

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-66497; File No. SR-Phlx-2012-23)

March 1, 2012

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing of Proposed Rule Change to Amend Registration and Qualification Requirements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b-4² thereunder, notice is hereby given that on February 16, 2012, NASDAQ OMX PHLX LLC (“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 Exchange. 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 proposes to delete Rule 604 as well as amend and adopt several new rules governing the registration and qualification of members and persons associated with³ member organizations, as described below. The text of the proposed rule change is available on the Exchange’s Website at <http://www.nasdaqtrader.com/micro.aspx?id=PHLXRulefilings>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The term “associated person” or “person associated with” a member organization means any partner, officer, director, or branch manager of an Exchange member organization or applicant (or person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such member organization or applicant, or any employee of such member or applicant, except that any person associated with a member organization or applicant whose functions are solely clerical or ministerial shall not be included in the meaning of such term for purposes of the Exchange Rules. See Rule 1(b).

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 Exchange 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 Exchange 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 strengthen the Exchange's current registration provisions in a number of ways. In 2010,⁴ in connection with the Exchange's proposal to launch the Exchange's equity trading platform for NMS Stocks, NASDAQ OMX PSX ("PSX"),⁵ the Exchange amended Rule 604 to adopt paragraph (h) to govern the registration of representatives and Supplementary Material .04 to Rule 604 regarding the specific category of such registration. In addition, with respect to principal registration, the Exchange adopted paragraph (g), Principal Registration, and Supplementary Material .01 - .03 governing the specific categories of principal registration, to require that every member organization covered by those rules have at least two registered principals as well as a Financial/Operations Principal. The Exchange also adopted paragraph (i) to establish which persons are exempt from registration. These provisions became applicable only to PSX users pursuant to paragraph (f). In that filing, the Exchange stated:

⁴ See Securities Exchange Act Release No. 62776 (August 26, 2010), 75 FR 53727 (September 1, 2010)(SR-Phlx-2010-91).

⁵ See Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010)(SR-Phlx-2010-79).

“The Exchange intends to separately revise its registration and qualification rules related to activity other than business conducted on PSX, including its options business. The Exchange understands that other self-regulatory organizations are expected to adopt a framework that requires more fulsome registration and qualification requirements clearly spelled out in rules. The Exchange supports the Commission’s commitment to ensure that such rules are adopted by all self-regulatory organizations on a consistent basis.”

Accordingly, the Exchange is now proposing to extend the principal and representative registration requirements of Rule 604(g) and (h) to all members, member organizations and associated persons by adopting Rules 611-616 to replace Rule 604. As a result of the new registration requirements, additional persons will become subject to the Exchange’s continuing education requirement in Rule 640.

Background and Current Requirements

Currently, Rules 604(a)-(e) apply to all member organizations and generally require the Series 7 examination for Registered Representatives,⁶ off-floor traders⁷ and persons compensated directly or indirectly for the solicitation or handling of business in securities who are not otherwise required to register with the Exchange by Rule 604(a).⁸ Furthermore, Rule 604(f) provides that members and persons associated with member organizations that are registered with the Exchange for the purpose of trading NMS Stocks⁹ through the facilities of the Exchange, which is the PSX platform, are subject to the provisions of Rule 604(g) and (h)

⁶ See Rule 604(a).

⁷ See Rule 604(e).

⁸ See Rule 604(d).

⁹ See Rule 1(t).

governing principal and representative registration, respectively. Thus, these provisions currently cover members that trade on PSX, and are substantially similar to the rules of The NASDAQ Stock Market LLC (“NASDAQ”), Financial Industry Regulatory Authority (“FINRA”) and NASDAQ OMX BX, Inc. (“BX”) requiring PSX users to register and qualify representatives and principals with the Exchange in accordance with such rules.

Proposal

The Exchange is proposing to extend the current principal requirement beyond PSX users to include all member organizations, including those who trade options. This more extensive principal requirement will be embodied in new Rules 611 and 612, which are substantially similar to current Rule 604(g) and Supplementary Material .01 - .03.

