

The obligation to calculate voting privileges as provided in the Application will be a contractual obligation of all Participating Insurance Companies under their agreement with the Trusts governing participation in a Fund. Each Participating Insurance Company will vote shares for which it has not received timely voting instructions, as well as shares it owns through its Separate Accounts, in the same proportion as it votes those shares for which it has received voting instructions. Each Qualified Plan will vote as required by applicable law and governing Qualified Plan documents.

7. As long as the 1940 Act requires pass-through voting privileges to be provided to variable contract owners, M&T Bank or any of its affiliates, and any General Account will vote its shares of any Fund in the same proportion of all variable contract owners having voting rights with respect to that Fund; provided, however, that M&T Bank, any of its affiliates or any insurance company General Account shall vote its shares in such other manner as may be required by the Commission or its staff.

8. The Trust will comply with all provisions of the 1940 Act requiring voting by shareholders, which for these purposes, shall be the persons having a voting interest in the shares of the respective Fund, and, in particular, the Trust will either provide for annual meetings (except to the extent that the Commission may interpret section 16 of the 1940 Act not to require such meetings) or comply with section 16(c) of the 1940 Act (although the Trust is not one of the funds of the type described in the section 16(c) of the 1940 Act), as well as with section 16(a) of the 1940 Act and, if and when applicable, section 16(b) of the 1940 Act. Further, the Fund will act in accordance with the Commission's interpretation of the requirements of section 16(a) with respect to periodic elections of trustees and with whatever rules the Commission may promulgate with respect thereto.

9. The Trust will notify all Participants that Separate Account prospectus disclosure or Qualified Plan prospectuses or other Qualified Plan disclosure documents regarding potential risks of mixed and shared funding may be appropriate. The Trust will disclose in its prospectus that (a) shares of the Trust may be offered to Separate Accounts of Variable Contracts and, if applicable, to Qualified Plans; (b) due to differences in tax treatment and other considerations, the interests of various contract owners participating in the Trust and the interests of Qualified Plans investing in the Trust, if

applicable, may conflict; and (c) the Trust's Board will monitor events in order to identify the existence of any material irreconcilable conflicts and to determine what action, if any, should be taken in response to any such conflict.

10. If and to the extent that Rule 6e-2 and Rule 6e-3(T) under the 1940 Act are amended, or proposed Rule 6e-3 under the 1940 Act is adopted, to provide exemptive relief from any provision of the 1940 Act, or the rules promulgated thereunder, with respect to mixed or shared funding, on terms and conditions materially different from any exemptions granted in the order requested in the Application, then the Trust and/or Participating Insurance Companies, as appropriate, shall take such steps as may be necessary to comply with Rules 6e-2 and 6e-3(T), or Rule 6e-3, as such rules are applicable.

11. The Participants, at least annually, will submit to the Board such reports, materials, or data as a Board reasonably may request so that the trustees of the Board may fully carry out the obligations imposed upon the Board by the conditions contained in the Application. Such reports, materials, and data will be submitted more frequently if deemed appropriate by the Board. The obligations of the Participants to provide these reports, materials, and data to the Board, when it so reasonably requests, will be a contractual obligation of all Participants under their agreements governing participation in the Funds.

12. All reports of potential or existing conflicts received by the Board, and all Board action with regard to determining the existence of a conflict, notifying Participants of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records, and such minutes or other records shall be made available to the Commission upon request.

13. The Trust will not accept a purchase order from a Qualified Plan if such purchase would make the Qualified Plan shareholder an owner of 10 percent or more of the assets of such Fund unless such Qualified Plan executes an agreement with the Trust governing participation in such Fund that includes the conditions set forth herein to the extent applicable. A Qualified Plan or Qualified Plan participant will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of any Fund.

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

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 03-3829 Filed 2-14-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47342; File No. SR-NQLX-2003-02]

### Self-Regulatory Organization; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes by Nasdaq Liffe Markets, LLC, Relating to Revised Listing Standards

February 10, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-7 under the Act,<sup>2</sup> notice is hereby given that on January 15, 2003, Nasdaq Liffe Markets, LLC ("NQLX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes described in Items I, II, and III below, which Items have been prepared by NQLX. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons. NQLX also has previously filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"), together with written certifications under section 5c(c) of the Commodity Exchange Act<sup>3</sup> ("CEA") on November 18, 2002 and January 6, 2003.

#### I. Self-Regulatory Organization's Description of the Proposed Rule Change

First, NQLX proposes amending Rule 325 to specify the reportable position levels for security futures contracts that have 1,000 shares of the underlying security, rather than the usual 100 shares of the underlying security. Second, NQLX proposes adopting a rule change to its Rule 420 as it relates to exchange for physical transactions between two members. Pursuant to this change, instead of requiring the member selling the futures leg to submit the relevant trade information to NQLX, the rule would allow the two members to mutually agree on which member would submit the trade information to NQLX. The remaining changes to Rule 420 correct the numbering in the rule. Below is the text of the proposed rule changes.

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.

<sup>3</sup> 7 U.S.C. 7a-2(c).

