

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

1. Purpose

Current CBOE Rule 8.16 outlines the requirements with which a market-maker must comply in order to participate on RAES. Among the requirements, any market-maker who has logged on to RAES at any time during an expiration month must log on to the RAES system in that option class whenever he is present in that trading crowd until the next expiration. After assessing the impact of the RAES log on requirement, the Exchange believes that it no longer serves the purpose for which it was created, *i.e.*, encouraging greater market-maker participation on RAES. Current CBOE Rule 8.16 limits participation in an all-or-none fashion. As a result, the Exchange seeks to remove the log on requirement in its entirety in order to encourage market-makers to log onto RAES to the extent that their business models permit. The Exchange believes this rule change is consistent with the recent changes to Rule 6.87 of the log on requirements of the Pacific Exchange, Inc.⁴

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

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

The CBOE believes that the proposed rule change, as amended, does not impose 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

No written comments were solicited or received with respect to the proposed rule change.

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

Because the foregoing 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 for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁷ and Rule 19b-4(f)(6) thereunder.⁸ At any time within 60 days of the filing of such 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 Exchange Act.

The CBOE has requested that the Commission waive the 30-day operative delay.⁹ The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the notice requirement and acceleration of the operative date will permit the CBOE to implement the proposed rule change without undue delay. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.¹⁰

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

⁹ The CBOE did not specifically request the Commission to waive the 5-day pre-filing requirement. However, because the original filing was filed more than 5 days before Amendment No. 1, which converted the filing to a non-controversial filing pursuant to Section 19b(3)(A) of the Act and Rule 19b-4(f)(6) thereunder, the Commission finds that the 5-day pre-filing requirement has been satisfied.

¹⁰ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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 also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-2002-50 and should be submitted by December 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46774; File No. SR-NQLX-2002-2]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Nasdaq Liffe Markets, LLC Relating to Listing Standards for Security Futures Products

November 5, 2002.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),¹ and rule 19b-7 under the Act,² notice is hereby given that on October 30, 2002, Nasdaq Liffe Markets, LLC ("NQLX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in items I and II 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 filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"), together with a written certification under section 5c(c) of the Commodity Exchange Act³ ("CEA") on October 30, 2002.

I. Self-Regulatory Organization's Description of the Proposed Rules

NQLX is proposing to adopt rules on listing standards for security futures contracts to comply with the requirements under section 6(h)(3) of

¹¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

³ 7 U.S.C. 7a-2(c).

⁴ Securities Exchange Act Release No. 45894 (May 8, 2002), 67 FR 34745 (May 15, 2002).

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

the Act⁴ and the criteria under section 2(a)(1)(D)(i) of the CEA,⁵ as modified by joint orders of the Commission and the CFTC.⁶

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

NQLX has prepared statements concerning the purpose of, and statutory basis for, the proposed rules, 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 Rules

1. Purpose

The Commodity Futures Modernization Act of 2000⁷ ("CFMA") lifted the ban on trading futures on single stocks as well as narrow-based stock indices ("security futures"). As part of this new regulatory framework, the CFMA amended the Act and the CEA by establishing the criteria and requirements for listing standards regarding the category of securities on which security futures can be based. NQLX has adopted these proposed rules on listing standards to comply with the requirements under section 6(h)(3) of the Act and the criteria under section 2(a)(1)(D)(i) of the CEA,⁸ as modified by joint orders of the Commission and the CFTC.

