

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-76414; File No. SR-Phlx-2015-92)

November 10, 2015

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish the Securities Trader and Securities Trader Principal Registration Categories and to Retire Other Registration Categories

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 November 4, 2015, 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 establish the Securities Trader and Securities Trader Principal registration categories and to retire the Proprietary Trader and Proprietary Trader Principal registration categories. Phlx will announce the effective date of the proposed rule change in a Trader Alert. The Exchange is also amending its rules to establish the Series 57 examination as the appropriate qualification examination for Securities Traders and deleting the rule referring to the S501 continuing education program currently applicable to Proprietary Traders.

The text of the proposed rule change is available on the Exchange’s Website at <http://nasdaqomxphlx.cchwallstreet.com/>, 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.

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 Exchange is proposing to replace the Proprietary Trader registration category and Proprietary Trader qualification examination (Series 56) with the Securities Trader Registration Category and the Securities Trader qualification examination (Series 57) in its registration rules relating to securities trading activity. It is also proposing to replace the Proprietary Trader Principal registration category with the Securities Trader Principal registration category. This filing is, in all material respects, based upon SR-FINRA-2015-017, which was recently approved by the Commission.³

I. Phlx's Securities Trader Registration Category.

Currently, under Exchange Rule 613, except members whose activities are limited to the Exchange's options trading floor and who are registered pursuant to Rule 620(a)⁴ as well as

³ See Securities Exchange Act Release No. 75783 (August 28, 2015), 80 FR 53369 (September 3, 2015) (approving SR-FINRA-2015-017) referred to herein as the "FINRA Amendments". According to the approval order, FINRA's expected effective date for the FINRA Amendments is January 4, 2016.

⁴ Pursuant to Exchange Rule 620(a), each Floor Broker, Specialist and Registered Options Trader on the Exchange trading floor must be registered as "Member Exchange" ("ME") under "PHLX" on Form U4, pursuant to Rule 616. In addition, each Floor Broker,

associated persons whose activities are limited to the Exchange's options trading floor and are registered pursuant to Rule 620(b)⁵, all persons engaged or to be engaged in the investment banking or securities business of a member organization who are to function as representatives⁶ must register as such with the Exchange through WebCRD under PHLX in the category of registration appropriate to the function to be performed as specified in Rule 613(e). Rule 613(e) provides that individuals required to register with the Exchange as a General Securities Representative must pass the Series 7 examination before such registration may become effective.

In 2012, the Exchange adopted the Proprietary Trader registration category as an alternative to the General Securities Representative registration category.⁷ The Proprietary

Specialist and Registered Options Trader must successfully complete the appropriate floor trading examination(s), if prescribed by the Exchange, in addition to requirements imposed by other Exchange Rules. The Exchange may also require periodic examinations due to changes in trading rules, products or automated systems. The registration rule changes proposed herein will not apply to the trading floor entities covered by Rule 620(a).

⁵ Pursuant to Exchange Rule 620(b), all trading floor personnel, including clerks, interns, stock execution clerks and any other associated persons, of a member organization not required to register pursuant to Rule 620(a) must be registered as [sic] "Floor Employee" ("FE") under "PHLX" on Form U4, pursuant to Rule 616. The Exchange may require successful completion by such persons of an examination, in addition to requirements imposed by other Exchange Rules. The Exchange may also require periodic examinations of such persons due to changes in trading rules, products or automated systems. The registration rule changes proposed herein will not apply to the trading floor personnel covered by Rule 620(b).

⁶ Exchange Rule 1(cc) defines "representative" 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. The rule also states that, to the extent required by the provisions of Rule 613, all representatives are required to be registered with the Exchange.

⁷ See Securities Exchange Act Release No. 66840 (April 20, 2012), 77 FR 25003 (April 26, 2012) (SR-Phlx-2012-23).

Trader registration category is an available alternative to General Securities Representative registration for members and persons associated with member organizations who are engaged solely in proprietary trading, market making or effecting transactions on behalf of a broker-dealer account. Individuals registering in the Proprietary Trader registration category must pass the Series 56 examination and are not required to pass the Series 7 examination. Individuals who qualify for registration as Proprietary Traders are not required to do so if they register as General Securities Representatives.

