

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 32	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2017 - * 43	Amendment No. (req. for Amendments *) 2
Filing by NASDAQ PHLX LLC Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934				
Initial * <input type="checkbox"/>	Amendment * <input checked="" type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input checked="" type="checkbox"/>	Section 19(b)(3)(A) * <input type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
			Rule	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1) <input type="checkbox"/> 19b-4(f)(2) <input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(4) <input type="checkbox"/> 19b-4(f)(5) <input type="checkbox"/> 19b-4(f)(6)
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934	
Section 806(e)(1) * <input type="checkbox"/>		Section 806(e)(2) * <input type="checkbox"/>	Section 3C(b)(2) * <input type="checkbox"/>	
Exhibit 2 Sent As Paper Document <input type="checkbox"/>		Exhibit 3 Sent As Paper Document <input type="checkbox"/>		
<b>Description</b>				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="A proposed rule change to amend the Rule 3400 series relating to the Order Audit Trail System."/>				
<b>Contact Information</b>				
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.				
First Name *	<input type="text" value="Andrew"/>	Last Name *	<input type="text" value="Madar"/>	
Title *	<input type="text" value="Senior Associate General Counsel"/>			
E-mail *	<input type="text" value="andrew.madar@nasdaq.com"/>			
Telephone *	<input type="text" value="(301) 978-8420"/>	Fax	<input type="text"/>	
<b>Signature</b>				
Pursuant to the requirements of the Securities Exchange Act of 1934,				
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.				
(Title *)				
Date	<input type="text" value="08/25/2017"/>	<input type="text" value="Executive Vice President and General Counsel"/>		
By	<input type="text" value="Edward S. Knight"/>	<input type="text"/>		
(Name *)				
NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.				
		<input type="button" value="edward.knight@nasdaq.com"/>		

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**Partial Amendment No. 2 to SR-Phlx-2017-43**

On May 26, 2017, NASDAQ PHLX LLC (“Phlx” or “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change (“Proposal”) to amend the Rule 3400 series relating to the Order Audit Trail System, Rule 785 relating to Electronic Blue Sheets, Rule 1022 relating to account identification, and Rule 1063 and Option Floor Procedure Advices and Order and Decorum Regulations C-2 relating to the Consolidated Options Audit Trail System (“COATS Rules”) to reflect changes to these rules once members are effectively reporting to the Consolidated Audit Trail (“CAT”) adopted pursuant to the National Market System Plan Governing the Consolidated Audit Trail (the “CAT NMS Plan” or “Plan”)<sup>1</sup>, and the CAT’s accuracy and reliability meets certain standards.

The SEC published the Proposal in the Federal Register for notice and comment on June 5, 2017.<sup>2</sup> The comment period expired on June 26, 2017.<sup>3</sup> With this Partial Amendment, the Exchange is including Exhibit 4, which reflects changes to the text of the proposed rule change pursuant to this Partial Amendment No. 2, and Exhibit 5, which reflects the changes to the current rule text that are proposed in the Proposal, as amended by this Partial Amendment No. 2.

This Partial Amendment No. 2 makes the following changes to the Proposal: (1) it adds introductory language into Rule 3400 to clarify that, if the SEC approves the proposed rule change, the Rule 3400 Series will be deleted from the Exchange Rules

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<sup>1</sup> See Securities Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (“Approval Order”).

<sup>2</sup> See Securities Exchange Act Release No. 80811 (May 30, 2017), 82 FR 25863 (June 5, 2017) (SR-Phlx-2017-43).

<sup>3</sup> Id.

upon announcement by the Exchange that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS; (2) adds similar language to the COATS Rules to clarify that, if the SEC approves the proposed rule change, Rule 1063 and Option Floor Procedure Advices and Order and Decorum Regulations C-2 will be amended upon announcement by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Consolidated Options Audit Trail System; and (3) it amends the Supplementary Material to the EBS Rules and to Rule 1022 in the proposed rule change to clarify that the Exchange will not request trade data or information, and members will not be required to provide trade data or information, pursuant to the EBS Rules or Rule 1022 for trades reported to the CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the EBS Rules or Rule 1022. The Partial Amendment also makes a conforming change to Option Floor Procedure Advices and Order and Decorum Regulations C-2 to delete rule text that corresponds to rule text that the Exchange had previously proposed to delete in Rule 1063.