NQLX is a board of trade, as that term is defined by the CEA,⁹ and has been designated as a contract market by the CFTC and its designation has not been suspended by order of the CFTC.¹⁰ On August 26, 2002, NQLX registered with the SEC as a national securities exchange solely for the purposes of trading security futures.¹¹ NQLX meets

each of the requirements for listing standards and conditions for trading security futures.¹² Specifically:

(1) Except as otherwise provided in a rule, regulation, or order issued jointly by the SEC and CFTC, NQLX's proposed rules 902(b)(2) and 902(d)(2), which are part of this filing, require that any security underlying an NQLX security future (including each component security for a narrow-based security index) must be registered pursuant to section 12 of the Act.¹³

(2) For any security futures listed by NQLX that are not cash-settled, NQLX has arranged with the Options Clearing Corporation (which is a clearing agency registered pursuant to section 17A¹⁴ of the Act) for the payment and delivery of the security or securities underlying the security futures listed on NQLX.¹⁵

(3) NQLX believes that its proposed rules 902 and 903, which are listing standards for physically-settled security futures and are part of this filing, are no less restrictive than comparable listing standards for options traded on a national securities exchange or national securities association.¹⁶

(4) Except as otherwise provided in a rule, regulation, or order issued jointly by the SEC and CFTC, NQLX's proposed rule 902(b)(1), which is a part of this filing, requires that the security future be based upon a common stock or other equity securities as the SEC and CFTC jointly determine appropriate, which currently include American Depository Receipts, shares of exchange-traded funds, trust-issued receipts, and shares of closed-end funds.¹⁷

(5) NQLX, through its clearing and settlement relationship with the Options Clearing Corporation, will have in place—within 165 days after the SEC and CFTC jointly publish in the **Federal Register** a compliance date—provisions for linked and coordinated clearing with other clearing agencies that clear security futures, which will permit security futures to be purchased on one market and offset on another market that trades the same product.¹⁸

(6) NQLX's proposed rule 328, which is part of this filing, only allows a

broker-dealer subject to suitability rules comparable to those of a national securities association registered pursuant to section 15A(a)¹⁹ of the Act to effect transactions in NQLX security futures.²⁰

(7) Section 4j of the CEA,²¹ and CFTC rule 41.27²² promulgated thereunder, do not apply to NQLX because NQLX operates an electronic trading system that does not provide market participants with a time or place advantage or the ability to override a predetermined algorithm.²³

(8) NQLX believes that its proposed rules 902 and 903 meet the requirement that trading in the security futures are not readily susceptible to manipulation of their price, nor to causing or being used to cause the manipulation of the price of the underlying security, options on such security, or options on a group or index including such securities.²⁴ In addition, NQLX proposed rule 304(c)(1), which is part of this filing, prohibits various manipulative and improper practices, including effecting a transaction in, or inducing the purchase or sale of, any NQLX contract through any manipulative, deceptive, or fraudulent device or contrivance. Proposed rule 304(c)(2) through (9), which are part of this filing, also specifically prohibits price manipulation or cornering the market, wash transactions, accommodation transactions, front-running, trading ahead, cherry picking, withdrawing, withholding, or disclosing a customer's order for the benefit of another person, taking advantage of a customer's order for the benefit of another person, and compensation trades.²⁵

(9) As to coordinated surveillance, NQLX's proposed rule 207, which is part of this filing, gives NQLX the authority to enter into information-sharing agreements or other arrangements or procedures to coordinate surveillance with other markets on which security futures trade, any market on which any security that underlies the security futures trade, and any other markets on which any related securities trade. Proposed rule 207 also allows NQLX to enter into any arrangement with, and provide information to, any person or body (including, without limitation, the

⁴ 15 U.S.C. 78f(h)(3).

⁵ 7 U.S.C. 2(a)(1)(D)(i).

⁶ See Joint Order Granting the Modification of Listing Standards Requirements (American Depository Receipts), Securities Exchange Act release no. 44725 (August 20, 2001) and Joint Order Granting the Modification of Listing Standards Requirements (Exchange Traded Funds, Trust Issued Receipts and shares of Closed-End Funds), Securities Exchange Act release no. 46090 (June 19, 2002), 67 FR 42760 (June 25, 2002).

⁷ Pub. L. 106-554, 114 stat. 2763 (2000).

⁸ 15 U.S.C. 78f(h)(3); 7 U.S.C. 2(a)(1)(D)(i).

⁹ 7 U.S.C. 1a(2).

