

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48498; File No. SR-NQLX-2003-07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by NQLX LLC To Remove Requirement That Members Record the Clearing Account Indicator on Order Tickets

September 17, 2003.

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 August 28, 2003, NQLX LLC ("NQLX") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change 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 change from interested persons. NQLX also 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 Act ("CEA")³ on August 27, 2003.

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

NQLX is proposing changes to NQLX Rule 408 because it has determined that NQLX Rule 408(c)(6)'s requirement that its Members record on order tickets the alpha-code for the relevant "Clearing Account Indicator"⁴ is redundant and unnecessary so long as at the time of order entry its Members submit the appropriate Clearing Account Indicator to NQLX's automated trading system along with other required order information. The text of the proposed rule change follows; additions are italicized; deletions are [bracketed].

* * * * *

Rule 408 Submitting Orders

- (a)-(b) No Change
- (c)(1)-(5) No Change
- [(6) Clearing Account Indicator,]
- [(7) Exchange Contract,
- [(8) delivery or expiration month,
- [(9) quantity,
- [(10) buy or sell,

[(11) price or price limit or range, [(12) put or call and exercise price (if applicable),

[(13) open or close position indicator (if applicable),

[(14) Order instructions from Rule 410 (if applicable),

[(15) Strategy type indicator (if applicable), and

[(16) code indicator for a Cross Transaction, Block Trade, or Exchange for Physical Trade (if applicable).

(d) A Member or Person Associated with a Member must ensure that the information from items (4) through (16) is submitted to the ATS for all Orders at the time of Order entry.

(e) If at the time of Order entry the Member or Person Associated with the Member fails to provide the appropriate Clearing Account Indicator as required by Rule[s] 408(c)(6) and (d), then the Member or Person Associated with the Member must timely provide the appropriate Clearing Account Indicator for the trade through the Trade Registration System.

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

NQLX has prepared statements concerning the purpose of, and statutory basis for, the proposed rule change, 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 Change

1. Purpose

NQLX proposes revising specified provisions of NQLX Rule 408 to remove the unnecessary redundancy of requiring its Members to record exchange-designated Clearing Account Indicators on order tickets as well as submitting those same Clearing Account Indicators at the time of order entry to NQLX's automated trading system. NQLX requires Clearing Account Indicators from its Members to facilitate providing its clearing house, The Options Clearing Corporation, with information regarding the appropriate clearing account type (i.e., market maker, firm/proprietary, or customer) for all orders at the time of order entry. Therefore, so long as NQLX Members

submit the appropriate Clearing Account Indicator for orders submitted to NQLX's automated trading system at the time of order entry, the purpose of this rule provision is met. As such, NQLX Rule 408(c)(6)'s current requirement that Members also record Clearing Account Indicators on order tickets is redundant and burdensome because it requires each preparer of an order ticket submitted to NQLX to know NQLX's exchange-designated Clearing Account Indicators, but serves no additional regulatory purpose.

No other substantive changes are proposed to NQLX Rule 408 and Members are still required to record customer account numbers or identifiers and customer type indicators along with other required information on each order ticket. Therefore, with the adoption of these proposed changes, NQLX believes that it will continue to maintain audit trails necessary and appropriate to surveil trading in security futures products in its market and to coordinate the surveillance with other markets as required.

NQLX believes that the proposed rule change is consistent with the requirements, where applicable, under section 6(h)(3)(J) of the Act⁵ and the criteria, where applicable, under section 2(a)(1)(D)(i)(IX) of the CEA,⁶ as modified by joint orders of the Commission and the CFTC.

2. Statutory Basis

NQLX files this proposed rule change pursuant to section 19(b)(7) of the Act.⁷ NQLX believes that the proposed rule change is consistent with the requirements of the Commodity Futures Modernization Act of 2000,⁸ including the requirement that NQLX have audit trails necessary and appropriate to facilitate coordinated surveillance to detect, among other things, manipulation.⁹ NQLX further believes that its proposed rule change complies with the requirements under section 6(h)(3) of the Act¹⁰ and the criteria under section 2(a)(1)(D)(i) of the CEA,¹¹ as modified by joint orders of the Commission and the CFTC. In addition, NQLX believes that its proposed rule change is consistent with the provisions of section 6 of the Act,¹² in general, and

¹ 15 U.S.C. 78s(b)(7).

² 17 CFR 240.19b-7.

³ 7 U.S.C. 7a-2(c).

⁴ NQLX Rule 101(a)(15) defines "Clearing Account Indicator" as "the type of account designated by the Clearing Organization." In this context, the type of account means the clearing account type at The Options Clearing Corporation (i.e., market maker, firm/proprietary, or customer).

⁵ 15 U.S.C. 78f(h)(3)(J).

⁶ 7 U.S.C. 2(a)(1)(D)(i)(IX).

⁷ 15 U.S.C. 78s(b)(7).

⁸ Pub. L. 106-554, 114 Stat. 2763 (2000).

⁹ See section 6(h)(3)(J) of the Act, 15 U.S.C. 78f(h)(3)(J).

¹⁰ 15 U.S.C. 78f(h)(3).

¹¹ 7 U.S.C. 2(a)(1)(D)(i).

¹² 15 U.S.C. 78f.

section 6(b)(5) of the Act,¹³ in particular, in that they will prevent fraudulent and manipulative acts and practices, will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities and will 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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

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

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

Pursuant to section 19(b)(7)(B) of the Act,¹⁴ the proposed rule change became effective on August 27, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.¹⁵

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change conflicts 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 rule changes 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 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 Web site (<http://www.sec.gov>). All submissions should refer to File No. SR-NQLX-2003-07 and should be submitted by October 17, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Margaret H. McFarland,

Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require 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. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) 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 on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below: OMB, Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202-395-6974.

SSA, Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401

Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

1. *Petition to Obtain Approval Of A Fee For Representing A Claimant Before The Social Security Administration—20 CFR Subpart R, 404.1720, 404.1725, Subpart F, 410.686b, Subpart O, 416.1520 and 416.1525—0960-0040.* A representative of a claimant for Social Security benefits must file either a fee petition or a fee agreement with SSA in order to charge a fee for representing a claimant in proceedings before SSA. The representative uses Form SSA-1560 to petition SSA for authorization to charge and collect a fee. A claimant may also use the form to agree or disagree with the requested fee amount or other information the representative provides on the form. SSA uses the information to determine a reasonable fee that a representative may charge and collect for his or her services. The respondents are claimants, their attorneys, and other persons representing them.

Type of Request: Extension of an OMB-Approved Information Collection.
Number of Respondents: 34,624.

Frequency of Response: 1.
Average Burden Per Response: 30 minutes.

Estimated Average Burden: 17,312 hours.

2. *Child Relationship Statement—0960-0116.* SSA uses the information collected on Form SSA-2519 to help determine the entitlement of children to Social Security benefits under section 216(h)(3) of the Social Security Act (Deemed Child Provision). The respondents are persons providing information about the relationship between the worker and his/her alleged biological child, in connection with the child's application for benefits.

Type of Request: Extension of an OMB-approved collection.
Number of Respondents: 50,000.

Frequency of Response: 1.
Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 12,500 hours.

3. *Request for Replacement Social Security Benefits Statement—20 CFR 401.45—0960-0583.* The information requested by the Social Security Administration (SSA) via the Internet

¹³ 15 U.S.C. 78f(b)(5).

¹⁴ 15 U.S.C. 78s(b)(7)(B).

¹⁵ 15 U.S.C. 78s(b)(1).

¹⁶ 17 CFR 200.30-3(a)(75).