

have rules that are designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

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

The proposed rule change does not 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

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change; or
- (b) Institute proceedings to determine whether the proposed rule change should be 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the above-

referenced self-regulatory organization. All submissions should refer to File No. SR-ISE-00-22 and should be submitted by March 2, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01-3340 Filed 2-8-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43928; File No. SR-NASD-00-77]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Registration Requirements for Limited Principals-Financial and Operations and Limited Principals-Introducing Broker/Dealer Financial and Operations

February 5, 2001.

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 December 20, 2000, the National Association of Securities Dealers, Inc. ("NASD"), through its subsidiary, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. 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

NASD Regulation proposes to amend three rules: NASD Rule 1022(b) (Limited Principal-Financial and Operations ("FINOP")), NASD Rule 1022(c) (Limited Principal-Introducing Broker/Dealer Financial and Operations ("Introducing FINOP")), and NASD Rule 9610 (Procedures for Exemptions). The proposed amendments to NASD Rules 1022(b) and 1022(c) would (1) clarify the applicability of NASD Rules 1022(b) and 1022(c) to members by making citations in these rules consistent with Exchange Rule 14c3-1 (the "Net Capital Rule")³; (2) eliminate

the ability of a member that is subject to the Net Capital Rule to request an exemption from the requirement under NASD Rule 1022(b) to have a FINOP; and (3) exclude from the requirements of NASD Rules 1022(b) and 1022(c) those firms are exempt from or otherwise not subject to the Net Capital Rule. The proposed amendments to NASD Rule 9610(a) would eliminate NASD Rule 1022 from the list of rules from which a member may seek exemptive relief. The proposed amendments to NASD Rule 9610(a) also would make a technical change to clarify that the Rule 9600 Series merely sets forth procedures for seeking exemptive relief, and that the type of relief that may be requested, and the authority to grant such relief, is found in the rules listed in NASD Rule 9610(a).

Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

1020. Registration of Principals

* * * * *

1022. Categories of Principal Registration

- (a) No change
- (b) Limited Principal-Financial and Operations

(1) Every member of the Association, [unless exempted by subparagraph (4),] *that is operating pursuant to the provisions of SEC Rule 15c3-1 (a)(1)(ii), (a)(2)(i) or (a)(8),* shall designate as Limited Principal-Financial and Operations those persons associated with it, at least one of whom shall be its chief financial officer, who performs the duties described in subparagraph [(b)](2) hereof. Each person associated with a member who performs such duties shall be required to register as a Limited Principal-Financial and Operations with the Association and shall pass an appropriate Qualification Examination before such registration may become effective.

- (2) and (3) No change.

[(4) Pursuant to the Rule 9600 Series, the Association may exempt a member or an applicant for membership in the Association from the requirement to have a Limited Principal-Financial and Operations if:]

[(A) it has been expressly exempted by the Commission from SEC Rule 15c3-1(b)(1)(iii);]

[(B) it is subject to the provisions of SEC Rule 15c3-1(a)(2) or to Section 402.2(c) of the rules of the Treasury Department.]

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 17 CFR 240.15c3-1.

[(5)] (4) A person registered solely as a Limited Principal-Financial and Operations shall not be qualified to function in a principal capacity with responsibility over any area of business activity not *described* [prescribed] in subparagraph (2) hereof.

(c) Limited Principal-Introducing Broker/Dealer Financial and Operations

(1) Every member of the Association, [which is operating pursuant to the provisions of SEC Rule 15c3–(a)(2)(i) or (vi) and to the provisions of SEC Rule 15c3–3(k)(2)(ii),] *that is subject to the requirements of SEC Rule 15c3–1, other than SEC Rule 15c3–1(a)(1)(ii), (a)(2)(i) or (a)(8),* shall designate as Limited Principal-Introducing Broker/Dealer Financial and Operations those persons associated with it, at least one of whom shall be its chief financial officer, who perform the duties described in [paragraph] *subparagraph (2)[,]* hereof. Each person associated with a member who performs such duties shall be required to register as a Limited Principal-Introducing Broker/Dealer Financial and Operations with the Association and shall pass an appropriate Qualification Examination before such registration may become effective.

(2) No change.

(3) Except as provided in Rule 1021(c), a person designated pursuant to the provisions of subparagraph (1) hereof, shall not be required to take the Limited Principal-Introducing Broker/Dealer Financial and Operations Examination and shall be qualified for registration as a Limited Principal-Introducing Broker/Dealer Financial and Operations if such a person is qualified to be registered or is registered as a Limited Principal-Financial and Operations [as defined in paragraph 2 hereof.] *pursuant to Rule 1022(b).*

(4) No change.

(d) through (g) No change.

* * * * *

9600. PROCEDURES FOR EXEMPTIONS

9610. Application

(a) Where to file

A member seeking [an exemption from] *exemptive relief provided in* Rules 1021, [1022,] 1070, 2210, 2320, 2340, 2520, 2710, 2720, 2810, 2850, 2851, 2860, Interpretive Material 2860–1, 3010(b)(2), 3020, 3210, 3230, 3350, 8211, 8212, 8213, 11870, or 11900, Interpretive Material 2110–1, or Municipal Securities Rulemaking Board Rule G–37 shall file a written application with the appropriate department or staff of the Association and provide a copy of the application to

the Office of General Counsel of NASD Regulation.