¹⁰ See In the Matter of the Application of Nasdaq Liffe Markets, LLC for Designation as a Contract Market, CFTC Final Order of Designation (May 24, 2002); see also In the Matter of the Application of Nasdaq Liffe, LLC Futures Exchange for Designation as a Contract Market, CFTC Order of Conditional Designation (August 21, 2001).

¹¹ 15 U.S.C. 78f(g)(1).

¹² 15 U.S.C. 78f(h)(2) and (3).

¹³ 15 U.S.C. 78f(h)(3)(A); see also 15 U.S.C. 78l.

¹⁴ 15 U.S.C. 78qA.

¹⁵ 15 U.S.C. 78f(h)(3)(B).

¹⁶ 15 U.S.C. 78f(h)(3)(C).

¹⁷ 15 U.S.C. 78f(h)(3)(D); see Joint Order Granting the Modification of Listing Standards Requirements (American Depository Receipts), Securities Exchange Act release no. 44725 (August 20, 2001) and Joint Order Granting the Modification of Listing Standards Requirements (Exchange Traded Funds, Trust Issued Receipts and Closed-End Funds), Securities Exchange Act release no. 46090 (June 19, 2002), 67 FR 42760 (June 25, 2002).

¹⁸ 15 U.S.C. 78f(h)(3)(E).

¹⁹ 15 U.S.C. 78oA(a).

²⁰ 15 U.S.C. 78f(h)(G).

²¹ 7 U.S.C. 4j.

²² 17 CFR 41.45(b)(2).

²³ 17 CFR 41.27(b)(2); see also Regulation to Restrict Dual Trading in Security Futures Products, (March 1, 2002), 67 FR 11223, 11225-11226 (March 13, 2002).

²⁴ 15 U.S.C. 78f(h)(3)(H).

²⁵ NQLX proposed rule 304(c)(2) through (9).

CFTC, SEC, National Futures Association, National Association of Securities Dealers, Inc. (“NASD”), any self-regulatory organization, any exchange, market, clearing organization, the Intermarket Surveillance Group, or foreign regulatory authority) that NQLX believes exercises a legal or regulatory function or a function comprising or associated with the enforcement of a legal or regulatory function. In addition to proposed rule 207, NQLX is an affiliate member of the Intermarket Surveillance Group and is a signatory of an information-sharing agreement and its related addendum for security futures (dated October 18, 2002), which sets forth the agreement entered into between and among markets on which security futures are traded, any market on which any security underlying the security futures are traded, and other markets on which any related security is traded for coordinated surveillance to detect manipulation and insider trading.²⁶

(10) NQLX relies on its automated trading system (“ATS”) combined with specified proposed rules requiring the recording of trade information as well as books and records and record retention requirements to facilitate its obligation to conduct and coordinate market surveillance. As part of its ATS, NQLX will use a modified version of the LIFFE CONNECT™ trading platform, which is the same trading platform currently used by the London International Financial Futures and Options Exchange (“LIFFE”) to trade financial derivatives. The ATS is a fully-transparent, open architecture trading system that users access through non-NQLX front-end trading applications. The ATS performs price reporting and dissemination, displaying the prices of trades executed in the matching engine together with the aggregate size of all orders to buy and sell above and below the market, updated on a real-time basis. In addition, the ATS creates audit trails for trades executed within the central order book, as well as three discrete types of trades allowed to be executed outside the central order book (*i.e.*, certain cross transactions for market makers, block trades, and exchange for physical trades).

As to market surveillance, NQLX’s capabilities are two-fold: First, under the oversight and supervision of NQLX, designated LIFFE staff at NQLX’s ATS will conduct real-time, front-line market surveillance. This includes monitoring real-time trading activity for compliance with NQLX’s rules. Second, under the oversight and supervision of NQLX,

NASD will conduct post-trade market surveillance for NQLX. Post-trade, NASD will monitor all trading activity to detect actual and potential abusive trading activities, unusual trading patterns, and violations of NQLX’s rules and federal law using proven systems currently used by NASD for market surveillance of The NASDAQ Stock Market, Inc.

