

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

Phlx 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, as amended.

### 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 Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>5</sup> and Rule 19b-4(f)(6) thereunder.<sup>6</sup> Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>7</sup> and Rule 19b-4(f)(6)(iii) thereunder.<sup>8</sup>

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.

### 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>5</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>6</sup> 17 CFR 240.19b-4(f)(6).

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>8</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

### 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](mailto:rule-comments@sec.gov). Please include File No. SR-Phlx-2012-107 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-2012-107. 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-2012-107 and should be submitted on or before September 17, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>9</sup>

**Elizabeth M. Murphy,**  
Secretary.

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<sup>9</sup> 17 CFR 200.30-3(a)(12).

### SOCIAL SECURITY ADMINISTRATION

#### Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB)

Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202-395-6974, Email address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov).

(SSA)

Social Security Administration, DCRDP, Attn: Reports Clearance Director, 107 Altmeyer Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-966-2830, Email address: [OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov).

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 26, 2012. Individuals can obtain copies of the collection instrument by writing to the above email address.

State Supplementation Provisions: Agreement; Payments—20 CFR 416.2095-416.2098, 416.2099-0960-0240. Section 1618 of the Social Security Act (Act) contains pass-along provisions of the Social Security amendments. These provisions require states that supplement Federal Supplemental Security Income payments to pass along Federal cost-of-living increases to individuals who are eligible for state supplemental payments. If a state fails to keep payments at the required level, it becomes ineligible for Medicaid reimbursement under title XIX of the

Act. SSA uses the information to determine a state's eligibility for Medicaid reimbursement. Respondents

are state agencies administering supplemental programs.

*Type of Request:* Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Total Expenditures .....	7	4	60	28
Maintenance of Payment Levels .....	24	1	60	24
<b>Total .....</b>	<b>31</b>	<b>.....</b>	<b>.....</b>	<b>52</b>

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 26, 2012. Individuals can obtain copies of the OMB clearance packages by writing to [OPLM.RCO@ssa.gov](mailto:OPLM.RCO@ssa.gov).

1. Request for Internet Services—Authentication; Automated Telephone

Speech Technology—Knowledge-Based Authentication (RISA)—20 CFR 401.45—0960—0596. RISA, one of SSA's authentication methods, allows individuals to access their personal information through our Internet and Automated Telephone Services. SSA asks individuals and third parties who seek personal information from SSA records, or who register to participate in SSA's online business services, to provide certain identifying information. As an extra measure of protection, SSA

asks requestors who use the Internet and telephone services to provide additional identifying information unique to those services so SSA can authenticate their identities before releasing personal information. The respondents are current beneficiaries who are requesting personal information from SSA, and individuals and third parties who are registering for SSA's online business services.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Internet Requestors .....	7,929,336	1	2.5	330,389
Telephone Requestors .....	8,123,835	1	4.5	609,288
*Screen Splash (on hold) .....	1	.....	.....	1
<b>Totals .....</b>	<b>16,053,172</b>	<b>.....</b>	<b>.....</b>	<b>939,678</b>

\* We are reducing the burden to a one-hour placeholder burden, because we are placing the Screen Splash application on hold.

2. Application for Special Benefits for World War II Veterans—20 CFR 408, Subparts B, C and D—0960—0615. Title VIII of the Act (Special Benefits for Certain World War II Veterans) allows qualified World War II veterans residing outside the United States to receive

monthly payments. These regulations establish the requirements individuals need to qualify for and become entitled to Special Veterans Benefits (SVB). SSA uses Form SSA-2000-F6 to elicit the information we need to determine entitlement to SVB. This information

collection request comprises the relevant regulations and Form SSA-2006-F6. The respondents are individuals applying for SVB under title VIII of the Act.

*Type of Request:* Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
§ 408.202(d); § 408.210; § 408.230(a); § 408.305; §§ 408.310–.315 (SSA-2000-F6) .....	100	1	20	33
§ 408.420(a), (b) .....	71	1	15	18
§§ 408.430 & .432 .....	66	1	30	33
§ 408.435(a), (b), (c) .....	71	1	15	18
<b>Totals .....</b>	<b>308</b>	<b>.....</b>	<b>.....</b>	<b>102</b>

Dated: August 22, 2012.

**Faye Lipsky,**

*Reports Clearance Director, Social Security Administration.*

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## SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA-2012-0046]

### Social Security Acquiescence Ruling (AR) 12-X(8); *Petersen v. Astrue*, 633 F.3d 633 (8th Cir. 2011); Whether a National Guard Technician Who Worked in Noncovered Employment Is Exempt From the Windfall Elimination Provision (WEP)—Title II of the Social Security Act

**AGENCY:** Social Security Administration.

**ACTION:** Notice of Social Security Acquiescence Ruling.

**SUMMARY:** We are publishing this Social Security Acquiescence Ruling (AR) in accordance with 20 CFR 402.35(b)(2).

**DATES:** *Effective Date:* August 27, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Robert Crowe, Office of the General Counsel, Office of Program Law, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235-6401, (410) 965-3155, or TTY 410-966-5609, for information about this notice. For information on eligibility or filing for benefits, call our national toll-free number, 1-800-772-1213 or TTY 1-800-325-0778, or visit our Internet site, Social Security Online, at <http://www.socialsecurity.gov>.