The Exchange now proposes to amend Rule 613(f) by deleting the Proprietary Trader registration category and replacing it with a new requirement that each person associated with a member who is included within the definition of a representative as defined in Rule 1(cc) must register with the Exchange as a Securities Trader if, with respect to transactions in equity, preferred or convertible debt securities, or foreign currency options on the Exchange, such person is engaged in proprietary trading, the execution of transactions on an agency basis, or the direct supervision of such activities, other than any person associated with a member whose trading activities are conducted principally on behalf of an investment company that is registered with the Commission pursuant to the Investment Company Act of 1940 and that controls, is controlled by or is under common control, with the member (an “investment company firm”). The proposed language requires applicants to pass an appropriate Qualification Examination for Securities Trader (the Series 57 examination) before registering in the new Securities Trader category. It also provides that a person registered as a Securities Trader shall not be qualified to function in any other registration category, unless he or she is also qualified and registered in such other registration category.

A reference to paragraph (f) is being added to Rule 613(a) to make clear that representatives who are required to register shall register in the category of registration appropriate to the function to be performed as specified in paragraph (e) or (f). Additionally, the Exchange is deleting from Rule 613(a) the general requirement that before a representative's registration may become effective, they [sic] shall pass the Series 7 examination. The Series 7 requirement continues to apply to candidates for General Securities Representative registration, however, pursuant to Rule 613(e). Proposed paragraph (f) provides that candidates for Securities Trader registration must pass the Series 57 examination. They will not, however, be required to pass the Series 7 in order to register as Securities Traders.

A person registered as a Proprietary Trader in the Central Registration Depository (CRD®) system on the effective date of the proposed rule change will be grandfathered as a Securities Trader without having to take any additional examinations and without having to take any other actions. In addition, individuals who were registered as a Proprietary Trader in the CRD system prior to the effective date of the proposed rule change will be eligible to register as Securities Traders without having to take any additional examinations, provided that no more than two years have passed between the date they were last registered as a representative and the date they register as a Securities Trader.

Persons registered in the new category would be subject to the continuing education requirements of Rule 640. The Exchange proposes to amend Rule 640 by removing the option for Series 56 registered persons to participate in the S501 Series 56 Proprietary Trader continuing education program in order to satisfy the Regulatory Element. The S501 Series 56 Proprietary Trader continuing education program is being phased out along with the Series 56 Proprietary Trader qualification examination. As a result, effective January 4, 2016, the S501

Series 56 Proprietary Trader continuing education program for Series 56 registered persons will cease to exist. In place of the S501 Series 56 Proprietary Trader continuing education program for Series 56 registered persons, the Exchange proposes that Series 57 registered persons be permitted to enroll in the S101 General Program for Series 7 and all other registered persons.⁸

II. Securities Trader Principal Registration Category.

Currently, under Rule 612(a), each member and person associated with a member organization to which Rule 611⁹ applies and who is included within the definition of Principal in Rule 611, and each person designated as a Chief Compliance Officer on Schedule A of Form BD of a member organization to which Rule 611 applies, must register with the Exchange as a General Securities Principal and 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 the rule. In 2012, the Exchange adopted, as a corollary to the Proprietary Trader representative registration category, a new Rule 612(e) Proprietary Trader Principal registration category. Under Rule 612(e), individuals required to register as Principal may register with the Exchange as a [sic] Proprietary Trader Principal if (A) his or her supervisory responsibilities in the investment banking and securities business are limited to the activities of a member organization that involve proprietary

⁸ The Commission notes that amended Rule 640(a)(1) would require Series 57 registered persons to take the S101 General Program. See Rule 640(a)(1).

⁹ Rule 611 provides 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 the rule. It also defines "Principal" as including sole proprietors, officers, partners, managers of offices of supervisory jurisdiction, and corporate directors, in each case 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.

trading, market making and effecting transactions on behalf of broker-dealers; (B) he or she is registered pursuant to Exchange Rules as a Proprietary Trader; and (C) he or she is qualified to be so registered by passing the Series 24 examination. A person registered in the Proprietary Trader Principal category solely on the basis of having passed the Series 24 examination for that category may not function in a Principal capacity with responsibility over any area of business activity other than proprietary trading, market making and effecting transactions on behalf of broker-dealers as set forth in Rule 612(e)(i)(A).