As to the audit trail itself, it begins with NQLX assigning one or more unique individual trading mnemonics (“ITMs”) to specified responsible persons at each member. Orders will not be accepted into the ATS without an ITM identifier attached to the order. And, pursuant to NQLX’s rules, the responsible persons must have the ability to identify immediately for NQLX the source of all orders submitted under any ITM assigned to the responsible persons.²⁷ In turn, NQLX’s proposed rule 408, which is part of this filing, specifies the types of information that each order entered into the ATS must contain, including customer type indicator (or “CTI” code) as prescribed by CFTC regulation; customer account number or identifier; clearing account indicator; the exchange contract; delivery or expiration month; quantity; buy or sell; price or price limit or range; put or call and exercise price (if applicable); open or close position indicator (if applicable); order instructions (*e.g.*, good “til cancelled, minimum volume, etc.) (if applicable); strategy type indicator (if applicable); and code indicator for a cross transaction, block trade, or exchange for physical trade (if applicable).

The three discrete types of transactions that are allowed under NQLX’s rules to be executed outside of the central order book (*i.e.*, certain cross transactions for market makers, block trades, and exchange for physical trades) are still submitted to the ATS and, in turn, captured by the audit trail. NQLX proposed rules 418(d), 419(g) and 420(b), which are part of this filing, indicate the types of information that must be submitted to the ATS for certain cross transactions for market makers, block trades, and exchange for physical trades, respectively.

In addition to the audit trail created by the ATS, NQLX has several other proposed rules that will enhance market surveillance by (1) requiring members to make and maintain adequate books and records (proposed rules 320 and 321), (2) giving NQLX the authority to require the recording of conversations (proposed rule 322), (3) giving NQLX the authority to require the filing of

daily trading information (proposed rule 324), and (4) requiring the reporting of reportable positions (proposed rule 325).²⁸

(11) NQLX proposed rule 425, which is part of this filing, requires NQLX to halt trading of a security futures contract based on a single security during any regulatory halt (as defined in CFTC regulation 41.1(l)²⁹ and SEC rule 240.6h–1(a)(3)³⁰) imposed on the underlying security. Proposed rule 425 also requires NQLX to halt trading of a security futures contract based on a narrow-based security index (as defined by section 1a(25)³¹ of the CEA and section 3(a)(55)³² of the Act) during any regulatory halt of one or more underlying securities that constitute 50 percent or more of the market capitalization of the narrow-based security index. NQLX also will have procedures in place to halt trading of security futures that are based on single securities during regulatory halts imposed on the underlying security. Before commencing trading in any narrow-based security indices, NQLX will have procedures in place to halt trading in the narrow-based security indices during any regulatory halt of one or more underlying securities that constitute 50 percent or more of the market capitalization of the narrow-based security index.

(12) NQLX has submitted proposed customer margin rules for publication and approval by the SEC,³³ which it believes complies with the provisions jointly established by the SEC and CFTC pursuant to section 7(c)(2)(B)³⁴ of the Act and set forth in SEC rules 400 through 406³⁵ and CFTC rules 41.43 through 41.49.³⁶ The SEC has approved NQLX’s customer margin rules.³⁷

2. Statutory Basis

NQLX files these proposed rules pursuant to section 19(b)(7) of the Act.³⁸ NQLX believes that these rules are necessary to implement the requirements of the CFMA, including the requirement that trading in a listed security futures is not readily susceptible to manipulation of its price

²⁸ NQLX proposed rules 320, 321, 322, 324 and 325 are part of this filing.

²⁹ 17 CFR 41.41.1(l).

³⁰ 17 CFR 240.6h–1(a)(3).

³¹ 7 U.S.C. 1a(25).

³² 15 U.S.C. 78c(a)(55).

³³ Securities Exchange Act release no. 46548 (September 25, 2002), 67 FR 61361 (September 30, 2002).