Introductory Language to the OATS and COATS Rules

As part of the Proposal, to comply with certain provisions of the CAT NMS Plan,<sup>4</sup> the Exchange discussed the specific accuracy and reliability standards the CAT must meet for the Exchange to delete the OATS Rules from the Exchange rulebook. The Proposal notes that the OATS Rules will be deleted once (i) the CAT achieves the specific accuracy and reliability standards described in the Proposal and (ii) the Exchange has determined that its usage of the CAT has not revealed material issues that have not

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<sup>4</sup> See CAT NMS Plan, Appendix C, Section C.9.

been corrected, confirmed that the CAT includes all data necessary to allow the Exchange to continue to meet its surveillance obligations, and confirmed that the Plan Processor is sufficiently meeting all of its obligations under the Plan.

If the Commission approves the proposed rule change, the rule text to delete the OATS Rules will be effective; however, the Exchange will announce the implementation date of the proposed rule change (i.e., the deletion of the OATS Rules) in a Regulatory Notice that will be published once the Exchange concludes the thresholds for accuracy and reliability described in the Proposal have been met and that the CAT Plan Processor is sufficiently meeting all of its obligations. Because the time period for implementation for the deletion of the OATS Rules could be significant, the Exchange is proposing in this Partial Amendment No. 2 to add language into Rule 3400 that would alert members that the SEC has approved a proposed rule change to remove the Rule 3400 Series from the Exchange Rules upon announcement by the Exchange that the CAT has achieved a level of accuracy and reliability sufficient to replace OATS. The rule text would also note that, upon this announcement by the Exchange, members will no longer be required to record and report order information pursuant to the Rule 3400 Series. The Exchange believes that adding this language into Rule 3400 series would help to alert members of the status of the OATS Rules and is proposing that this language be added to Rule 3400 upon approval of the Proposal by the SEC.

Similarly, the Exchanges proposes to add similar language to Rule 1063 and Option Floor Procedure Advices and Order and Decorum Regulations C-2 to clarify that, if the SEC approves the proposed rule change, Rule 1063 and Option Floor Procedure Advices and Order and Decorum Regulations C-2 will be amended upon announcement

by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Consolidated Options Audit Trail System.

Supplementary Material to the EBS Rules and to Rule 1022

In addition to deleting the OATS Rules, the Proposal adds new Supplementary Material to the EBS Rules and to Rule 1022 to clarify how the Exchange will request data under these rules after members are reporting to the CAT. As noted in the Proposal, the Exchange believes that the CAT must meet certain minimum accuracy and reliability standards before the Exchange could rely on the CAT to replace existing regulatory tools, including EBS. Consequently, the proposed Supplementary Material would be implemented only after the CAT achieves the thresholds set forth in the Proposal. Unlike the OATS Rules, the Exchange's EBS Rules and Rule 1022 will not be deleted from the Exchange Rulebook; rather, the Proposal adds Supplementary Material to the EBS Rules and to Rule 1022 to accommodate the fact that EBS requests and requests made pursuant to Rule 1022 will still be necessary for transactions occurring before reporting to the CAT is sufficiently accurate and reliable and for transactions involving securities that are not reportable to the CAT.

In this Partial Amendment No. 2, the Exchange is proposing to revise the Supplementary Material to clarify that the Exchange will not request trade data or information, and members will not be required to provide trade data or information, for trades reported to the CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to the EBS Rules or pursuant to Rule 1022. In the Proposal, the proposed Supplementary Material stated that the Exchange will request trade data or information pursuant to this Rule only

if the trade data or information is not available in the CAT because, for example, the transaction(s) in question occurred before the member was reporting information to the CAT or involved securities that are not reportable to the CAT. The Exchange is proposing changes to this language to make clear that, after the CAT achieves the accuracy and reliability standards set forth in the Proposal, the Exchange will only use CAT to obtain trading information and will make requests under the EBS Rules or under Rule 1022 only for transactions that occurred before the CAT achieved sufficient levels of accuracy and reliability or transactions that involve securities that are not reportable to the CAT (e.g., fixed income securities, OTC options).

