

should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ISE-2009-61 and should be submitted on or before October 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60640; File No. SR-FINRA-2009-056]

### Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee for Investment Banking Representative Examination

September 9, 2009.

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 26, 2009, 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. FINRA has designated the proposed rule change as “establishing or changing a due, fee or other charge” under Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. 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 Schedule A to the FINRA By-Laws to establish a fee for the new Investment Banking Representative Examination (“Series 79”).

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

On April 13, 2009, the Commission approved NASD Rule 1032(i), which establishes a new limited representative category—Limited Representative-Investment Banking—for persons whose activities are limited to investment banking and those who supervise such activities.<sup>5</sup> FINRA has developed the Series 79 program to ensure that persons associated with FINRA members seeking to register as investment banking representatives have attained specified levels of competence and knowledge. On July 28, 2009, FINRA filed with the Commission the Series 79 selection specifications and content outline.<sup>6</sup> The examination will be implemented on November 2, 2009.<sup>7</sup>

The proposed rule change would amend Section 4 of Schedule A to FINRA By-Laws to establish a fee of \$265 for an associated person to take the Series 79 exam. The fee is the same as that for the General Securities Representative exam (“Series 7”)<sup>8</sup> and is based on the costs to FINRA to develop and administer the exam.

FINRA has filed the proposed rule change for immediate effectiveness. The

<sup>5</sup> See Securities Exchange Act Release No. 59757 (April 13, 2009), 74 FR 18268 (April 21, 2009) (Order Approving File No. SR-FINRA-2009-006).

<sup>6</sup> See Securities Exchange Act Release No. 60424 (August 4, 2009), 74 FR 39984 (August 10, 2009) (Notice of Filing and Immediate Effectiveness; File No. SR-FINRA-2009-049).

<sup>7</sup> See *Regulatory Notice* 09-41 (July 2009).

<sup>8</sup> Within the six-month period following the implementation of Rule 1032(i), individuals who are registered as a General Securities Representative and function in a member’s investment banking business line as described in Rule 1032(i) may opt in to the Limited Representative-Investment Banking registration category. After the six-month opt-in period, individuals who perform the job functions set out in Rule 1032(i) will be required to pass the Series 79 exam in lieu of the General Securities Representative (“Series 7”) exam (or equivalent exams), unless subject to an exception in the Rule.

implementation date will be November 2, 2009, to coincide with the implementation date of NASD Rule 1032(i).

###### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the Act, including Section 15A(b)(5) of the Act,<sup>9</sup> which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes the proposed rule change is designed to accomplish these ends by equitably assessing the costs associated with developing and administering the examination program.

##### B. Self-Regulatory Organization’s Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is 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

Written comments were neither solicited nor 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) of the Act<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder.<sup>11</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate 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.

#### 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:

<sup>9</sup> 15 U.S.C. 78o-3(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</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.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

*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-FINRA-2009-056 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-FINRA-2009-056. 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, 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 FINRA. 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 publicly available. All submissions should refer to File Number SR-FINRA-2009-056 and should be submitted on or before October 7, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**  
*Deputy Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-60637; File No. SR-Phlx-2009-77]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by NASDAQ OMX PHLX, Inc. Regarding Listing Certain Options at \$1 Strike Price Intervals Below \$200 and Listing Certain Options at \$2.50 Strike Price Intervals Below \$200**

September 9, 2009.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on September 4, 2009, NASDAQ OMX PHLX, Inc. ("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 amend Phlx Rules 1012 (Series of Options Open for Trading) and 1101A (Terms of Option Contracts) regarding listing certain options at \$1 strike price intervals below \$200. The proposal also amends Rule 1101A regarding listing certain options on indexes at \$2.50 strike price intervals below \$200.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/>, at the principal office of the Exchange, 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, 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 rule changes proposed herein are consistent with existing rules and practices that allow Phlx and other options exchanges to list and trade Mini-NDX (MNX) and other index options at \$1 strike price intervals,<sup>3</sup> and to trade index options at \$2.50 strike price intervals.<sup>4</sup>

The purpose of the proposed rule change is to amend Phlx Rules 1012 and 1101A so that the Exchange may list eight index options at \$1 strike price intervals below \$200. The purpose is also to amend Rule 1101A so that the Exchange may list options on two indexes at \$2.50 strike price intervals below \$200.

The indexes underlying options in respect of which the Exchange is proposing \$1 strike price intervals in this filing, which are also known as sector indexes, are: PHLX Gold/Silver Index (option symbol XAU), PHLX Housing Index (option symbol HGX), PHLX Oil Service Index (option symbol OSX), SIG Oil Exploration & Production Index™ (option symbol EPX<sup>SM</sup>),<sup>5</sup> PHLX Semiconductor Index (option symbol SOX), KBW Bank Index (option symbol BKX),<sup>6</sup> SIG Energy MLP Index<sup>SM</sup> (option

<sup>3</sup> Regarding \$1 strike price intervals for MNX, see Securities Exchange Act Release Nos. 58924 (November 10, 2008), 73 FR 68464 (November 18, 2008) (SR-CBOE-2008-96) (approval order); 58997 (November 21, 2008), 73 FR 72887 (December 1, 2008) (SR-ISE-2008-88) (notice of filing and immediate effectiveness); 59129 (December 22, 2008), 73 FR 79945 (December 30, 2008) (SR-BSE-2008-57) (notice of filing and immediate effectiveness); and 60156 (June 22, 2009), 74 FR 31077 (June 29, 2009) (SR-Phlx-2009-46) (notice of filing and immediate effectiveness). Regarding \$1 and smaller strike price intervals for other index options, see Securities Exchange Act Release Nos. 39011 (September 3, 1997), 62 FR 47840 (September 11, 1997) (SR-CBOE-1997-26) (approval order regarding \$0.50 strike price intervals for DJIA options); and 58207 (July 29, 2008), 73 FR 43963 (July 22, 2008) (SR-CBOE-2008-26) (approval order regarding \$1 strike price intervals for BXM options).

<sup>4</sup> Regarding \$2.50 strike price intervals, see Securities Exchange Act Release Nos. 35993 (July 19, 1995), 60 FR 38073 (July 25, 1995) (approving File Nos. SR-Phlx-95-08, SR-Amex-95-12, SR-PSE-95-07, SR-CBOE-95-19, and SR-NYSE-95-12 and approving the \$2.50 pilot program); and 40662 (November 12, 1998), 63 FR 64297 (November 19, 1998) (approving File Nos. SR-Amex-98-21, SR-CBOE-98-29, SR-PCX-98-31, and SR-Phlx-98-26 and permanently approving the \$2.50 pilot).

<sup>5</sup> The SIG Indexes noted herein are trademarks of SIG Indices, LLLP.

<sup>6</sup> The KBW Bank Index is also known as the PHLX/KBW Bank Index. See SR-Phlx-2009-58 (clarifying the name as KBW Bank Index).

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

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

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