increase in the BATS fee to removing liquidity from $0.44 per contract to $0.75 per contract for customer non-Penny options and from $0.44 per contract to $0.80 for professionals, firms and market makers. The Exchange believes it is reasonable to recoup the BATS remove fees plus the clearing and other costs to recoup Routing Fees.[15] The Exchange believes that the increase to the Firm/Broker-Dealer/Market Maker non-Penny BATS Routing Fees are equitable and not unfairly discriminatory because, as previously mentioned, those fees would be similarly calculated for Customers, Professionals, Firms, Broker-Dealers and Market Makers.[16] Additionally, the non-Penny BATS Routing Fees would be uniformly assessed for all non-Penny orders routed to BATS.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17] 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 necessary or appropriate in the public interest, for the protection of investors, or 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.

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 email to *rule-comments@sec.gov.* Please include File No. SR–Phlx–2012–50 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 No. SR–Phlx–2012–50. This file number should be included on the subject line if email 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 Web site 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 a.m. and 3 p.m. Copies of such 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 No. SR–Phlx–2012–50 and should be submitted on or before May 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–10025 Filed 4–25–12; 8:45 am]

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[15] *See* note 9.

[16] The Exchange's proposed non-Penny BATS Routing Fees are calculated similarly for all participants by adding the fee to remove liquidity assessed by BATS for the particular market participant plus a fee of $.11 per contract which represents clearing and other costs noted herein.

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66841; File No. SR–OCC–2012–06]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Revised DCO Rules

April 20, 2012.

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 April 10, 2012, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this Notice and Order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

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

The proposed rule change would ensure compliance with final regulations of the Commodity Futures Trading Commission (''CFTC'') applicable to derivatives clearing organizations (''DCOs'') that become effective on May 7, 2012.

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

In its filing with the Commission, OCC included statements concerning the purpose 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. OCC 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 Purpose of, and Statutory Basis for, the Proposed Rule Change

The purposes of the proposed changes to OCC's By-Laws and Rules are (a) to ensure compliance with certain regulations recently promulgated by the CFTC that become effective on May 7, 2012, and (b) to put in place a minor rule violation plan (''MRV Plan''), within the meaning of Exchange Act

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

[2] 17 CFR 240.19b–4.

Rule 19d–1(c)(2).[3] The CFTC's final regulations implement statutory ''core principles'' applicable to DCOs as those core principles were amended by the Dodd-Frank Act.

The Final DCO Regulations

On October 18, 2011, the CFTC held an open meeting at which it issued final regulations implementing many of the new statutory core principles for DCOs enacted under the Dodd-Frank Act. On December 20, 2011, OCC filed a rule change implementing changes designed to bring it into compliance with certain of these final regulations that went into effect on January 9, 2012. This rule filing was approved by the Commission on an accelerated basis on January 3, 2012.[4] The majority of the remaining regulations go into effect on May 7, 2012. While OCC is already in compliance with most of the final regulations that go into effect on May 7, 2012, OCC believes it appropriate to amend and clarify certain of its rules to ensure compliance with the CFTC's rules as described herein.

1. Clearing Members' Ability To Meet Clearing Fund Assessments

Final CFTC Rule 39.11(d)(2)(i) states that a DCO must have rules ''requiring that its clearing members have *the ability* to meet an assessment *within the time frame of a normal end-of-day variation settlement cycle.*'' [Emphasis added.] While OCC By-Laws Article VIII, Section 6 provides that ''whenever an amount is paid out of the Clearing Fund contribution of a Clearing Member * * * such Clearing Member shall be liable *promptly* to make good the deficiency in its contribution resulting from such payment,'' it does not require that clearing members have the ability to meet an assessment within any particular time period. [Emphasis added.] OCC is therefore proposing that Article VIII, Section 6 of OCC's By-Laws be amended to require that each clearing member must have, and at all times maintain, the ability to meet any clearing fund assessment by 9:00 a.m. Central Time on the first business day following the day on which OCC notifies the clearing member of such assessment. Additionally, OCC is proposing to amend Article VIII, Section 7 of OCC's By-Laws to clarify when a withdrawing clearing member is definitively deemed to no longer be a clearing member and hence will no longer be subject to charges against its clearing fund contribution or be obligated to make further contributions.