In connection with strengthening its registration rules, the Exchange is proposing to reorganize and renumber its registration rules to better align with those of NASDAQ and FINRA, albeit within its own rule numbering structure. The following summarizes the new rule numbering structure:

Current		New	
Phlx	Topic	Phlx	NASDAQ
Rule #		Rule #	Rule #
604(g)	Principal Registration	611	1021
604.01-.03	Categories of Principal Registration	612	1022
604(h)	Representative Registration	613	1031
604.04	Categories of Representative Registration	613	1032
604(i)	Persons Exempt from Registration	614	1060
604(j)	Waiver	615	1070(d)
None	Electronic Filing	616	1140

Representative Registration

Rule 604(h) currently governs the registration of representatives¹⁰ with the Exchange; specifically, Rule 604(h)(1) requires that all persons engaged or to be engaged in the investment banking or securities business¹¹ of a member organization who are to function as representatives shall be registered as such with the Exchange through WebCRD¹² in the category of registration appropriate to the function to be performed as specified in Supplementary Material .04 of Rule 604. Before their registration can become effective, they shall pass the Series 7 examination. Rule 604(h) is applicable today only to PSX users pursuant to Rule 604(f).

The provisions currently contained in Rule 604(h) are proposed to be moved to new Rule 613, Representative Registration, in substantially the same form, except with respect to trading floor personnel subject to Rule 620. Specifically, new Rule 613(a) will expressly state that, except members whose activities are limited to the Exchange's options trading floor and who are registered pursuant to Rule 620(a) as well as associated persons whose activities are limited to the Exchange's options trading floor and are registered pursuant to Rule 620(b), all persons

¹⁰ The term "representative" is defined in Rule 1 as a member or an associated person of a registered broker or dealer, including assistant officers other than principals, who is engaged in the investment banking or securities business for the member organization including the functions of supervision, solicitation or conduct of business in securities or who is engaged in the training of persons associated with a broker or dealer for any of these functions. To the extent provided in Rule 604, all representatives are required to be registered with the Exchange, and representatives that are so registered are referred to herein as "Registered Representatives." See Rule 1(cc).

¹¹ The term "investment banking or securities business" means the business, carried on by a broker or dealer, of underwriting or distributing issues of securities, or of purchasing securities and offering the same for sale as a dealer, or of purchasing and selling securities upon the order and for the account of others. See Rule 1(m). Of course, the federal securities laws may require broker-dealers to become members of the FINRA in order to perform some of these functions. See e.g., 15 U.S.C. 78o(b)(8).

¹² WebCRD is FINRA's automated Central Registration Depository.

engaged or to be engaged in the investment banking or securities business of a member organization who are to function as representatives shall be registered as such with the Exchange through WebCRD in the category of registration appropriate to the function to be performed as specified in Rule 613(e). This is the only change to the language currently in Rule 604(h) that is being moved to new Rule 613.

Accordingly, trading floor personnel will continue to be required to register pursuant to Rule 620, in lieu of new Rule 613,¹³ such that trading floor personnel will not be required to successfully complete the Series 7 examination, as long as their activities are limited to the trading floor. The Exchange believes that it is appropriate to permit trading floor members and associated persons to operate pursuant to a registration and qualification framework tailored to their specific functions. These functions include handling and executing electronic and phoned-in orders on the trading floor, as well as providing markets, both verbally and electronically. Members on the trading floor will continue to be subject to the Exchange's Trading Floor Qualification Examination in lieu of the Series 7, which the Exchange believes is appropriate because the examination focuses on the rules and procedures most applicable to floor members.¹⁴ For example, there are questions regarding the quoting obligations of Rule 1014(b), crossing orders pursuant to Rule 1064, and Floor Broker obligations in Rule 1063.

Respecting trading floor members, Rule 620 requires registration on Form U4 through WebCRD. Rule 620 will now require all trading floor personnel, including clerks, interns and any other associated persons, of a member organization not required to register pursuant to Rule 620(a) to register on Form U4 through WebCRD. Accordingly, the same registration

¹³ However, trading floor personnel and members on the trading floor will be subject to new principal registration requirements, as described below.

¹⁴ The Exchange recently revised this examination. See Securities Exchange Act Release No. 63603 (December 22, 2010), 75 FR 82419 (December 30, 2010)(SR-Phlx-2010-180).

information will be available electronically within WebCRD for trading floor members and associated persons as is available for persons registered as General Securities Representatives.

