

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-53612; File No. SR-Phlx-2006-15)

April 6, 2006

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto Relating to Registration Filing Requirements and Reporting Requirements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 17, 2006, the Philadelphia Stock Exchange, Inc. (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. On April 3, 2006, the Phlx filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On April 5, 2006, the Phlx filed Amendment No. 2 to the proposed rule change.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal on an accelerated basis.

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

The Phlx proposes to: (1) amend Exchange Rules 600, 604, 620, 623 and 1024, Options Floor Procedure Advice (“OFPA”) F-25 and Equity Floor Procedure Advice (“EFPA”) F-25 to require all member and participant organizations, that do not already participate in Web CRD as a member of a participating exchange or the National Association of Securities Dealers (“NASD”) to submit Form U4, and Form U5, and amendments thereto to the Web Central

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> In Amendment No. 1, the Phlx made clarifying and technical changes to the proposal.

<sup>4</sup> In Amendment No. 2, the Phlx made further clarifying and technical changes to the proposal.

Registration Depository (“Web CRD”)<sup>5</sup> as well as to submit fingerprint cards directly to the NASD; (2) amend Exchange Rule 1024 to require persons to be Registered Representatives<sup>6</sup> of a member or participant organization in order to solicit or accept customer orders for foreign currency options or in the alternative to require persons who have not successfully completed the Series 7 General Securities Representative Examination to submit an application for waiver of the Series 7 for approval; (3) amend Exchange Rules 600, 604, 620 and 1024 to add language specifying a timeframe in which to amend Form U4, Form U5 and Form BD; (4) amend its minor rule violation enforcement and reporting plan (“MRP”) by adopting two new floor procedure advices, EFPA F-34 and OFPA F-34, respectively, pursuant to Exchange Rule 970, for failures to timely submit amendments to Form U4, Form U5 and Form BD;<sup>7</sup> and (5) make other minor clarifying changes to certain of these rules. The text of the proposed rule change is available on the Phlx’s Web site ([www.phlx.com](http://www.phlx.com)), at the Phlx’s Office of the Secretary, and at the Commission’s Public Reference Room.

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<sup>5</sup> Web CRD is a web-based system that provides broker-dealers and their associated persons “one-stop filing” with the Commission, NASD, and other self-regulatory organizations and regulators. Web CRD is operated by NASD and is utilized by participating securities regulators in connection with registering and licensing broker-dealers and their associated persons.

<sup>6</sup> Registered Representative categories include registered options principals, general securities representatives, general securities sales supervisors and United Kingdom limited general securities registered representatives. See Phlx Fee Schedule Appendix A at footnote 25.

<sup>7</sup> Rule 19d-1(c)(1) under the Act, 17 CFR 240.19d-1(c)(1), requires any self-regulatory organization for which the Commission is the appropriate regulatory agency that takes any final disciplinary action with respect to any person to promptly file a notice thereof with the Commission. However, rule violations resulting in a fine not exceeding \$2,500 are not deemed final and therefore not subject to the same reporting requirements.

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 III below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to create a more efficient, centralized registration process by migrating from a manual paper-based Exchange procedure to Web CRD for registration and NASD processing of fingerprints, with more defined deadlines and a more streamlined disciplinary process. The proposal also seeks to eliminate the Series 15 as a prerequisite for trading foreign currency options, which is rarely used. The proposal also makes other minor technical changes.

Web CRD

The Web CRD process would assist in maintaining all historical information related to associated persons of member and participant organizations in one central repository, as well as create efficient disclosure utilizing an online database, which can be accessed by other exchanges and regulators. Additionally, the Web CRD process would track and capture information related to registration and continuing education. Finally, the Web CRD system would capture information related to fingerprinting and statutory disqualification, which would enable

regulators and broker-dealers to make informed decisions concerning employment and membership.