**EXHIBIT 4**

Exhibit 4 shows the changes proposed in this Partial Amendment No. 2, with the proposed changes in the original filing shown as if adopted. Proposed additions in this Partial Amendment No. 2 appear underlined; proposed deletions appear in brackets.

**NASDAQ PHLX Rules**

\* \* \* \* \*

**Rules of the Exchange**

\* \* \* \* \*

**Rule 785. Automated Submission of Trading Data**

A member or member organization shall submit such of the following trade data elements specified below in such automated format as may be prescribed by the Exchange from time to time, in regard to such transaction or transactions as may be subject of a particular request for information made by the Exchange:

(a) If the transaction was a proprietary transaction effected or caused to be effected by the member or member organization for any account in which such member or member organization, or any member, allied member, approved person, partner, officer, director, or employee thereof, is directly or indirectly interested, such member or member organization shall submit or cause to be submitted the following information:

- 1) Clearing house number, or alpha symbol as used by the member or the member organization submitting the data;
- 2) Clearing house number(s), or alpha symbol(s) as may be used from time to time, of the member(s) or member organization(s) on the opposite side of the transaction;
- 3) Identifying symbol assigned to the security;
- 4) Date transaction was executed;
- 5) Number of shares, or quantity of bonds or options contracts for each specific transaction and whether each transaction was a purchase, sale, short sale, and if an options contract whether open long or short or close long or short;
- 6) Transaction price;
- 7) Account number; and
- 8) Market center where transaction was executed.



(b) If the transaction was effected or caused to be effected by the member or member organization for any customer account, such member organization shall submit or cause to be submitted the following information:

- 1) Data elements (1) through (8) as contained in paragraph (a) above; and
- 2) Customer name, address(es), branch office number, registered representative number, whether order was solicited or unsolicited, date account opened and employer name and the tax identification number(s).
- 3) If transaction was effected from a member broker-dealer customer, whether the broker-dealer was acting as principal or agent on the transaction or transactions that are the subject of the Exchange's request.

(c) In addition to the above trade data elements, a member or member organization shall submit such other information in such automated format as may be prescribed by the Exchange, as may from time to time be required.

(d) The Exchange may grant exceptions, in such cases and for such time periods as it deems appropriate, from the requirement that the data elements prescribed in paragraphs (a) and (b) above be submitted to the Exchange in an automated format.

••• **Supplementary Material:** -----

The Exchange will not request trade data or information, and members will not be required to provide trade data or information, for trades reported to the CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to this Rule. [The Exchange will request information under this Rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT.]

\* \* \* \* \*

## **Rule 1022. Securities Accounts and Orders of Specialists and Registered Options Traders**

(a) *Identification of Accounts*—In a manner prescribed by the Exchange, each Specialist and Registered Options Trader shall file with the Exchange upon request and keep current a list identifying all accounts for stock, Exchange-Traded Fund Share, option and related securities or foreign currencies, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity and other related trading in which the Specialist or Registered Options Trader may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Specialist or Registered Options Trader shall engage in stock, Exchange-Traded Fund Share, option, or related securities or foreign currencies, physical commodities, physical commodity options, commodity

futures contracts, options on commodity futures contracts, any other derivatives based on such commodity and other related trading in an account which has not been reported (pursuant to this Rule) in a manner prescribed by the Exchange.

(b) Reserved.

(c) Reserved.

(d) No Specialist or Registered Options Trader in options on a foreign currency shall fail to make available to the Exchange such books, records or other information maintained by or in the possession of such person, or any corporation or partnership associated with such person's member organization, pertaining to transactions by such person, corporation or partnership for its own account in any foreign currency with respect to which options are traded on the Exchange, in any futures contract on such a foreign currency, in any option contract on such a foreign currency (including options on foreign currency futures contracts), or in other foreign currency derivatives as may be called for under the Rules of the Exchange or as may be requested by the Exchange in the course of any investigation, any examination or other official inquiry.

••• *Commentary:* -----

.01 - .02 No Change.

.03 The Exchange will not request trade data or information, and members will not be required to provide trade data or information, for trades reported to the CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to this Rule. [The Exchange will request information under this Rule only if the information is not available in the CAT because, for example, the transactions in question occurred before the firm was reporting information to the CAT or involved securities that are not reportable to the CAT.]