**SUPPLEMENTARY INFORMATION:** An AR explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act (the Act) or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals' decision as explained in this AR to all determinations or decisions at all levels of administrative review within the Eighth Circuit. We will apply this AR to all determinations or decisions made on or after August 27, 2012. If we made a determination or decision to apply the WEP to your retirement or disability benefits between February 3, 2011, the date of the Court of Appeals' decision, and August 27, 2012, the effective date of this AR, you may request that we apply the AR to the prior determination or decision. You must show, pursuant to 20 CFR 404.985(b)(2), that applying the AR

could change our prior determination or decision in your case.

In addition, when we received this precedential Court of Appeals' decision and determined that an AR might be required, we began to identify those persons within the circuit who might be subject to readjudication if we subsequently issued an AR. Because we have determined that an AR is required and are publishing this AR, we will send a notice to those individuals we have identified. In the notice, we will provide information about the AR and their right to request readjudication under the AR. However, affected individuals do not need to receive a notice in order to request that we apply this AR to our prior determination or decision, as provided in 20 CFR 404.985(b)(2).

If we later rescind this AR as obsolete, we will publish a notice in the **Federal Register** to that effect, as provided in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this AR, as provided by 20 CFR 404.985(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance, Program Nos. 96.001 Social Security—Disability Insurance; 96.002 Social Security—Retirement Insurance; 96.004 Social Security—Survivors Insurance)

Dated: August 21, 2012.

**Michael J. Astrue,**

*Commissioner of Social Security.*

### Acquiescence Ruling 12-X(8)

*Petersen v. Astrue*, 633 F.3d 633 (8th Cir. 2011): Whether a National Guard Technician Who Worked in Noncovered Employment Is Exempt From the Windfall Elimination Provision (WEP)—Title II of the Social Security Act.

*Issue:* Whether a National Guard technician who worked in noncovered employment under the Civil Service Retirement System (CSRS) is subject to the WEP.

*Statutory and Regulatory Citation:* Section 215(a)(7)(A)(III) of the Social Security Act, 42 U.S.C. 415(a)(7)(A); 20 CFR 404.213(e)(9).

*Circuit:* Eighth (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota).

*Applicability of Ruling:* This ruling applies to determinations or decisions, at all levels of administrative review, i.e., initial, reconsideration, administrative law judge (ALJ) hearing, and Appeals Council.

*Description of Case:* Mr. Petersen was a technician with the National Guard

from 1972 to 2000. The National Guard Technician Act of 1968, Pub. L. 90-486, codified at 32 U.S.C. 709, made technicians with the National Guard civil service employees of the United States Government. Some technicians, like Mr. Petersen, have "dual status" because they are not only civilian employees but also military members of the National Guard. Mr. Petersen received a civilian pension from the CSRS for his work as a National Guard technician. His work as a technician was not covered by Social Security, and Social Security taxes were not withheld from his pay. Thus, his CSRS pension is based wholly on noncovered civil service work.

Mr. Petersen applied for Social Security retirement benefits in 2006. Social Security found that he was entitled to benefits but informed Mr. Petersen that his benefit amount would be reduced in accordance with the WEP. The agency denied his request for reconsideration. He requested a hearing by an ALJ, and the ALJ found that Mr. Petersen's benefits should not be reduced because of the WEP. The Appeals Council then reviewed the ALJ's decision on its own motion and subsequently issued a decision finding that Mr. Petersen's benefits were subject to reduction under the WEP. The Appeals Council's decision was the agency's final decision.

Mr. Petersen requested judicial review of the agency's final decision in accordance with 42 U.S.C. 405(g). On February 23, 2009, the district court issued a decision finding that his benefits were not subject to the WEP because 42 U.S.C. 415(a)(7)(A)(III) exempts from the WEP those retirement payments based on service as a member of a uniformed service. The district court found that Mr. Petersen's National Guard technician service qualified him for this exception. The Government appealed the district court's decision to the United States Court of Appeals for the Eighth Circuit.

### Holding

The Court of Appeals noted that "dual status" National Guard technicians must maintain military membership in the National Guard and are also required to wear their uniform, even when performing civilian technician work. The Eighth Circuit held that, as a result of "these unique National Guard technician requirements imposed upon him, Petersen performed his work 'as a member of the Nebraska Air National Guard.'" Consequently, the Eighth Circuit found that Mr. Petersen qualified for the exception to the WEP for work