In terms of the actual category of registration that applies, currently, Supplementary Material .04 to Rule 604, titled Categories of Representative Registration - General Securities Representative, contains the basic requirement¹⁵ that each member and each person associated with a member organization who is included within the definition of a representative in Rule 1(cc) is required to register with the Exchange as a General Securities Representative and shall pass the Series 7 examination before such registration may become effective. The appropriate registration category on WebCRD is “GS.” This provision is not changing, and was intended to capture traditional securities personnel in a rule similar to that of several other SROs.¹⁶ The Exchange continues to believe that this provision is broad and should not generate gaps that permit a member organization to operate differently than under the registration rules of BX, NASDAQ or FINRA. The Exchange proposes to move the provisions of Rule 604(h) into Rule 613 and Supplementary Material .04 of Rule 604 into Rule 613(e). The Exchange believes that it is clearer to place the “registered representative” requirement and category of registration all in one rule, even though that differs from the FINRA and NASDAQ rules slightly.

The Exchange also proposes to adopt a new limited category of representative registration as Rule 613(f). The Exchange has been working with other exchanges and FINRA to develop a registration category and qualification examination for proprietary traders in lieu of the Series 7, which is now available through WebCRD. Accordingly, the Exchange proposes to

¹⁵ This provision is the same as BX Rule 1032.

¹⁶ See e.g., BX Rules 1031 and 1032, NASDAQ Rules 1031 and 1032, and NASD Rules 1031 and 1032.

recognize the new registration category, Proprietary Trader, and related examination, the Series 56,¹⁷ and to incorporate it into Rule 613(f), subject to filing the Series 56 content outline with the Commission.¹⁸ The Exchange intends to file the Series 56 content outline with the Commission shortly.¹⁹ Proposed Rule 613(f) would provide that members and associated persons engaged solely in proprietary trading, market making or effecting transactions on behalf of a broker-dealer account may register instead as a Proprietary Trader and pass the Series 56 examination.²⁰ The term “persons engaged in effecting transactions on behalf of a broker-dealer account” is equivalent to persons engaged in proprietary trading or market making, because it covers persons who do not deal with the public. For example, this would include both Floor Brokers on the Exchange’s trading floor as well as persons performing brokerage functions off the trading floor (“upstairs”).²¹ The Exchange believes that the Series 56 helps ensure that such persons are qualified, because it addresses industry topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as a Proprietary Trader.

¹⁷ This new examination, the Series 56, would also serve as a prerequisite for a new principal registration category, which the Exchange would recognize; the Series 24 would be the appropriate examination for the new principal registration category, as described below.

¹⁸ See e.g., Securities Exchange Act Release No. 64699 (June 17, 2011)(SR-CBOE-2011-056).

¹⁹ The Exchange is also proposing that the Series 56 serve as a prerequisite to the Series 24, as described further below.

²⁰ See supra note 17.

²¹ This provision is the same as the provision in Chicago Board Options Exchange Incorporated (“CBOE”) rules which requires that an individual Permit Holder or associated person who effects transactions on behalf of a broker-dealer account register and pass the Series 56 examination. See CBOE Rule 3.6A, Interpretation and Policy .06.

The Exchange is proposing to delete Rule 604 in its entirety.²² With respect to paragraphs (a), (d) and (e), the Exchange believes that the requirements of new Rule 613 cover every person subject to registration as a representative and the Series 7 examination. The Exchange believes that Rule 613 is broader, because it is not limited to member organizations for which the Exchange is the designated examining authority (“DEA”) nor is it limited to specific categories of persons, such as Rule 604(e). In addition, the language of Rule 613 more closely aligns with the rules of FINRA and NASDAQ, which should facilitate compliance by broker-dealers. Thus, although Rule 604 is being deleted, the same persons will continue to be required to successfully complete the Series 7 examination and be registered as a “Registered Representative” on Form U4 through WebCRD. This proposal will extend the requirements of Rule 604(h) to all member organizations, whereas today Rule 604(h) only applies to member organizations registered to use PSX.²³

Principal Registration

With respect to principal registration on the Exchange, Rule 604(g)²⁴ currently provides that certain member organizations must register at least two principals with the Exchange,²⁵ unless an exception applies. The Exchange is proposing to adopt new Rule 611, Principal Registration, and to move the provisions of existing Rule 604(g) over into this new rule.