\* \* \* \* \*

### **Rule 1063. Responsibilities of Floor Brokers**

The SEC has approved a proposed rule change to amend Rule 1063 upon announcement by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Consolidated Options Audit Trail System.

(a) – (d) No Change.

(e) (i) *Options Floor Broker Management System.* In order to create an electronic audit trail for equity, equity index and U.S. dollar-settled foreign currency options orders represented by Floor Brokers on the Exchange's Options Floor, a Floor Broker or such Floor Broker's employees shall, contemporaneously upon receipt of an order and prior to the representation of such an order in the trading crowd, record all options orders represented by such Floor Broker onto the electronic Options Floor Broker Management

System ("FBMS") (as described in Rule 1080, Commentary .06). The [following] specific information with respect to orders represented by a Floor Broker shall be recorded by such Floor Broker or such Floor Broker's employees and shall consist of the elements required by the Rule 900A Series. In the event of a malfunction in the Options Floor Broker Management System, Floor Brokers shall record the required information on trade tickets, and shall not represent an order for execution which has not been time stamped with the time of entry on the trading floor. Such trade tickets shall be time stamped upon the execution of such an order. Floor Brokers or their employees shall enter the required information that is recorded on such trade tickets into the Exchange's electronic system for inclusion in the electronic audit trail.

(ii) – (iv) No Change.

(f) No Change.

\* \* \* \* \*

### **NASDAQ OMX PSX Rules**

\* \* \* \* \*

#### **Rule 3400. Order Audit Trail System**

The SEC has approved a proposed rule change to remove the Rule 3400 Series from the Exchange Rules upon announcement by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Order Audit Trail System. Upon this announcement by the Exchange, members will no longer be required to record and report order information pursuant to the Rule 3400 Series.

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### **OPTION FLOOR PROCEDURE ADVICES AND ORDER & DECORUM REGULATIONS**

\* \* \* \* \*

#### **C-2 Options Floor Broker Management System**

The SEC has approved a proposed rule change to amend C-2 upon announcement by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Consolidated Options Audit Trail System.

Options Floor Broker Management System. In order to create an electronic audit trail for options orders represented by Floor Brokers on the Exchange's Options Floor, a Floor Broker or such Floor Broker's employees shall, contemporaneously upon receipt of an order and prior to the representation of such an order in the trading crowd, record all

options orders represented by such Floor Broker onto the electronic Options Floor Broker Management System (as described in Rule 1080, Commentary .06). The specific information with respect to orders represented by a Floor Broker shall be recorded by such Floor Broker or such Floor Broker's employees and shall consist of the elements required by the Rule 900A Series (the "required information"). [A Floor Broker must enter complete alpha/numeric identification assigned by the Exchange for all orders entered on behalf of Exchange Registered Option Traders. Any additional information with respect to the order shall be inputted into the Options Floor Broker Management System contemporaneously upon receipt, which may occur after the representation and execution of the order.]

Pursuant to Rule 1000(f), Floor Brokers are not permitted to execute orders in the Exchange's options trading crowd (subject to certain exceptions). In the event of a malfunction in the Options Floor Broker Management System or in the event that the Exchange determines that Floor Brokers are permitted to execute orders in the Exchange's options trading crowd for a specific reason pursuant to Rule 1000(f)(iii), Floor Brokers shall record the required information on trade tickets, and shall not represent an order for execution which has not been time stamped with the time of entry on the trading floor. Such trade tickets shall be time stamped upon the execution of such an order. Floor Brokers or their employees shall either enter the required information that is recorded on such trade tickets into the Exchange's electronic trading system or ensure that such information is entered for inclusion in the electronic audit trail.

Floor Brokers or their employees shall enter the required information (as described above) for FLEX options, or ensure that such information is entered, into the Exchange's electronic audit trail in the same electronic format as the required information for equity, equity index and U.S. dollar-settled foreign currency options. Floor Brokers or their employees shall enter the required information for FLEX options into the electronic audit trail on the same business day that a specific event surrounding the lifecycle of an order in FLEX options (including, without limitation, orders, price or size changes, execution or cancellation) occurs.

