

financial intermediary, or its agent, reasonably requests to facilitate the financial intermediary's sending of the 19(a) Notice to each beneficial owner of the Fund's stock; and (c) upon the request of any financial intermediary, or its agent, that receives copies of the 19(a) Notice, will pay the financial intermediary, or its agent, the reasonable expenses of sending the 19(a) Notice to such beneficial owners.

#### 5. Additional Board Determinations for Funds Whose Common Stock Trades at a Premium

If:

(a) The Fund's common stock has traded on the stock exchange that they primarily trade on at the time in question at an average premium to NAV equal to or greater than 10%, as determined on the basis of the average of the discount or premium to NAV of the Fund's common stock as of the close of each trading day over a 12-week rolling period (each such 12-week rolling period ending on the last trading day of each week); and

(b) The Fund's annualized distribution rate for such 12-week rolling period, expressed as a percentage of NAV as of the ending date of such 12-week rolling period, is greater than the Fund's average annual total return in relation to the change in NAV over the 2-year period ending on the last day of such 12-week rolling period; then:

(i) At the earlier of the next regularly scheduled meeting or within four months of the last day of such 12-week rolling period, the Board, including a majority of the Independent Directors:

(1) Will request and evaluate, and the Fund's Adviser will furnish, such information as may be reasonably necessary to make an informed determination of whether the Distribution Policy should be continued or continued after amendment;

(2) will determine whether continuation, or continuation after amendment, of the Distribution Policy is consistent with the Fund's investment objective(s) and policies and is in the best interests of the Fund and its stockholders, after considering the information in condition 5(b)(i)(1) above; including, without limitation:

(A) whether the Distribution Policy is accomplishing its purpose(s);

(B) the reasonably foreseeable material effects of the Distribution Policy on the Fund's long-term total return in relation to the market price and NAV of the Fund's common stock; and

(C) the Fund's current distribution rate, as described in condition 5(b) above, compared with the Fund's

average annual taxable income or total return over the 2-year period, as described in condition 5(b), or such longer period as the Board deems appropriate; and

(3) based upon that determination, will approve or disapprove the continuation, or continuation after amendment, of the Distribution Policy; and

(ii) The Board will record the information considered by it, including its consideration of the factors listed in condition 5(b)(i)(2) above, and the basis for its approval or disapproval of the continuation, or continuation after amendment, of the Distribution Policy in its meeting minutes, which must be made and preserved for a period of not less than six years from the date of such meeting, the first two years in an easily accessible place.

#### 6. Public Offerings

The Fund will not make a public offering of the Fund's common stock other than:

(a) A rights offering below NAV to holders of the Fund's common stock;

(b) an offering in connection with a dividend reinvestment plan, merger, consolidation, acquisition, spin-off or reorganization of the Fund; or

(c) an offering other than an offering described in conditions 6(a) and 6(b) above, provided that, with respect to such other offering:

(i) the Fund's annualized distribution rate for the six months ending on the last day of the month ended immediately prior to the most recent distribution record date,<sup>4</sup> expressed as a percentage of NAV per share as of such date, is no more than 1 percentage point greater than the Fund's average annual total return for the 5-year period ending on such date;<sup>5</sup> and

(ii) the transmittal letter accompanying any registration statement filed with the Commission in connection with such offering discloses that the Fund has received an order under section 19(b) to permit it to make periodic distributions of long-term capital gains with respect to its common stock as frequently as twelve times each year, and as frequently as distributions are specified by or determined in accordance with the terms of any outstanding preferred stock as such Fund may issue.

<sup>4</sup> If the Fund has been in operation fewer than six months, the measured period will begin immediately following the Fund's first public offering.

<sup>5</sup> If the Fund has been in operation fewer than five years, the measured period will begin immediately following the Fund's first public offering.

#### 7. Amendments to Rule 19b-1

The requested order will expire on the effective date of any amendments to rule 19b-1 that provide relief permitting certain closed-end investment companies to make periodic distributions of long-term capital gains with respect to their outstanding common stock as frequently as twelve times each year.

For the Commission, by the Division of Investment Management, under delegated authority.

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2012-22244 Filed 9-10-12; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold a Closed Meeting on Thursday, September 13, 2012 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Gallagher, as duty officer, voted to consider the items listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Thursday, September 13, 2012 will be:

Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings; and  
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 551-5400.

Dated: September 7, 2012.

Kevin M. O'Neill,

Deputy Secretary.

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

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## 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]

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## 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.