(b) and (c) No change

* * * * *

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

In its filing with the Commission, NASD Regulation 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. NASD Regulation 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

NASD Rules 1022(b) and 1022(c) set forth the registration requirements for FINOPs and Introducing FINOPs. FINOPs are required to take and pass the Series 27 Principal Examination. Introducing FINOPs are required to take and pass the Series 28 Principal Examination. The proposed amendments to NASD Rule 1022(b) would clarify that every broker or dealer that is operating pursuant to the provisions of Exchange Act Rule 15c3–1(a)(1)(ii) or (a)(2)(i) ⁴ (both of which subject brokers or dealers to a minimum net capital requirement of \$250,000), or (a)(8) ⁵ (which subjects municipal securities brokers' brokers to a minimum \$150,000 net capital requirement) must have a FINOP. The proposed amendments to NASD rule 1022(c) would clarify that every broker or dealer that is subject to the requirements of the Net Capital Rule, and is not required to employ a FINOP pursuant to NASD Rule 1022(b), is required to have at least one associated person who has registered as an Introducing FINOP. The proposed amendments to NASD Rule 1022(c) also would clarify that a person qualified as a Series 27 FINOP is not required to take the Series 28 Examination if he or she is employed as an Introducing FINOP.

In addition, the proposed amendments to NASD Rule 1022(b) would eliminate the provisions that allow a broker or dealer that is subject to the Net Capital Rule to seek an

exemption from the requirement to have a FINOP. As a procedural matter, NASD Regulation proposes to amend NASD Rule 9610(a) to eliminate NASD Rule 1022 from the list of rules for which a member may file an application to seek exemptive relief. NASD Regulation believes that firms that are subject to the Net Capital Rule should not be exempted from the requirement to employ a FINOP or Introducing FINOP. In the rare instance that a firm believes that a particular individual should not be required to take and pass the Series 27 or Series 28 Examination based on that individual's experience and qualifications, the firm may seek an exam waiver for that individual pursuant to NASD Rule 1070(e).

The proposed amendments to NASD 1022(b) also would eliminate the ability, as well as the need, for members that are exempt from the Net Capital Rule to seek exemptive relief from the FINOP or Introducing FINOP requirements. As noted above, the proposed changes to both NASD Rule 1022(b) and 1022(c) would make clear that the requirements to have a FINOP or Introducing FINOP apply only to firms that are subject to the requirements of the Net Capital Rule. Members that are exempt from or otherwise not subject to the Net Capital Rule would no longer be subject to the requirements of either NASD Rule 1022(b) or NASD Rule 1022(c). Therefore, under the proposed amendments, it would no longer be necessary for such members to seek exemptive relief from the requirements of those rules.

The proposed amendments would have no effect on individuals who are currently grandfathered for the Series 27 or Series 28 Examination, because these persons are considered to possess the license for which they were grandfathered.⁶ In addition, NASD Regulation represents that firms currently the subject of a FINOP waiver would not be subject to the proposed rule amendments.⁷

Finally, the proposed amendments to NASD Rule 9610(a) would make a technical change to clarify that the Rule 9600 Series merely sets forth procedures for seeking exemptive relief, and that the type of relief that may be requested, and the authority to grant such relief, is

⁶ Only individuals who qualified as "Financial Principals" before the establishment of the Series 27 examination were grandfathered as FINOPs and were not required to take either the Series 27 or Series 28 examination.

⁷ Telephone conversation between Shirley Weiss, Attorney, NASD Regulation, and Andrew Shippe, Attorney, Division of Market Regulation, Commission, on January 11, 2001.

⁴ 17 CFR 240.15c3–1(a)(1)(ii), and (a)(2)(i).

⁵ 17 CFR 240.15c3–1(a)(8).

found in the rules listed in NASD Rule 9610(a).

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,⁸ which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Regulation believes that the proposed rule change is designed to accomplish these ends by clarifying the applicability of NASD Rule 1022(b) and (c) to members by making the citations in the rules consistent with the Net Capital Rule and by eliminating the ability of brokers or dealers that are subject to the Net Capital Rule from operating without a FINOP or Introducing FINOP. The proposed rule change also would help members by clarifying the circumstances under which a FINOP must have taken and passed either Series 27 or Series 28 Examination.

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

NASD Regulation 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-00-77 and should be submitted by March 2, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-3361 Filed 2-8-01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43921; File No. SR-Phlx-00-107]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Listing and Trading of Options on Exchange-Traded Fund Shares

February 2, 2001.

Pursuant to section 19(b)(91) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 21, 2000, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Phlx. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons and to

approve 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 amend its rules to create listing criteria and amend trading rules to allow the Exchange to list options on Exchange-Traded Fund Shares. The text of the proposed rule change is available at the Phlx or the Commission.

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. 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 provide for the trading of options and FLEX options on Exchange-Traded Fund Shares.³ As noted above, Exchange-Traded Fund Shares are exchange-listed securities representing interests in open-end unit investment trusts or open-end management investment companies ("Funds") that hold securities based on an index or a portfolio of securities.⁴ Exchange-Traded Fund Shares are issued in exchange for an "in kind" deposit of a specified portfolio of securities, together with a cash payment, in minimum size aggregations or multiples thereof ("Creation Units"). The size of the applicable Creation Unit size aggregation is set forth in the Fund's prospectus, and varies from one series

³ In general, FLEX options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices. See Phlx Rule 1079.

⁴ Currently, the Exchange trades unit investment trust securities known as Trust Shares. The Exchange has also just received approval to trade Index Fund Shares which are issued by an open-end management investment company. Trust Shares and Index Fund Shares are listed on the Phlx pursuant to Rule 803(i) and 803(l), respectively, and trade like shares of common stock. The Commission notes that not all Trust Shares or Index fund shares trading on the Phlx may meet the standards for options trading approved by this order.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁸ 15 U.S.C. 78o-3(b)(6).