In consultation with FINRA and other exchanges, the Exchange is now proposing to retire the Proprietary Trader Principal category. Accordingly, it is deleting Rule 612(e) in its entirety. In its place, the Exchange is adopting proposed Rule 612(e), which adds a new Securities Trader Principal registration category. Under the proposed rule each person associated with a member who is included within the definition of principal in Rule 611(b) and who will have supervisory responsibility over the securities trading activities described in Rule 613(f) must become qualified and registered as a Securities Trader Principal. The proposed rule change should allow Phlx to more easily track principals with supervisory responsibility over securities trading activities.

To qualify for registration as a Securities Trader Principal, a candidate would first be required to qualify and register as a Securities Trader under Rule 613(f) and pass the General Securities Principal qualification examination. A person who is qualified and registered as a Securities Trader Principal under the proposed rule would only have supervisory responsibility over the securities trading activities specified in Rule 613(f), unless such person were separately qualified and registered in another appropriate principal registration category, such as the General Securities Principal registration category. Finally, a registered General Securities

Principal would not be qualified to supervise the securities trading activities described in Rule 613(f), unless such person also qualified and registered as a Securities Trader under Rule 613(f) by passing the Securities Trader qualification examination and registering as a Securities Trader Principal.

A person registered as a Proprietary Trader Principal or as a Limited Principal-Registered Options Principal (“Limited Options Principal”)¹⁰ in the CRD system on the effective date of the proposed rule change will be eligible to register as a Securities Trader Principal without having to take any additional examinations. An individual who was registered as a Proprietary Trader Principal in the CRD system prior to the effective date of the proposed rule change will also be eligible to register as a Securities Trader Principal without having to take any additional examinations, provided that no more than two years have passed between the date they [sic] were last registered as a principal and the date they [sic] register as a Securities Trader Principal. Members, however, will be required to affirmatively register persons transitioning to the

¹⁰ Currently, under Rule 612(d), a Principal may register with the Exchange as a Limited Principal—Registered Options Principal (“Limited Options Principal”) if (A) his or her supervisory responsibilities in the investment banking and securities business are limited exclusively to the options activities of a member organization, (B) he or she is registered pursuant to Exchange Rules as a General Securities Representative, and (C) he or she is qualified to be so registered by passing the Series 4 examination. A person registered in the Limited Options Principal category solely on the basis of having passed the Series 4 examination for Limited Principal—Registered Options Principal may not function in a Principal capacity with responsibility over any area of business activity other than the options activities of a member organization. The Exchange proposes to permit Limited Options Principals who are functioning in a principal capacity at a member organization for which the Exchange is the designated examining authority on the effective date of this proposed rule change to register as Securities Trader Principals without having to take any additional examinations in order to minimize disruption to firms when the Securities Trader registration category becomes effective. The Exchange will waive the Series 24 examination requirement for these individuals so that they may be registered as Securities Trader Principals.

proposed registration category as Securities Trader Principals on or after the effective date of the proposed rule change.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹¹ in general, and furthers the objectives of Section 6(b)(5) of the Act¹² in particular, in that it is designed 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. The Exchange believes that the requirements of the Securities Trader and Securities Trader Principal registration categories, as well as the new Securities Trader qualification examination, should help ensure that proprietary traders and the principals who supervise proprietary traders and proprietary trading are, and will continue to be, properly trained and qualified to perform their functions which should protect investors and the public interest.

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.

Implementation of the proposed changes to Phlx's registration rules in coordination with the FINRA Amendments does not present any competitive issues, but rather is designed to provide less burdensome and more efficient regulatory compliance for members and enhance the ability of the Exchange to fairly and efficiently regulate members, which will further enhance competition. Additionally, the proposed rule change should not affect intramarket competition because all similarly situated representatives and principals will be required to complete the

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

same qualification examinations and maintain the same registrations. Finally, the proposed rule change does not impose any additional examination burdens on persons who are already registered. There is no obligation to take the proposed Series 57 examination in order to continue in their present duties, so the proposed rule change is not expected to disadvantage current registered persons relative to new entrants in this regard.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and subparagraph (f)(6) of Rule 19b-4 thereunder.¹⁴

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

¹³ 15 U.S.C. 78s(b)(3)(a)(iii).

¹⁴ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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-2015-92 on the subject line.

Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-Phlx-2015-92. 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 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-2015-92 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.¹⁵

Robert W. Errett
Deputy Secretary

¹⁵ 17 CFR 200.30-3(a)(12).