2. Clearing Member Financial Resources Requirements

CFTC Rule 39.12(a)(2)(i) states that a DCO must have participation requirements that ''require clearing members to have access to *sufficient financial resources* to meet obligations arising from participation in the [DCO] in *extreme but plausible market conditions.*'' [Emphasis added.] In order to avoid any doubt about OCC's compliance with this rule, OCC is proposing to amend Interpretation and Policy .01 of Article V, Section 1 of its By-Laws, add a new Rule 301(d), add an Interpretation and Policy .11 to Rule 305 and add an Interpretation and Policy .02 to Rule 1102 to more closely address the requirements of the referenced CFTC Rule.

3. Clearing Member Operational Capacity Requirements

CFTC Rule 39.12(a)(3) requires a DCO to have participation requirements that ''require clearing members to have *adequate operational capacity* to meet obligations arising from participation in the [DCO] * * * [that] include * * * the ability to process expected volumes and values of transactions cleared by a clearing member within required time frames, including at peak times and on peak days; the ability to fulfill collateral, payment, and delivery obligations imposed by the [DCO]; and the ability to participate in default management activities under the rules of the [DCO] and in accordance with [CFTC Rule 39.16].'' [Emphasis added.] OCC is proposing to amend Article V, Section 1, Interpretation .02, add a new Rule 214(d), add a new Interpretation and Policy .12 to Rule 305, and add new Interpretation and Policy .02 to Rule 1102 to more closely address the requirements of the referenced CFTC Rule. OCC is also proposing to add a new Rule 214(c) to require clearing members to have adequate personnel arrangement to ensure their ability to meet the requirements of clearing membership, and to provide OCC with a list of such personnel.

4. Clearing Member Reporting Requirements

CFTC Rule 39.12(a)(5)(i) states that a DCO must ''require all clearing members, including non-futures commission merchants, to provide to the [DCO] periodic financial reports that contain any financial information that the [DCO] determines is necessary to assess whether participation requirements are being met on an ongoing basis.'' Further, under Rule 39.12(a)(5)(i)(B), a DCO must require non-FCM clearing members to make these periodic financial reports available to the CFTC upon request or, alternatively, a DCO may provide such financial reports directly to the CFTC upon CFTC request. All of OCC's non-FCM clearing members are either registered U.S. broker-dealers or ''non-U.S. Clearing Members'' subject to comparable regulation in their home jurisdictions. OCC Rule 306 generally requires that financial reports required to be filed pursuant to regulations applicable to such clearing members also be filed with OCC, and Rule 306(b) requires non-U.S. Clearing Members to file such financial reports with OCC at such times as OCC may specify. OCC therefore believes that the financial reports it currently receives from non-FCM clearing members fulfill the requirement of Rule 39.12(a)(5)(i). However, in order to avoid any doubt about OCC's compliance with this rule, OCC is proposing to add language to Rule 306(a) to expressly provide that OCC may require clearing members to make financial reports for the purpose of assessing whether the clearing member is meeting OCC's participation requirements on an ongoing basis. With respect to the requirement of Rule 39.12(a)(5)(i)(B), OCC has determined that, for the convenience of its non-FCM clearing members, it will provide the financial reports filed by them to the CFTC (upon the CFTC's request). OCC is proposing to state this policy in a new Interpretation and Policy .03 to OCC Rule 306. OCC is also proposing to amend Interpretation and Policy .02 to OCC Rule 306 to parallel the changes being proposed to Rule 306(a) discussed above.

CFTC Rule 39.12(a)(5)(ii) requires a DCO to adopt rules that ''require clearing members to provide to the [DCO], in a timely manner, information that concerns any financial or business developments that may materially affect the clearing members' ability to continue to comply with participation requirements.'' While OCC Rule 215 already requires a clearing member to give OCC prompt written notice of any change of organization or ownership structure, and certain other OCC Rules have notice requirements that address portions of this new requirement, OCC is proposing to amend OCC Rule 215 to more closely address the requirements of the referenced CFTC Rule, as well as to expand the notice requirement in Rule 215(a)(4) to include changes in clearing member's jurisdiction of organization or incorporation, in

[3] 17 CFR 240.19d–1(c)(2).

[4] *See* Exchange Act Release No. 34–66081, 77 FR 1116 (January 9, 2012).

addition to changes in name or form of business organization. OCC is also proposing to adopt a specific schedule of fines for violation of OCC Rule 215 and to amend Rule 209 to allow OCC to withdraw the amounts of any fines payable in connection with a minor rule violation (as well as any fine levied in connection with a disciplinary proceeding pursuant to Chapter XII of the Rules), including a violation of Rule 215, from a clearing member's bank account, provided that the Clearing Member has not timely contested such fines. The proposed schedule of fines is based on a fine schedule that has been adopted by operating subsidiaries of the Depository Trust & Clearing Corporation. As proposed, fines for violation of amended Rule 215 would be between $300 and $1,500, depending on the number of violations within any rolling 24-month period and the first, second and third violations of Rule 215 would constitute ''minor rule violations'' (see below). The fourth such violation would result in disciplinary action under Chapter XII of OCC's Rules and would not constitute a minor rule violation. OCC believes that adopting a specific schedule of fines will provide OCC with greater ability to ensure compliance by clearing members.