Accordingly, the principal registration rules will now apply beyond PSX users to all Phlx

²² The Exchange proposes to amend the following additional rules to replace references to Rule 604 with the new applicable rule number: Rule 1(cc), Rule 1090, Rule 3202, Equity Floor Procedure Advice (“EFPA”) A-7 and Options Floor Procedure Advice (“OFPA”) F-34. Rule 3202 will now refer to the applicability of Rules 611- 616 to PSX users.

²³ See Rule 604(f).

²⁴ This rule is similar to NASDAQ Rule 1021, BX Rule 1021 and NASD Rule 1021.

²⁵ All persons who engage in specified supervisory functions will be registered as principals. All principals are first required to register as and qualify as Representatives.

member organizations, with the addition of two new registration categories to satisfy the principal requirement: Registered Options Principal and Proprietary Trader Principal.

Phlx rules will require that each principal must successfully complete the General Securities Principal Examination (“Series 24”) and submit a Form U4 via WebCRD reflecting registration as such, using the category “GP,” unless a different category of principal registration applies to such person. Specifically, new Rule 611 will provide that all persons engaged or to be engaged in the investment banking or securities business of a member organization who are to function as principals shall be registered as such with the Exchange through WebCRD in the category of registration appropriate to the function to be performed as specified in Rule 612, Categories of Principal Registration, which replaces existing Supplementary Material .01 - .03 of Rule 604. Before their registration can become effective, they shall pass a qualification examination for principals appropriate to the category of registration. Persons associated with a member organization who are actively engaged in the management of the member organization's investment banking or securities business, including supervision, solicitation, conduct of business or the training of persons associated with a member organization for any of these functions are principals. Such persons shall include: sole proprietors, officers, partners, managers of offices of supervisory jurisdiction,²⁶ and directors of corporations. This requirement will now appear in Rule 611(b) and apply to all member organizations.

²⁶ The Exchange defined the term “office of supervisory jurisdiction” to mean any office of a member organization at which any one or more of the following functions take place: order execution and/or market making; structuring of public offerings or private placements; maintaining custody of customers' funds and/or securities; final acceptance (approval) of new accounts on behalf of the member organization; review and endorsement of customer orders; final approval of advertising or sales literature for use by persons associated with the member organization, pursuant to Rule 605, except for an office that solely conducts final approval of research reports; or responsibility for supervising the activities of persons associated with the member organization at one or

Rule 604(g)(5) currently requires at least two registered principals, which will now be contained in new Rule 611(e).²⁷ Specifically, an Exchange member organization, except a sole proprietorship, shall have at least two officers or partners who are registered as principals with respect to each aspect of the member organization's investment banking and securities business pursuant to the applicable provisions of Rule 611; provided, however, that a proprietary trading firm²⁸ with 25 or fewer registered representatives shall only be required to have one officer or partner who is registered as a principal. This exception to the two principal requirement is similar to that of several other exchanges and reflects that such firms do not necessitate the same level of supervisory structure as firms who have customers or larger firms. This exception is not changing and will now be in Rule 611(e)(i), applicable to all member organizations.²⁹

Rule 611(e)(ii) will provide, like Rule 604(g) currently does, that the Exchange may waive the two principal requirement in situations that indicate conclusively that only one person should be required to register as a principal. This provision is identical to that of several other

more other branch offices of the member organization. This definition is drawn from NASD Rule 3010. The Exchange is adopting the reference to this term in order to cover these managers in the new principal registration requirement. The Exchange is not, at this time, adopting a comprehensive program with regard to such offices, such as that found in NASD Rule 3010. See proposed Rule 611(b).

²⁷ All persons who engage in specified supervisory functions must be registered as Principals.