Members, member and participant organizations would be required to submit Forms U4 and U5 (and amendments thereto) electronically through the Web CRD system. Currently, member and participant organizations submit Forms U4 and U5 in paper form to the Exchange. Although Form BD is required to be submitted to Web CRD, the proposed rule change codifies this requirement into Phlx Rule 600(c), and applies to amendments as well.<sup>8</sup>

Currently, members, member and participant organizations submit manual rolled fingerprint cards<sup>9</sup> to the Exchange, which then forwards the cards to the FBI, the fingerprint processing arm of the Office of the Attorney General of the United States. The FBI identifies submitted fingerprints, retrieves relevant criminal history information, and returns fingerprint reports (including the original fingerprint cards) to the Exchange. Upon receipt of the approved fingerprint cards, the Exchange sends this information to the member or participant organization, as applicable, and keeps a copy for its records. This proposed rule change would require the members, member and participant organizations to send the fingerprint cards to the NASD for processing. All trading floor personnel, including clerks, interns, stock execution clerks and other associated persons of member or participant organizations, who are not registered and only submit fingerprint cards to the NASD, will be classified as Non-Registered Fingerprint (“NRF”) filers.

The Exchange anticipates that the proposed migration to Web CRD will take place on April 10, 2006, at which time Web CRD will be available to process Phlx member and

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<sup>8</sup> 17 CFR 240.15b-1.

<sup>9</sup> The NASD will accept Federal Bureau of Investigation (“FBI”) fingerprint results in lieu of fingerprint cards.

participant organization submissions electronically. On May 12, 2006, the use of Web CRD, pursuant to this proposed rule change becomes mandatory.<sup>10</sup> The Exchange will provide notification in writing to the membership of the effective date of the rule change.

#### Elimination of Series 15 Examination

The removal of the Series 15 Foreign Currency Options Examination and the requirement to be a Registered Representative to solicit or accept customer orders for foreign currency options would eliminate the need to allocate staff resources to maintaining the examination in the future.<sup>11</sup> The Series 7 General Securities Representative Examination covers many other financial instruments as well as the material covered by the Series 15 examination, such as questions regarding the sale and trading of listed foreign currency options.

From June 1986, the Series 7 examination has included questions regarding the trading of listed foreign currency options. For that reason, Registered Representatives who passed the Series 7 examination after June 1986 have been eligible to sell foreign currency options on the Phlx without taking the Series 15. In addition, in 1993,<sup>12</sup> the Exchange amended Rule 1024(a)(ii) to establish a procedure to waive the Series 15 examination which allows Registered Representatives who passed the Series 7 examination prior to June 1986 to sell Phlx foreign currency options based on the length and depth of their industry experience, in lieu of having to pass a separate Series 15 examination that relates solely to foreign currency options.

In this proposal, in addition to eliminating the Series 15 examination altogether, the

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<sup>10</sup> The period from April 10-May 11, 2006 is intended as a phase-in and to permit manual filing in case there is a problem filing via Web CRD. Other than filing via Web CRD, the rule change takes effect April 10, 2006.

<sup>11</sup> Since 1999, the Series 15 examination has only been administered about 20 times.

<sup>12</sup> See Securities Exchange Act Release No. 32990 (September 30, 1993), 58 FR 52339 (October 7, 1993)(SR-Phlx-92-10).

Exchange proposes to establish the same criteria for waiver of the Series 7 examination, which requires a description of the applicant's options experience and certification of that experience by a current or former supervisor with knowledge of the registered representative's options experience.<sup>13</sup> The Director of Examinations will determine whether the applicant demonstrates sufficient knowledge of options to allow the applicant to sell foreign currency options without taking the Series 7 examination.

Additionally, other minor changes are being made to Exchange Rule 1024 for purposes of clarification. The Exchange is amending the language in Exchange Rule 1024(a)(i) to clarify the registration obligations of Options Principals.