³⁴ 15 U.S.C. 78g(c)(2)(b).

³⁵ 17 CFR 240.400 through 406.

³⁶ 17 CFR 41.42 through 41.49.

³⁷ Securities Exchange Act release no. 46771 (November 5, 2002).

³⁸ 15 U.S.C. 78s(b)(7).

²⁶ 15 U.S.C. 78f(h)(1).

²⁷ See NQLX rule 309(a) and (b).

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.³⁹ NQLX also believes that these proposed rules are necessary to establish listing standards that: (1) Will foster the development of fair and orderly markets in security futures, (2) are necessary or appropriate in the public interest, and (3) are consistent with the protection of investors.

NQLX believes that its proposed rules comply with the requirements under section 6(h)(3) of the Act and the criteria under section 2(a)(1)(D)(i) of the CEA,⁴⁰ as modified by joint orders of the Commission and the CFTC. In addition, NQLX believes that its proposed rules are consistent with the provisions of section 6 of the Act,⁴¹ in general, and section 6(b)(5) of the Act,⁴² in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

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

NQLX does not believe that the proposed rules 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 Proposed Rules Received From Members, Participants, or Others

NQLX neither solicited nor received written comment on the proposed rules.

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

Concurrent with the filing of the proposed rule change with the SEC, NQLX has filed a written certification with the CFTC under section 5c(c)⁴³ of the CEA and CFTC regulation part 38.4⁴⁴ in which NQLX certifies that its filed listing standards in proposed rules 902 and 903 comply with the CEA. While proposed rule 902 and 903 are effective the day after their filing with the CFTC, NQLX intends to implement these rules immediately before its market launch.

Within 60 days of the date of effectiveness of the proposed rules, the

Commission, after consultation with the CFTC, may summarily abrogate the proposed rules and require that the proposed rules be refiled in accordance with the provisions of section 19(b)(1) of the Act.⁴⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rules 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. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rules that are filed with the Commission, and all written communications relating to the proposed rules 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. Electronically submitted comments will be posted on the Commission's internet website (<http://www.sec.gov>). All submissions should refer to file no. SR-NQLX-2002-02 and should be submitted by December 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁴⁶

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46763; File No. SR-Phlx-2002-04]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendments No. 1 Through 7 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 8 Relating to Electronic Interface With AUTOM for Specialists and Registered Options Traders

November 1, 2002.

I. Introduction

On January 15, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and rule 19b-4 thereunder² a proposed rule change relating to an electronic interface with the Exchange's Automated Options Market ("AUTOM")³ for specialists and Registered Options Traders ("ROTs").⁴ On March 6, 2002, the Exchange filed Amendment No. 1 to the proposed rule change.⁵ On March 14, 2002, the Exchange filed Amendment No. 2 to the proposed rule change.⁶ On March 26, 2002, the Exchange filed Amendment No. 3 to the proposed rule change.⁷ On April 2, 2002, the Exchange filed Amendment No. 4 to the proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of equity option and index option orders to the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature ("AUTO-X"). Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. Option orders entered by Exchange members into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor.

⁴ A ROT is a regular member or a foreign currency options participant of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. See Phlx rule 1014(b).

⁵ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated March 5, 2002 ("Amendment No. 1").

⁶ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 13, 2002 ("Amendment No. 2").

⁷ See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division, Commission, dated March 25, 2002 ("Amendment No. 3").

³⁹ See Section 6(h)(3)(H) of the Exchange Act, 5 U.S.C. 78f(h)(3)(H).

⁴⁰ 15 U.S.C. 78f(h)(3); 7 U.S.C. 2(a)(1)(D)(i).

⁴¹ 15 U.S.C. 78f.

⁴² 15 U.S.C. 78f(b)(5).

⁴³ 7 U.S.C. 7a-2(c).

⁴⁴ 17 CFR 38.4.

⁴⁵ 15 U.S.C. 78s(b)(1).

⁴⁶ 17 CFR 200.30-3(a)(12).