²⁸ The term “proprietary trading firm” means a member organization or applicant with the following characteristics: (A) the applicant is not required by Section 15(b)(8) of the Act to become a FINRA member but is a member of another registered securities exchange not registered solely under Section 6(g) of the Act; (B) all funds used or proposed to be used by the applicant for trading are the applicant's own capital, traded through the applicant's own accounts; (C) the applicant does not, and will not have customers; and (D) all Principals and Representatives of the applicant acting or to be acting in the capacity of a trader must be owners of, employees of, or contractors to the applicant. See proposed Rule 611(e)(i).

²⁹ Member organizations operating on the trading floor will be subject to the minimum “two principal” requirement, except to the extent that the “proprietary trading firm” exception permits certain firms to have one principal.

exchanges, and the Exchange believes that such waiver is appropriate in certain situations, but should be carefully applied; for example, the Exchange may determine to apply this provision to a very small firm, with only a few employees in one location.

To help determine how a person should register as a principal, Supplementary Material .01 - .03 to Rule 604 currently enumerates the three categories of principal registration. These categories will now be in new Rule 612. First, Rule 604.01, titled General Securities Principal, provides that each member or person associated with a member organization who is included within the definition of principal, and each person designated as a Chief Compliance Officer on Schedule A of Form BD shall be required to register with the Exchange as a General Securities Principal and shall pass the Series 24 examination before such registration may become effective, unless such person's activities are so limited as to qualify such person for one or more of the limited categories of principal registration specified in Rule 612.³⁰ The Exchange proposes to move these provisions of Rule 604.01 to new Rule 612(a), also titled General Securities Principal.

The Exchange also proposes to recognize two new principal registration categories. First, the Exchange proposes to adopt Rule 612(d) in order to permit Registered Options Principals to satisfy the principal registration requirements of Rule 611. Specifically, each member or person associated with a member organization who is included within the definition of principal, and each person designated as a Chief Compliance Officer on Schedule A of Form BD of a member organization may register as a Registered Options Principal and successfully complete the Series 4 examination, instead of registering as a General Securities Principal and successfully

³⁰ However, pursuant to Rule 604.01(c), a person registered solely as a General Securities Principal shall not be qualified to function as a FINOP or a Limited Principal – General Securities Sales Supervisor unless that person is also qualified and registered as such.

completing the Series 24 examination, if such person's activities are limited solely to options. Specifically, Rule 612(d) will provide that such person's supervisory responsibilities in the investment banking and securities business must be limited to the options activities of a member organization, that he or she must be registered pursuant to Exchange Rules as a General Securities Representative, that he or she is qualified to be so registered by passing the Series 4 examination, and that he or she shall not be qualified to function in a principal capacity with responsibility over any area of business activity other than the supervision of persons involved exclusively in options activity. The Exchange believes that the Registered Options Principal category is appropriate for a principal whose activities are limited solely to options.³¹ The Series 4 examination covers options-related topics, which should help ensure that principals whose activities are limited to options are properly qualified. Furthermore, Rule 1024 currently requires persons who supervise options sales practice activities to register as a Registered Options Principal; thus, the Exchange believes that some member organizations have already registered certain associated persons in this category, such that these persons could satisfy the new principal registration requirement for applicable firms.

Second, the Exchange proposes to recognize the new Proprietary Trader Principal category as a limited principal category in Rule 612(e). It would apply to persons whose supervisory responsibilities in the investment banking and securities business are limited to the activities of a member organization that involve proprietary trading, market making and effecting transactions on behalf of broker-dealers. It would require that he or she be registered pursuant to Exchange Rules as a Proprietary Trader, be qualified to be so registered by passing the Series 24 examination, and not function in a principal capacity with responsibility over any area of

³¹ This is similar to BATS Exchange, Inc. ("BATS") Rule 17.1(g).

business activity other than proprietary trading, market making and effecting transactions on behalf of broker-dealer accounts.

The Exchange has been working with other exchanges and FINRA to develop this registration category, which is limited to persons who supervise persons engaged in proprietary trading, market making or effecting transactions on behalf of broker-dealer accounts.³² This category is in lieu of registration as a General Securities Principal, for which the prerequisite qualification examination is the Series 7. The appropriate qualification examination for the proposed new registration category of Proprietary Trader Principal is the Series 24, which is the same qualification required for registration as a General Securities Principal; no new examination has been developed. However, the prerequisite examination for the new Proprietary Trader Principal category is the new Series 56, which is described above. Accordingly, a person who has passed the Series 56 can register as a Proprietary Trader Principal and take the Series 24 examination, under this proposal, but cannot register as a General Securities Principal without first qualifying as a General Securities Representative and passing the Series 7. Thus, although the Series 24 will now be the appropriate qualification examination for both categories (General Securities Principal and Proprietary Trader Principal), different prerequisites apply and different registration categories result.