#### Failures to submit timely amendments to Form U4, Form U5 and Form BD

The Exchange is adding language to Exchange Rules 600, 604, 620 and 1024 as well as adding Floor Procedure Advices pursuant to the Exchange's minor rule plan and Exchange Rule 970 to clarify the timeframe within which member and participant organizations must amend Forms U4, U5 and BD to allow for prompt disclosure. The Exchange proposes a timeframe of 30 days from the time the filer knew or should have known of the facts which gave rise to the amendment to submit amended Forms U4, U5 and BD. By including this language in both the Exchange Rules and Advices, Exchange staff would retain the discretion to initiate formal disciplinary proceedings. The Exchange believes that the proposed Advices should encourage member organizations and participant organizations to timely submit Forms U4, U5 and BD and thereby timely disclose the information contained in those forms. The disclosure of this information should enable the Exchange and the public to receive current information on

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<sup>13</sup> The supervisor must certify that the applicant understands options and has applied his or her knowledge in the course of trading and monitoring options positions over a period of no less than six months.

registered persons and entities.

Specifically, the Advices will authorize the Exchange to impose a fine on any member or participant organization without formal disciplinary action. Exchange staff will review the number and seriousness of the violation, as well as previous disciplinary history of the violator, to determine if a matter is appropriate for disposition under the minor rule plan. Once a member or participant organization is fined under the minor rule plan, the Exchange may issue progressively higher fines for all subsequent violations within a rolling 12 month period or initiate more formal disciplinary proceedings. The addition of these Advices to the Exchange's minor rule plan should allow Exchange staff the ability to impose more meaningful sanctions for violations that merely warrant a cautionary letter, for example, but do not necessarily rise to the level of a formal disciplinary proceeding pursuant to Exchange Rule 960. Additionally, the Advices would allow for disposition of minor or technical violations of Exchange rules by means of a less costly and less time consuming process as compared to a formal disciplinary process. Expediting resolutions for technical violations, while retaining the discretion to bring formal disciplinary action, should allow for efficient dispositions of rule violations.

#### Other

The language in Exchange Rule 604(e)(ii), related to off-floor traders currently engaged in off-floor trading activities, is being deleted because the language is no longer applicable. The term participant organization is being added for clarification in the various rules.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Sections 6(b) and 6(c) of the

Act<sup>14</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>15</sup> 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, by providing information to a central repository.

The Exchange believes that its proposal is consistent with Section 6(c)(3)(B) of the Act<sup>16</sup> in that it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with the Exchange's members, and member and participant organizations. In addition, under Section 6(c)(3)(B) of the Act,<sup>17</sup> the Exchange may bar a natural person from becoming a member or person associated with a member, if the person does not meet the standards of training, experience and competence as are prescribed in the rules of the Exchange.

Further, the Exchange believes that its proposal is consistent with Sections 6(b)(1),<sup>18</sup> 6(b)(6),<sup>19</sup> 6(b)(7)<sup>20</sup> and 6(d)(1)<sup>21</sup> of the Act, which require that the rules of an exchange enforce compliance with, and provide appropriate discipline for, violations of Commission and Exchange rules. In addition, because existing Exchange Rule 970 provides procedural rights to a person fined under the MRP to contest the fine and permits a hearing on the matter, the Exchange believes the minor rule plan, as amended by this proposal, should provide a fair procedure for the

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<sup>14</sup> 15 U.S.C. 78f(b) and 78f(c).

<sup>15</sup> 15 U.S.C. 78f(b)(5).

<sup>16</sup> 15 U.S.C. 78f(c)(3)(B).

<sup>17</sup> Id.

<sup>18</sup> 15 U.S.C. 78f(b)(1).

<sup>19</sup> 15 U.S.C. 78f(b)(6).

<sup>20</sup> 15 U.S.C. 78f(b)(7).

<sup>21</sup> 15 U.S.C. 78f(d)(1).



disciplining of members and persons associated with members. Finally, the Exchange believes that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d-1(c)(2) under the Act<sup>22</sup> which governs minor rule violation plans. The Exchange believes that the proposed change to the MRP should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as a self-regulatory organization in cases where formal disciplinary proceedings are unsuitable in view of the minor nature of the particular violation. In addition, the Exchange believes that its proposal furthers the objectives of Section 6(b)(6) of the Act,<sup>23</sup> in that it provides that its members be appropriately disciplined for violations of exchange rules, the Act, and rules and regulations thereunder, by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member, or any other fitting sanction.