FBMS is also designed to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after representation in the trading crowd. When a Floor Broker submits an order for execution through FBMS, the order will be executed based on market conditions and in accordance with Exchange rules. FBMS execution functionality will assist the Floor Broker in clearing the Exchange book, consistent with Exchange priority rules. If the order cannot be executed, the System will attempt to execute the order a number of times for a period of no more than one second, which period shall be established by the Exchange and announced by Options Trader Alert, after which it will be returned to the Floor Broker on the FBMS. The Floor Broker may resubmit the order for execution, as long as the quotes/orders that comprise the cross have not been withdrawn. Floor Brokers are responsible for handling all FBMS orders in accordance with Exchange priority and trade-through rules, including Rules 1014, 1033 and 1084.

FINE SCHEDULE (Implemented on a two-year running calendar basis)

1st Occurrence	\$500.00
2nd Occurrence	\$1,000.00
3rd Occurrence	\$2,000.00
4th Occurrence and Thereafter	Sanction is discretionary with Business Conduct Committee

\* \* \* \* \*

**EXHIBIT 5**

Deleted text is [bracketed]. New text is underlined.

**NASDAQ PHLX Rules**

\* \* \* \* \*

**Rules of the Exchange**

\* \* \* \* \*

**Rule 785. Automated Submission of Trading Data**

A member or member organization shall submit such of the following trade data elements specified below in such automated format as may be prescribed by the Exchange from time to time, in regard to such transaction or transactions as may be subject of a particular request for information made by the Exchange:

(a) If the transaction was a proprietary transaction effected or caused to be effected by the member or member organization for any account in which such member or member organization, or any member, allied member, approved person, partner, officer, director, or employee thereof, is directly or indirectly interested, such member or member organization shall submit or cause to be submitted the following information:

- 1) Clearing house number, or alpha symbol as used by the member or the member organization submitting the data;
- 2) Clearing house number(s), or alpha symbol(s) as may be used from time to time, of the member(s) or member organization(s) on the opposite side of the transaction;
- 3) Identifying symbol assigned to the security;
- 4) Date transaction was executed;
- 5) Number of shares, or quantity of bonds or options contracts for each specific transaction and whether each transaction was a purchase, sale, short sale, and if an options contract whether open long or short or close long or short;
- 6) Transaction price;
- 7) Account number; and
- 8) Market center where transaction was executed.

(b) If the transaction was effected or caused to be effected by the member or member organization for any customer account, such member organization shall submit or cause to be submitted the following information:

- 1) Data elements (1) through (8) as contained in paragraph (a) above; and
- 2) Customer name, address(es), branch office number, registered representative number, whether order was solicited or unsolicited, date account opened and employer name and the tax identification number(s).
- 3) If transaction was effected from a member broker-dealer customer, whether the broker-dealer was acting as principal or agent on the transaction or transactions that are the subject of the Exchange's request.

(c) In addition to the above trade data elements, a member or member organization shall submit such other information in such automated format as may be prescribed by the Exchange, as may from time to time be required.

(d) The Exchange may grant exceptions, in such cases and for such time periods as it deems appropriate, from the requirement that the data elements prescribed in paragraphs (a) and (b) above be submitted to the Exchange in an automated format.

••• *Supplementary Material:* -----

The Exchange will not request trade data or information, and members will not be required to provide trade data or information, for trades reported to the CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to this Rule.

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## **Rule 1022. Securities Accounts and Orders of Specialists and Registered Options Traders**

(a) *Identification of Accounts*—In a manner prescribed by the Exchange, each Specialist and Registered Options Trader shall file with the Exchange upon request and keep current a list identifying all accounts for stock, Exchange-Traded Fund Share, option and related securities or foreign currencies, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity and other related trading in which the Specialist or Registered Options Trader may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Specialist or Registered Options Trader shall engage in stock, Exchange-Traded Fund Share, option, or related securities or foreign currencies, physical commodities, physical commodity options, commodity futures contracts, options on commodity futures contracts, any other derivatives based on such commodity and other related trading in an account which has not been reported (pursuant to this Rule) in a manner prescribed by the Exchange.

(b) Reserved.

(c) Reserved.