OCC is also proposing to amend Rule 202 to require its clearing members to notify OCC of any changes to the representatives who are authorized to act on behalf of the clearing member and to update their certified lists of signatures.

5. Clearing Member Customer Initial Margin

CFTC Rule 39.13(g)(8)(ii) states that a DCO must ''*require its clearing members to collect customer initial margin * * * from their customers, for nonhedge positions, at a level that is greater than 100 percent of the [DCO's] initial margin requirements with respect to each product and swap portfolio.* The [DCO] shall have reasonable discretion in determining the percentage by which customer initial margins must exceed the [DCO's] initial margin requirements with respect to particular products or swap portfolios.'' [Emphasis added.] Additionally, CFTC Rule 39.13(g)(8)(iii) requires each DCO to ''require its clearing members to ensure that their customers do not withdraw funds from their accounts with such clearing members unless the net liquidating value plus the margin deposits remaining in a customer's account after such withdrawal are sufficient to meet the customer initial margin requirements with respect to all products and swap portfolios held in such customer's account which are cleared by the [DCO].'' OCC is proposing to adopt a new Rule 602 (which had previously been reserved) in order to implement the requirements of CFTC Rule 39.13(g)(8)(ii) and (iii).

6. Initial Margin—Pledged Assets

CFTC Rule 39.13(g)(14) states that ''if a [DCO] permits its clearing members to pledge assets for initial margin while retaining such assets in accounts in the names of such clearing members, the [DCO] shall ensure that such assets are unencumbered and that such pledge has been validly created and validly perfected in the relevant jurisdiction.'' While OCC Rule 604(b)(4)(ii) allows pledged assets to be provided as margin under certain circumstances, OCC is proposing to add a new Interpretation and Policy .07 to Rule 604 to explicitly state that all assets pledged to OCC, for whatever purpose, must be free of any lien or other encumbrance senior to OCC's lien. OCC does not believe that this is a substantive amendment to its Rules, as OCC already takes measures to ensure that its lien over assets provided as initial margin is senior to all other liens or other encumbrances over such assets. OCC is proposing this amendment in order to avoid any doubt as to its compliance with the referenced CFTC Rule.

7. Clearing Member Risk Management Requirements

CFTC Rule 39.13(h)(5)(i) requires a DCO to adopt rules that: ''(A) require its clearing members to maintain current written risk management policies and procedures, which address the risks that such clearing members may pose to the [DCO]; (B) ensure that it has the authority to request and obtain information and documents from its clearing members regarding their risk management policies, procedures, and practices, including, but not limited to, information and documents relating to the liquidity of their financial resources and their settlement procedures; and (C) require its clearing members to make information and documents regarding their risk management policies, procedures, and practices available to the [CFTC] upon [CFTC] request.'' OCC is proposing to adopt a new Rule 311 entitled ''Clearing Member Risk Management'' requiring clearing members to maintain risk management policies and procedures meeting the requirements of CFTC Rule 39.13(h)(5)(i)(A), granting OCC the authority to request and obtain information and documents from clearing members regarding their risk management policies, procedures and practices, and requiring clearing members to make information and documents regarding their risk management policies, procedures and practices available to the CFTC upon its request.

8. Daily Settlements

CFTC Rule 39.14(b) requires that a DCO ''effect a settlement with each clearing member at least once each business day'' and that it ''have the authority and operational capacity to effect a settlement with each clearing member, on an intraday basis, either routinely, when thresholds specified by the DCO are breached, or in times of extreme market volatility.'' OCC Rule 1301(c) provides OCC with the authority to effect intraday settlements and Interpretation and Policy .01 of Rule 1301 states OCC's policy of not requiring intraday variation payments while reserving OCC's right to require such payments from time to time as appropriate. However, for purposes of conforming OCC's Rules more closely to the regulatory language, OCC is proposing to revise Interpretation and Policy .01 of Rule 1301 to clarify that intraday variation payments will not be required ''in the ordinary course'' and to state that circumstances under which OCC may assert its right to require intraday variation payments may include, but are not limited to, breach of any threshold set by OCC or during times of extreme market volatility.