Proposed new language is italicized. Proposed deletions are in [brackets].

#### *Rule 325 Reportable Positions*

(a) No change.

(b) For purposes of filings made or information provided to NQLX pursuant to CFTC regulations Parts 15, 17 and 18, each Member must report any open contract positions [of 200 contracts or more for] in Security Futures Contracts *of (i) 200 contracts or more if one contract represents 100 shares of common stock, shares of an exchange-traded fund, shares of a registered closed-end management investment company or 100 trust-issued receipts or American Depository Receipts, or (ii) 100 contracts or more if one contract represents 1,000 shares of an exchange-traded fund or shares of a registered closed-end management investment company or 1,000 trust-issued receipts.*

#### *Rule 420 Exchange for Physical Trades*

(b) Information Recording, Submission, and Dissemination.

(1) No change.

(2) As soon as practicable but no later than 30 minutes after arranging an Exchange for Physical Trade, the Member—when the transaction is between a Member and a Customer—and the Member selling the Futures Leg—when the transaction is between two Members *unless otherwise mutually agreed to by the two members*—must submit through the ATS the following information concerning the Exchange for Physical Trade:

(3[c]) NQLX will review the information submitted by the Member pursuant to Rule 420(b) for the proposed Exchange for Physical Trade and will post both sides of the Futures Leg to the account of, and send a confirmation to, the submitting Member if, at the time, the Exchange for Physical Trade appears to have satisfied the requirements of Rule 420.

(4[d]) After sending the confirmation for the Exchange for Physical trade, NQLX will disseminate through the ATS the following information:

(i)[1] the Futures Leg designated with a “B” to denote that the transaction was the Exchange for Physical Trade,  
(ii)[2] delivery or expiration month,  
(iii)[3] price of the Futures Leg,  
(iv)[4] quantity of the Futures Leg,  
(v)[5] put or call and exercise price of the Futures Leg (if applicable), and  
(vi)[6] open or close position indicator (if applicable).

(5[e]) Prices reported for Exchange for Physical Trades will not trigger unexecuted Orders in the Central Order Book.

(6[f]) As soon as practicable, but no longer than 10 minutes, after receipt of

confirmation for the Exchange for Physical Trade from NQLX, the submitting Member (or its Clearing Member, if applicable) must transfer through the Trade Registration System the applicable Futures Contract to the Member for the buyer of the Futures Leg (or its Clearing Member, if applicable).

(7[g]) As soon as practicable, but no longer than 10 minutes, after the Futures Leg appears on the Trade Registration System pursuant to Rule 420(b)(6)[f], the Member for the buyer of the Futures Leg (or its Clearing Member, if applicable) must accept the Futures Leg, and designate the buyer's Customer account number or identifier in, the Trade Registration System.

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

NQLX has prepared statements concerning the purpose of, and statutory basis for, the proposed rule changes, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

#### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes*

##### 1. Purpose

First, NQLX proposes adopting a rule addition to its Rule 325 to specify the reportable position levels for security futures contracts that have 1,000 shares of the underlying security, rather than the usual 100 shares of the underlying security. Second, NQLX proposes adopting a rule change to its Rule 420 related to the party that must submit trade information on exchange for physical transactions when the transactions are between two members. Under such circumstances, instead of requiring the member selling the futures leg to submit the relevant trade information to NQLX, the rule change would allow the two members to mutually agree on which member would submit information on the transaction to NQLX. If the two members could not agree on which one would submit the trade information to NQLX, then the member selling the futures leg would have the reporting responsibility. The remaining changes to Rule 420 correct the numbering in the rule.

##### 2. Statutory Basis

NQLX files these proposed rule changes pursuant to section 19(b)(7) of

the Act.<sup>4</sup> NQLX believes that these proposed rule changes are consistent with the requirements of the Commodity Futures Modernization Act of 2000,<sup>5</sup> including the requirement that trading in a listed security futures contract is not readily susceptible to manipulation of its price nor to causing or being used to manipulate the price of the underlying security, options on the security, or options on a group or index including the security.<sup>6</sup> NQLX further believes that its proposed rule changes comply with the requirements under section 6(h)(3) of the Act<sup>7</sup> and the criteria under section 2(a)(1)(D)(i) of the CEA.<sup>8</sup> In addition, NQLX believes that its proposed rule changes are consistent with the provisions of section 6 of the Act,<sup>9</sup> in general, and section 6(b)(5) of the Act,<sup>10</sup> in particular, which requires, among other things, that the rules of an exchange are designed to prevent fraudulent and manipulative acts and practices; and, in general, protect investors and the public interest.

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

NQLX 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 Changes Received From Members, Participants, or Others*

NQLX neither solicited nor received written comment on the proposed rule changes.

### **III. Date of Effectiveness of the Proposed Rules and Timing for Commission Action**

Prior to the filing of the proposed rule change with the SEC, NQLX filed written certifications with the CFTC under section 5c(c)<sup>11</sup> of the CEA and CFTC Regulation Part 40.6<sup>12</sup> in which NQLX certified that its proposed changes to Rules 325 and 420 comply with the CEA. Proposed changes to Rules 325 and 420 were effective the day after their filing with the CFTC.