(d) No Specialist or Registered Options Trader in options on a foreign currency shall fail to make available to the Exchange such books, records or other information maintained by or in the possession of such person, or any corporation or partnership associated with such person's member organization, pertaining to transactions by such person, corporation or partnership for its own account in any foreign currency with respect to which options are traded on the Exchange, in any futures contract on such a foreign currency, in any option contract on such a foreign currency (including options on foreign currency futures contracts), or in other foreign currency derivatives as may be called for under the Rules of the Exchange or as may be requested by the Exchange in the course of any investigation, any examination or other official inquiry.

••• *Commentary:* -----

.01 - .02 No Change.

.03 The Exchange will not request trade data or information, and members will not be required to provide trade data or information, for trades reported to the CAT after the Exchange announces that it has determined that the accuracy and reliability of the CAT are sufficient to replace requests pursuant to this Rule.

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### **Rule 1063. Responsibilities of Floor Brokers**

The SEC has approved a proposed rule change to amend Rule 1063 upon announcement by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Consolidated Options Audit Trail System.

(a) – (d) No Change.

(e) (i) *Options Floor Broker Management System.* In order to create an electronic audit trail for equity, equity index and U.S. dollar-settled foreign currency options orders represented by Floor Brokers on the Exchange's Options Floor, a Floor Broker or such Floor Broker's employees shall, contemporaneously upon receipt of an order and prior to the representation of such an order in the trading crowd, record all options orders represented by such Floor Broker onto the electronic Options Floor Broker Management System ("FBMS") (as described in Rule 1080, Commentary .06). The [following] specific information with respect to orders represented by a Floor Broker shall be recorded by such Floor Broker or such Floor Broker's employees and shall consist of the elements required by the Rule 900A Series.: (i) the order type (i.e., customer, firm, broker-dealer, professional) and order receipt time; (ii) the option symbol; (iii) buy, sell, cross or cancel; (iv) call, put, complex (i.e., spread, straddle), or contingency order as



described in Rule 1066; (v) number of contracts; (vi) limit price or market order or, in the case of a multi-leg order, net debit or credit, if applicable; (vii) whether the transaction is to open or close a position; and (viii) The Options Clearing Corporation ("OCC") clearing number of the broker-dealer that submitted the order (collectively, the "required information"). A Floor Broker must enter complete alpha/numeric identification assigned by the Exchange for all orders entered on behalf of Exchange Registered Option Traders. Any additional information with respect to the order shall be inputted into the Options Floor Broker Management System contemporaneously upon receipt, which may occur after the representation and execution of the order.] In the event of a malfunction in the Options Floor Broker Management System, Floor Brokers shall record the required information on trade tickets, and shall not represent an order for execution which has not been time stamped with the time of entry on the trading floor. Such trade tickets shall be time stamped upon the execution of such an order. Floor Brokers or their employees shall enter the required information that is recorded on such trade tickets into the Exchange's electronic system for inclusion in the electronic audit trail.

(ii) – (iv) No Change.

(f) No Change.

\* \* \* \* \*

## **NASDAQ OMX PSX Rules**

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### **Rule 3400. Order Audit Trail System**

The SEC has approved a proposed rule change to remove the Rule 3400 Series from the Exchange Rules upon announcement by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Order Audit Trail System. Upon this announcement by the Exchange, members will no longer be required to record and report order information pursuant to the Rule 3400 Series.

#### **[Rule 3401. Definitions]**

[For purposes of the Rule 3400 Series:

(a) "Bunched Order" shall mean two or more orders that are aggregated prior to execution.

(b) "Customer" shall mean a person other than a broker or dealer.

(c) "NASDAQ OMX PSX" or "PSX" shall mean the service provided by the Exchange that, among other things, provides for the automated execution and reporting of transactions in securities.

(d) "Electronic Communication Network" shall mean any electronic system that widely disseminates to third parties orders entered therein by an exchange market maker or over-the-counter market maker, and permits such orders to be executed in whole or in part, and as further defined in rule 600 of SEC Regulation NMS.

(e) "Electronic Order" shall mean an order captured by a member organization in an electronic order-routing or execution system.

(f) "Index Arbitrage Trade" shall mean an arbitrage trading strategy involving the purchase or sale of a "basket" or group of securities in conjunction with the purchase or sale, or intended purchase or sale, of one or more cash-settled options or futures contracts on index stock groups, or options on any such futures contracts in an attempt to profit by the price difference, as further defined in New York Stock Exchange rule 132B.