The new Proprietary Trader Principal category is expected to become available to Phlx member organizations in WebCRD soon and the Exchange will communicate the implementation date to the membership. The Exchange believes that the new principal registration category is an appropriate corollary to the new representative registration category

³² In effect, supervisors who supervise persons engaged only in activities covered by the proposed new Proprietary Trader registration category can meet the principal registration requirement by registering as a Proprietary Trader Principal.

discussed above and reflects a substantial joint-exchange effort to develop a registration framework specific to principals supervising persons engaged in proprietary trading, market making and effecting transactions on behalf of broker-dealer accounts. Furthermore, the Exchange believes that the Series 24 is the appropriate examination for Proprietary Trader Principals, because it tests knowledge and understanding of supervision-related rules.

Both the Registered Options Principal and the Proprietary Trader Principal registrations count towards the minimum two principal requirement in Rule 611. The Exchange believes that this is appropriate because both of these principals are subject to a comprehensive qualification examination that covers their area of supervision. Of course, if the member organization is involved in activity other than what a Proprietary Trader Principal and a Registered Options Principal are permitted under these rules to supervise, an additional principal would be required.

Two other provisions of the current principal registration framework are also becoming applicable to all member organizations, in addition to the basic principal requirement. Rule 604.02, titled Limited Principal – Financial and Operations, currently requires that each member organization of the Exchange that is subject to Rule 604(g) and that is operating pursuant to the provisions of SEC Rule 15c3-1(a)(1)(ii), (a)(2)(i) or (a)(8), designate as Limited Principal— Financial and Operations (“FINOP”) those persons associated with it, at least one of whom shall be its chief financial officer, who perform the following duties: final approval and responsibility for the accuracy of financial reports submitted to any duly established securities industry regulatory body; final preparation of such reports; supervision of individuals who assist in the preparation of such reports; supervision of and responsibility for individuals who are involved in the actual maintenance of the member organization's books and records from which such reports are derived; supervision and/or performance of the member organization's responsibilities under

all financial responsibility rules promulgated pursuant to the provisions of the Act; overall supervision of and responsibility for the individuals who are involved in the administration and maintenance of the member organization's back office operations; or any other matter involving the financial and operational management of the member organization. Each FINOP must register with the Exchange and pass the Series 27 examination. The Exchange proposes to move this provision to Rule 612(b) and extend it beyond PSX users, including trading floor members. This provision is intended to ensure that persons handling the financial affairs of a firm are properly registered and qualified. This requirement also harmonizes the Exchange's rules with those of other exchanges³³ and recognizes the importance and complexity of the rules governing financial responsibility for broker-dealers.³⁴ Although the FINOP is a type of principal registration, because its scope is limited to financial matters, the FINOP does not count toward the two principal requirement of Rule 611.

Rule 604.03, Limited Principal – General Securities Sales Supervisor, is also being extended to all member organizations as new Rule 612(c). It currently provides that each person associated with a member organization who is included in the definition of principal in Rule 604(g) (changing to Rule 611) may register with the Exchange as a Limited Principal—General Securities Sales Supervisor, or “SU,” if applicable. This provision is being moved, unchanged, in its entirety to new Rule 612(c). Like the FINOP, the General Securities Sales Supervisor does not count toward satisfying the two principal requirement of Rule 611.

³³ See e.g., CBOE Rule 3.6A(b).

³⁴ See e.g., Phlx Rule 703.

In total, although various other supervisory rules currently operate, such as Phlx Rule 748,³⁵ extending these principal registration requirements beyond Exchange member organizations doing business on PSX should strengthen the framework of supervisory rules. The Exchange believes that the broader application of the principal registration requirement is an important change. The Exchange also believes that offering categories of limited principal registration should help ensure that principals are properly qualified for their specific functions, such as supervising persons involved in options and proprietary trading.

