

Dated: September 7, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-22446 Filed 9-7-12; 4:15 pm]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67780; File No. SR-Phlx-2012-106]

### Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Withdrawal of Proposed Rule Change To Modify Exchange Rule 3307 To Institute a Five Millisecond Delay in the Execution Time of Marketable Orders on NASDAQ OMX PSX

September 5, 2012.

On August 9, 2012, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to institute a five millisecond delay in the execution time of marketable orders on NASDAQ OMX PSX. Notice of the proposed rule change was published in the *Federal Register* on August 23, 2012.<sup>3</sup> The Commission received no comments on the proposed rule change. On August 30, 2012, Phlx withdrew the proposed rule change (SR-Phlx-2012-106).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012-22218 Filed 9-10-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-67784; File No. SR-FINRA-2012-040]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change To Amend the By-Laws of FINRA Dispute Resolution, Inc. To Clarify That Services Provided by Mediators Should Not Cause Them To Be Classified as Industry Members Under the By-Laws

September 5, 2012.

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 August 23, 2012, the Financial Industry Regulatory Authority, Inc. ("FINRA") 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 FINRA. 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

FINRA is proposing to amend the By-Laws of FINRA Dispute Resolution, Inc. (By-Laws) to clarify that services provided by mediators, when acting in such capacity and not representing parties in mediation, should not cause the individuals to be classified as Industry Members under the By-Laws.

The text of the proposed rule change is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA and at the Commission's Public Reference Room.

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

In its filing with the Commission, FINRA 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. FINRA 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

##### Background

FINRA believes that mediators who are otherwise qualified should be eligible to become Public Members of the National Arbitration and Mediation Committee (NAMC), a committee appointed by the Board of Directors of FINRA Dispute Resolution, Inc. (FINRA DR). Currently, they cannot because of the definitions of Industry Member<sup>3</sup> and Public Member<sup>4</sup> in the FINRA Dispute Resolution By-Laws (By-Laws).

In a FINRA mediation, all parties agree on the selection of a mediator, agree on the compensation of the mediator, and agree on how to allocate the mediator's compensation among the parties. Thus, a mediator receives part of the compensation in each case from an industry party. However, for mediations to which investors are parties, mediators represent neither the investors nor the FINRA-registered individuals or entities. Similarly, for mediations involving industry parties only, mediators represent neither the FINRA-registered individuals nor entities. In both types of mediations, FINRA believes that the revenue mediators receive from FINRA-registered individuals or firms for their mediation activity should not prevent mediators from being classified as Public Members under the By-Laws.

Pursuant to the Plan of Allocation and Delegation of Functions by FINRA to Subsidiaries (Delegation Plan), the NAMC has the powers and authority pursuant to FINRA's Rules to advise the FINRA DR Board on the development and maintenance of an equitable and efficient system of dispute resolution that will equally serve the needs of public investors and FINRA members, to monitor rules and procedures governing the conduct of dispute resolution, and to have such other powers and authority as is necessary to effectuate the purposes of FINRA's Rules.<sup>5</sup> The Delegation Plan provides that the FINRA DR Board must appoint the NAMC, whose membership must

<sup>3</sup> See Dispute Resolution By-Laws, Article I(s) (Definitions—Industry Member).

<sup>4</sup> See Dispute Resolution By-Laws, Article I(x) (Definitions—Public Member).

<sup>5</sup> See Plan of Allocation and Delegation of Functions by FINRA to Subsidiaries—NASD Dispute Resolution, § III(C)(1)(b).

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

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

<sup>3</sup> See Securities Exchange Act Release No. 67680 (August 17, 2012), 77 FR 51073.

<sup>4</sup> 17 CFR 200.30-3(a)(12).

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

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