Within 60 days of the date of effectiveness of the proposed rule changes, the Commission, after

<sup>4</sup> 15 U.S.C. 78s(b)(7).

<sup>5</sup> Pub. L. 106-554, 114 Stat. 2763 (2000).

<sup>6</sup> See section 6(h)(3)(H) of the Act, 15 U.S.C. 78f(h)(3)(H).

<sup>7</sup> 15 U.S.C. 78f(h)(3).

<sup>8</sup> 7 U.S.C. 2(a)(1)(D)(i).

<sup>9</sup> 15 U.S.C. 78f.

<sup>10</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> 7 U.S.C. 7a-2(c).

<sup>12</sup> 17 CFR 40.6.

consultation with the CFTC, may summarily abrogate the proposed rule changes and require that the proposed rule changes be refiled in accordance with the provisions of section 19(b)(1) of the Act.<sup>13</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes conflict with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically to the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 these filings will also be available for inspection and copying at the principal office of NQLX. All submissions should refer to File No. SR-NQLX-2003-02 and should be submitted by March 11, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-3828 Filed 2-14-03; 8:45 am]

**BILLING CODE 8010-01-P**

#### SMALL BUSINESS ADMINISTRATION

##### [Declaration of Disaster No. P006]

##### State of Oklahoma

As a result of the President's major disaster declaration for Public Assistance on February 4, 2003, the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Beckham, Blaine, Caddo, Canadian, Custer, Kingfisher, Kiowa, Logan, Noble, Osage, Pawnee, Payne, Roger Mills and

Washita Counties in the State of Oklahoma constitute a disaster area due to damages caused by a severe ice storm occurring from December 3, 2002, and continuing through December 4, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on April 7, 2003 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

For physical damage	Percent
Non-profit organizations without credit available elsewhere .....	3.324
Non-profit organizations with credit available elsewhere .....	5.500

The number assigned to this disaster for physical damage is P00611. (Catalog of Federal Domestic Assistance Program Nos. 59008).

Dated: February 5, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-3779 Filed 2-14-03; 8:45 am]

**BILLING CODE 8025-01-P**

#### SMALL BUSINESS ADMINISTRATION

##### [Declaration of Disaster #3459, Amdt. 8]

##### State of Texas

In accordance with a notice received from the Federal Emergency Management Agency, dated February 5, 2003, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to February 7, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is August 5, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 11, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03-3831 Filed 2-14-03; 8:45 am]

**BILLING CODE 8025-01-P**

#### DEPARTMENT OF STATE

##### [Public Notice 4279]

##### Determination Pursuant to Section 212(a)(3)(B) of the Immigration and Nationality Act (INA), Placing Entities on the Terrorist Exclusion List (TEL)

Acting under the authority of section 212(a)(3)(B) of the Immigration and Nationality Act (INA), as amended, and in consultation with the Secretary of the Treasury and the Attorney General, I hereby determine that each of the following entities is a "terrorist organization" under the meaning of the INA:

Al Taqwa Trade, Property and Industry Company Limited (f.k.a. Al Taqwa Trade, Property and Industry; f.k.a. Al Taqwa Trade, Property and Industry Establishment; f.k.a. Himmat Establishment)

Bank Al Taqwa Limited (a.k.a. Al Taqwa Bank; a.k.a. Bank Al Taqwa)

Nada Management Organization SA (f.k.a. Al Taqwa Management Organization SA)

Youssef M. Nada & Co. Gesellschaft M.B.H.

Ummah Tameer E-Nau (UTN) (a.k.a. Foundation for Construction; a.k.a. Nation Building; a.k.a. Reconstruction Foundation; a.k.a. Reconstruction of the Islamic Community; a.k.a. Reconstruction of the Muslim Ummah; a.k.a. Ummah Tameer I-Nau; a.k.a. Ummah Tameer E-Nau; a.k.a. Ummah Tameer I-Pau)

Loyalist Volunteer Force (LVF)

Ulster Defense Association (a.k.a. Ulster Freedom Fighters)

Afghan Support Committee (ASC) (a.k.a. Ahya ul Turas; a.k.a. Jamiat Ayat-ur-Rhas al Islamia; a.k.a. Jamiat Ihya ul Turath al Islamia; a.k.a. Lajnat el Masa Eidatul Afghanistan)

Revival of Islamic Heritage Society (RIHS) (a.k.a. Jamia Ihya ul Turath; a.k.a. Jamiat Ihia Al-Turath Al-Islamiya; a.k.a. Revival of Islamic Society Heritage on the African Continent) [Pakistan and Afghanistan; Kuwait office not designated]

This notice shall be published in the **Federal Register**.

Dated: November 6, 2002.

**Colin L. Powell,**

*Secretary of State, Department of State (TE).*

[FR Doc. 03-3850 Filed 2-14-03; 8:45 am]

**BILLING CODE 4710-10-P**

<sup>13</sup> 15 U.S.C. 78s(b)(1).

<sup>14</sup> 17 C.F.R. 200.30-3(a)(75).