Other Rules

The Exchange proposes to renumber Rule 604(i), Persons Exempt from Registration, as new Rule 614. No changes are proposed thereto. These registration exemptions will now apply to all member organizations and are intended to make clear that registration of certain, specific persons is not necessary, because of their functions. This provision is based on exemptions contained in, for example, NASDAQ Rule 1060 and BX Rule 1060.

Rule 604(i)(2) provides that member organizations, and persons associated with a member organization, may pay nonregistered foreign persons transaction-related compensation based upon the business of customers they direct to member organizations under certain conditions detailed in the rule. This provision is intended to cover the payment of fees to finders,³⁶ and is being moved to Rule 614(b), without change.

The Exchange proposes to renumber Rule 604(j) as Rule 615, Waiver of Requirements. Currently, Rule 604(j) provides that the Exchange may, in exceptional cases and where good

³⁵ Currently, Rule 748, Supervision, establishes the supervisory requirement for member organizations, including that all locations and activities of a member organization be supervised by a qualified supervisor.

³⁶ This provision is identical to NASDAQ Rule 1060(b) and BX Rule 1060(b).

cause is shown, waive the applicable Qualification Examination and accept other standards as evidence of an applicant's qualifications for registration. Advanced age or physical infirmity will not individually of themselves constitute sufficient grounds to waive a Qualification Examination. Experience in fields ancillary to the investment banking or securities business may constitute sufficient grounds to waive a Qualification Examination. The rule is not changing and is based on corresponding rules of FINRA, NASDAQ and BX.

The Exchange proposes to adopt Rule 616, Electronic Filing Requirements for Uniform Forms. Rule 616(a), WebCRD Filing, will provide that forms required to be filed under the Rule 600 Series shall be filed electronically through WebCRD.³⁷ Currently, some of the rules in the 600 series state this and others do not, such that adopting a separate, new rule should be clearer. Similarly, new Rule 616(b), Form U4 and U5 Filing Requirements, will require that initial filings and amendments of Forms U4 and U5 be submitted electronically. Furthermore, as part of the member organization's recordkeeping requirements, it shall retain such records for a period of not less than three years, the first two years in an easily accessible place, in accordance with Exchange Act Rule 17a-4, and make such records available promptly upon regulatory request. In addition, every application for registration filed with the Exchange shall be kept current at all times by supplementary amendments via electronic filing or such other process as the Exchange may prescribe. Such amendments shall be filed not later than 30 days after the applicant learns of the facts or circumstances giving rise to the need for the amendment. These requirements also currently may appear in various rules but not each applicable rule, such that adopting a separate, new rule should be clearer.³⁸

³⁷ This is similar to International Securities Exchange, LLC (“ISE”) Rules 313.01 and .02.

³⁸ This rule is similar to NASDAQ Rule 1031(d)(3).

The Exchange also proposes to amend OFPA F-34 and EFPA A-7, both titled Failure to Timely Submit Amendments to Form U4, Form U5 and Form BD; these are the corollary minor rule plan provisions for Rule 623, which are being amended only to add new rule numbers 611-613 and 616 and to delete reference to Rule 604.

The Exchange proposes to amend Rule 620, Trading Floor Registration, to specifically state the registration categories governed by the rule, to require all trading floor associated persons of member organizations to register via Form U4, to delete unnecessary language and to strengthen a time requirement. Specifically, the Exchange proposes to add to Rule 620(a), which requires the registration of Floor Brokers, Specialists and Registered Options Traders on an Exchange trading floor via Form U4, that the appropriate registration category on such form is “Member Exchange (“ME”)” under “PHLX.” This is intended to specify registration categories in the Exchange’s rules whenever possible, for clarity. The Exchange notes that this provision covers members operating on the trading floor and that such members are required to successfully complete the Exchange’s Trading Floor Qualification Examination. The Exchange also proposes to delete a reference in Rule 620(a) to updating Form U4 within a certain time period, because this requirement will now appear in new Rule 616, as explained above.