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. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

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<sup>22</sup> 17 CFR 240.19d-1(c)(2).

<sup>23</sup> 15 U.S.C. 78f(b)(6).

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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2006-15 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-Phlx-2006-15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2006-15 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>24</sup> In particular, the Commission finds that the proposed rule change, as amended, is consistent with Section 6(b)(5) of the Act,<sup>25</sup> which requires, among other things, that the Exchange's rules 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 securities, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change clarifies the Phlx registration process and promotes uniformity of registration in the industry. In addition, the proposed rule change should enhance the ability of regulators to monitor broker-dealers and their associated persons. Requiring firms that are only members of the Phlx to register through Web CRD will put them on a par with other Phlx member firms that are members of another SRO and, as such, are already registering through Web CRD.

The Commission also finds that the proposed rule change is consistent with Section 6(c)(3)(B) of the Act,<sup>26</sup> which states that an Exchange may prescribe standards of training, experience and competence for persons associated with Exchange members. Further, the Commission believes that the procedures for obtaining a waiver of the Series 7 examination should help to ensure that only persons with adequate experience in options trading and

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<sup>24</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>25</sup> 15 U.S.C. 78f(b)(5).

<sup>26</sup> 15 U.S.C. 78f(c)(3)(B).

knowledge of foreign currency options and the underlying markets will be granted a waiver of the Series 7 examination requirement.

The Commission also believes that the proposed rule change is consistent with Section 6(b)(6) of the Act<sup>27</sup> in that it provides for the appropriate discipline for violation of Phlx rules. Moreover, the Commission believes that the proposed rule change is consistent with Section 6(b)(7) of the Act<sup>28</sup> in that it provides a fair procedure for the disciplining of Phlx members. Finally, the Commission finds that the proposed rule change is consistent with Rule 19d-1(c)(2) under the Act,<sup>29</sup> which governs minor rule violation plans. The Commission believes it is reasonable for Phlx to be able to sanction late filings of amendments to Form U4, Form U5 and Form BD pursuant to its MRP.

The Exchange has requested accelerated approval of the proposed rule change. The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of the notice of filing in the Federal Register. Accelerated approval of the proposed rule change should allow the Exchange to migrate to Web CRD, as scheduled, on April 10, 2006 and make regulatory information with respect to members and their associated persons more readily available to regulators. In addition, the Commission has approved similar rule changes implementing electronic registration for the Pacific Exchange, Inc. and the Chicago Board Options Exchange, Incorporated.<sup>30</sup> The Commission has also approved a similar rule change for NASD to include failures to timely submit amendments to

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<sup>27</sup> 15 U.S.C. 78f(b)(6).

<sup>28</sup> 15 U.S.C. 78f(b)(7).

<sup>29</sup> 17 CFR 240.19d-1(c)(2).

<sup>30</sup> See Securities Exchange Act Release Nos. 51398 (March 18, 2005), 70 FR 15672 (March 28, 2005) (SR-PCX-2005-10) and 46308 (August 2, 2002), 67 FR 51905 (August 9, 2002) (SR-CBOE-2001-66).

Form U5 in its Minor Rule Violation Plan.<sup>31</sup> Finally, the Commission does not believe that the Exchange's proposal raises any novel regulatory issues. Therefore, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>32</sup> to approve the proposed rule change, as amended, on an accelerated basis.

V. Conclusion

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>33</sup> that the proposed rule change (SR-Phlx-2006-15), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>34</sup>

Nancy M. Morris  
Secretary

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<sup>31</sup> See Securities Exchange Act Release No. 50446 (September 24, 2004), 69 FR 58568 (September 30, 2004) (SR-NASD-2004-121).

<sup>32</sup> 15 U.S.C. 78s(b)(2).

<sup>33</sup> Id.

<sup>34</sup> 17 CFR 200.30-3(a)(12).