exchange Rule 795 could allow Exchange members to conduct transactions with regard to other corporations engaged in the securities business which are not Exchange member organizations more expeditiously. Accordingly, the Commission finds that the proposal would promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market, and is consistent with the requirements of the Act.

⁵ 15 U.S.C. 78f(b)(5).

⁶ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

IV. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-Phlx-2011-149) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Kevin M. O'Neill
Deputy Secretary

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).