9. Implementation of the MRV Plan

In 1984, the SEC adopted amendments to Rule 19d–1(c) under the Act[5] that allow self-regulatory organizations to adopt, with SEC approval, plans for the disposition of minor violations of rules.[6]

OCC's rules currently give OCC the ability to censure, suspend, expel or limit the activities, functions or operations of any Clearing Member for any violation of OCC's By-Laws or Rules. OCC may also impose fines on Clearing Members for such violations.[7] OCC's Rules have not historically distinguished between those violations of the Rules and By-Laws that are minor and do not call for the full procedural regime applicable to other violations and those that are not minor. With the amendments being proposed to Rule 215, and the inclusion of a specific fine schedule for violations of Rule 215, OCC now believes it is appropriate to put in place an MRV Plan in Rule 1201(b) that

[5] 17 CFR 240.19d–1(c).

[6] *See* Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984).

[7] *See* OCC Rule 1201.

will meet the definition of a ''minor rule violation plan'' in Exchange Act Rule 19d–1(c)(2).[8] OCC will specify which violations of the By-Laws or Rules will constitute minor rule violations. OCC currently proposes to designate only a violation of Rule 215 as a minor rule violation. A Clearing Member that wishes to contest a minor rule violation may do so by providing written notice to OCC. Upon contesting a minor rule violation, the violation will be deemed to no longer be a minor rule violation and will be subject to the full provisions of OCC's Chapter XII rules with respect to disciplinary proceedings, including the procedures provided therein for answering charges levied against a Clearing Member, which give Clearing Members the right to a hearing and to be represented by counsel at such hearing. Verbatim transcripts of any such hearing are prepared by OCC.

Section 17A(b)(3)(G) of the Act[9] requires that the rules of a clearing agency provide that its members be appropriately disciplined for violation of any provision of the rules of the clearing agency by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, or any other fitting sanction. Section 17A(b)(3)(H) of the Act[10] requires, among other things, that the rules of a clearing agency, in general, provide a fair procedure with respect to the disciplining of members. OCC believes that adopting an MRV Plan furthers the statutory objective of providing a fair procedure for disciplining Clearing Members, and will provide OCC with the ability to impose a meaningful sanction for those rule violations that do not necessarily rise to a level meriting a full disciplinary proceeding under Chapter XII of the Rules. Accordingly, the proposed changes promote the prompt and accurate clearance and settlement of securities transactions and are therefore consistent with the requirements of the Exchange Act and the rules and regulations promulgated thereunder applicable to OCC.

10. Other Amendments

Several of OCC's By-Laws and Rules include now-dated references to the National Association of Securities Dealers, which OCC has corrected to refer instead to the Financial Industry Regulatory Authority. In addition, OCC Rule 307 includes references to a paragraph of Exchange Act Rule 15c3–1[11] that, while correct when Rule 307 was adopted, have since become incorrect due to the reorganization of that rule. OCC is amending its By-Laws and Rules to correct the foregoing references.

OCC believes the proposed changes are consistent with the requirements of the Act. OCC, as a DCO, is required to implement the proposed changes to comply with recent changes to CFTC regulations. OCC notes that the policies of the CEA with respect to clearing are comparable to a number of the policies underlying the Act, such as promoting market transparency for derivatives markets, promoting the prompt and accurate clearance of transactions, and protecting investors and the public interest.

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

OCC does not believe that the proposed rule change will have any impact or impose any burden on competition.

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

OCC has not solicited and does not intend to solicit comments regarding this proposed rule change. OCC has not received any unsolicited written comments from interested parties.

III. 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 may be submitted by using the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*), or send an email to *rule-comments@sec.gov.* Please include File No. SR–OCC–2012–06 on the subject line.
- Paper comments should be sent 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–OCC–2012–06. This file number should be included on the subject line if email 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 Web site 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_12_06.pdf.* 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–OCC–2012–06 and should be submitted on or before May 17, 2012.

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

Section 19(b) of the Act[12] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposed rule change is consistent with the requirements of the Act, in particular the requirements of Section 17A of the Act, and the rules and regulations thereunder applicable to OCC.[13] Specifically, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act which requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody and control of the clearing agency because the proposed rule change should allow OCC to better monitor the financial status and risk management procedures of its clearing members.[14] In addition, the Commission finds that the proposed rule change implementing a minor rule violation plan is consistent with the

[8] 17 CFR 240.19d–1(c)(2).