Currently, Rule 620(b) covers all trading floor personnel, such as clerks, interns, and other associated persons of member organizations, not required to register under Rule 620(a) and requires them to register with the Exchange on a form supplied by the Exchange. The Exchange proposes to significantly strengthen this requirement by requiring these individuals to be registered on Form U4 on WebCRD, not just with the Exchange. Accordingly, these associated persons will be subject to the comprehensive disclosure obligations of Form U4, which the

Exchange believes is an important enhancement. For example, once a Form U4 submission is required, the background information of these individuals will be available electronically within WebCRD for access by the appropriate regulators. The specific registration category will be “Floor Employee (“FE”)” under “PHLX,” which will be stated expressly in the rule. The Exchange does not intend to require a qualification examination for non-member trading floor personnel at this time. The Exchange does not believe that the Series 7, Series 56 or the Exchange’s own Trading Floor Qualification Examination are appropriate for the limited functions of a trading floor clerk, because these persons are not members trading on the floor and they are supervised by members. These persons do not execute transactions on the Exchange, but rather enter orders and report trades, for example, and related clerical functions.³⁹ Specifically, the types of questions covered by the Exchange’s Trading Floor Qualification Examination include announcing trades, trade allocation and floor broker responsibilities, all of which are rules that apply to trading floor members, but not clerks or off-floor persons.

The Exchange also proposes to amend Rule 620(b) to provide that following the termination of, or the initiation of a change in the status of any such personnel of a member organization who has been issued an Exchange access card and a trading floor badge, the appropriate Exchange form must be completed, approved and dated by a member organization principal, officer, or member of the member organization with authority to do so, and submitted to the appropriate Exchange department no later than 9:30 A.M. the next business day by the member organization employer. The Exchange proposes to strengthen this requirement by adding that such submission should occur, rather than no later than 9:30 A.M. the next business day, as soon as possible but no later than 9:30 A.M. the next business day.

³⁹ See Rule 1090.

Lastly, the Exchange proposes to amend Rule 623, Fingerprinting, to adopt a new paragraph (b), which is similar to NASDAQ Rule 1140(d). Upon filing an electronic Form U4 pursuant to Rule 616 on behalf of a person applying for registration, a member shall promptly submit fingerprint information for that person. The Exchange may make a registration effective pending receipt of the fingerprint information. The fingerprinting requirement is not new, but rather is being codified into the appropriate rule.⁴⁰

Conclusion

The Exchange believes that these proposed new rules should form a solid framework for the registration and qualification of all member organizations and their personnel. As a result of the new registration requirements, additional persons will become subject to the Exchange's continuing education requirement in Rule 640. The Exchange will announce to the membership when these new requirements will be implemented and available for member organizations to access.

The Exchange proposes to require that member organizations comply with the new registration and qualification requirements within 90 days of the Exchange's issuance of an alert to its membership, announcing Commission approval; respecting any registration category and related examination that has a prerequisite, the Exchange proposes to require its member organizations to comply therewith 90 days after successful completion of the prerequisite exam.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act⁴¹ in

⁴⁰ OFPA F-25 and EFPA A-4 are the corollary minor rule plan provisions for Rule 623; these are not changing.

⁴¹ 15 U.S.C. 78f(b).

general, and furthers the objectives of : (1) Section 6(c)(3)(B) of the Act,⁴² pursuant to which a national securities exchange prescribes standards of training, experience and competence for members and their associated persons; and (2) Section 6(b)(5) of the Act,⁴³ in that it is designed, among other things, 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, by extending its registration and qualification requirements beyond PSX users. Overall, as discussed in more detail above, the Exchange believes that these new requirements bolster the integrity of the Exchange by helping to ensure that all associated persons engaged in a securities business are, and will continue to be, properly trained and qualified to perform their functions, will be supervised, and can be identified by regulators.

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 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

Within 45 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

⁴² 15 U.S.C. 78(c)(3)(B).

⁴³ 15 U.S.C. 78f(b)(5).

the Exchange consents, the Commission shall: (a) by order approve or disapprove 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. Please include File Number SR-Phlx-2012-23 on the subject line.

Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2012-23. 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 website (<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 website viewing and printing in the Commission's Public Reference Room, 100 F

Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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-2012-23 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁴

Kevin M. O'Neill
Deputy Secretary

⁴⁴ 17 CFR 200.30-3(a)(12).