[9] 15 U.S.C. 78q–1(b)(3)(G).

[10] 15 U.S.C. 78q–1(b)(3)(H).

[11] 17 CFR 240.15c3–1.

[12] 15 U.S.C. 78s(b).

[13] 15 U.S.C. 78q–1. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78q–1(b)(3)(F).

requirements of Section 17A(b)(3)(G) of the Act, which requires that the rules of a clearing agency provide that its members be appropriately disciplined for violation of any provision of the rules of the clearing agency by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, or any other fitting sanction,[15] as well as Section 17A(b)(3)(H) which, among other things, requires that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants.[16]

In its filing, OCC requested that the Commission approve this proposed rule change on an accelerated basis for good cause shown. OCC cites as the reason for this request OCC's operation as a DCO, which is subject to regulation by the CFTC under the CEA. This rule change is being made according to regulations promulgated by the CFTC, which were previously subject to notice and comment. Not approving this request on an accelerated basis would have a significant impact on OCC's operations as a DCO.

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice in the **Federal Register** because the proposed rule change allows OCC to implement the regulations of another federal regulatory agency, the CFTC, in accordance with those regulations' effective date.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–OCC–2012–06) is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2012–10028 Filed 4–25–12; 8:45 am]

BILLING CODE 8011–01–P

[15] 15 U.S.C. 78q–1(b)(3)(G).

[16] 15 U.S.C. 78q–1(b)(3)(H).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–66840; File No. SR–Phlx–2012–23]

Self-Regulatory Organizations; NASDAQ OMX Phlx LLC; Order Approving Proposed Rule Change To Amend Registration, Qualification, and Continuing Education Requirements for Associated Persons

April 20, 2012.

I. Introduction

On February 16, 2012, NASDAQ OMX Phlx LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1], and Rule 19b–4 [2] thereunder, a proposed rule change to amend and extend registration, qualification, and continuing education requirements for associated persons of members. The proposed rule change was published for comment in the **Federal Register** on March 7, 2012.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Representative Registration

Exchange Rule 604 applies to all member organizations and generally requires the Series 7 examination for Registered Representatives,[4] Principals,[5] off-floor traders [6] 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).[7] Rule 604(f) provides that members and persons associated with member organizations who are registered with the Exchange for the purpose of trading NMS Stocks [8] through the facilities of the Exchange, which is the PSX platform, are subject to the provisions of Rule 604(g) and (h) governing principal and representative registration, respectively. Rule 604(h) is applicable today only to PSX users pursuant to Rule 604(f). The Exchange proposes to move the requirements in Rule 604, and expand on those requirements, in proposed Rules 611, 612 and 613.

Rule 604(h) governs the registration of representatives with the Exchange. Specifically, Rule 604(h)(1) requires that all persons engaged or to be engaged in the investment banking or securities business [9] of a member organization who are to function as representatives be registered through WebCRD [10] in the category of registration appropriate to the function they will perform.[11] Before their registration can become effective, they must pass the Series 7 examination. The Exchange proposes to delete Rule 604 and adopt broader registration requirements in proposed Rule 613. Provisions contained in Rule 604(h) would be moved to Rule 613, Representative Registration, in substantially the same form, except with respect to trading floor personnel subject to Rule 620.

Proposed Rule 613(a) would require all persons engaged or to be engaged in the investment banking or securities business of a member organization who are to function as representatives to be registered through WebCRD as specified in Rule 613(e).[12] Trading floor personnel whose activities [13] are limited to the trading floor would continue to be required to register pursuant to Rule 620 and qualify by passing the Exchange's Trading Floor Qualification Examination.[14] In addition, amended Rule 620 would require all trading floor personnel, including clerks, interns, and any other associated persons of a member organization who are not required to register pursuant to Rule 620(a) to register on Form U4 through WebCRD. Thus, the same registration information would be available

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66497 (March 1, 2012) 77 FR 13668.

[4] *See* Rule 604(a).

[5] *See* Rule 604(g).

[6] *See* Rule 604(e).

[7] *See* Rule 604(d).

[8] *See* Rule 1(t).

[9] 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).

[10] WebCRD is FINRA's automated Central Registration Depository.

[11] Supplementary Material .04 of Rule 604.

[12] The requirement does not cover 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).

[13] These functions include handling and executing electronic and phoned-in orders on the trading floor, as well as providing markets, both verbally and electronically.

[14] Trading floor personnel, and members on the trading floor, would, however, be subject to new principal registration requirements, described below.