(g) "Intermarket sweep order" shall have the same meaning as contained in Rule 600 of SEC Regulation NMS.

(h) "Manual Order" shall mean an order that is captured by a member organization other than in an electronic order-routing or execution system.

(i) "Order" shall mean any oral, written, or electronic instruction to effect a transaction in an equity security listed on the Exchange or the NASDAQ Stock Market that is received by a member organization from another person for handling or execution, or that is originated by a department of a member organization for execution by the same or another broker or dealer that is a FINRA member or an Exchange member organization, other than any such instruction to effect a proprietary transaction originated by a trading desk in the ordinary course of a member organization's market making activities.

(j) "Order Audit Trail System" shall mean the automated system owned and operated by FINRA that is designed to capture order information in equity securities listed on the Exchange and the NASDAQ Stock Market reported by member organizations for integration with trade and quotation information to provide FINRA with an accurate time sequenced record of orders and transactions.

(k) "Program Trade" shall mean a trading strategy involving the related purchase or sale of a group of 15 or more securities having a total market value of \$1 million or more, as further defined in New York Stock Exchange rule 132B.

(l) "Reporting Agent" shall mean a third party that enters into any agreement with a member organization pursuant to which the Reporting Agent agrees to fulfill such member organization's obligations under Rule 3405.

(m) "Reporting Member Organization" shall mean a member organization that receives or originates an order and has an obligation to record and report information under Rules 3404 and 3405. A member organization shall not be considered a Reporting Member Organization in connection with an order, if the following conditions are met:

- (1) the member organization engages in a non-discretionary order routing process, pursuant to which it immediately routes, by electronic or other means, all of its orders to a single receiving Reporting Member Organization;
- (2) the member organization does not direct and does not maintain control over subsequent routing or execution by the receiving Reporting Member Organization;
- (3) the receiving Reporting Member Organization records and reports all information required under Rules 3404 and 3405 with respect to the order; and
- (4) the member organization has a written agreement with the receiving Reporting Member Organization specifying the respective functions and responsibilities of each party to effect full compliance with the requirements of Rules 3404 and 3405.

(n) "Proprietary Trading Firm" shall mean an Exchange member organization that trades its own capital and that does not have customers, and that is not a FINRA member. The funds used by a Proprietary Trading firm must be exclusively firm funds and all trading must be in the firm's accounts. Traders must be owners of, employees of, or contractors to the firm.]

**[Rule 3402. Applicability]**

[(a) Unless otherwise indicated, the requirements of the Rule 3400 Series are in addition to the requirements contained elsewhere in the Rules of the Exchange.

(b) Unless otherwise indicated, the requirements of the Rule 3400 Series shall apply to all Exchange member organizations and to their associated persons.

(c) Unless otherwise indicated, the requirements of the Rule 3400 Series shall apply to all executed or unexecuted orders for equity securities listed on the Exchange or on the NASDAQ Stock Market.]

**[Rule 3403. Synchronization of Member Organization Business Clocks]**

[Each member organization shall synchronize its business clocks that are used for purposes of recording the date and time of any event that must be recorded pursuant to the rules of the Exchange, with reference to a time source as designated by the Exchange, and shall maintain the synchronization of such business clocks in conformity with such procedures as are prescribed by the Exchange.]

**[Rule 3404. Recording of Order Information]**

[With respect to orders for securities listed on the NASDAQ Stock Market or the Exchange, member organizations and persons associated with a member organization shall comply with the following Rule:

(a) Procedures

(1) Subject to the terms and conditions contained in Rules 3402 through 3406, each Reporting Member Organization shall:

(A) immediately following receipt or origination of an order, record each item of information described in paragraph (b) of this Rule that applies to such order, and record any additional information described in paragraph (b) of this Rule that applies to such order immediately after such information is received or becomes available; and

(B) immediately following the transmission of an order to another broker or dealer that is a FINRA member or an Exchange member organization, or from one department to another within the same member organization, record each item of information described in paragraph (c) of this Rule that applies with respect to such transmission; and

(C) immediately following the modification, cancellation, or execution of an order, record each item of information described in paragraph (d) of this Rule that applies with respect to such modification, cancellation, or execution.

(2) Each required record of the time of an event shall be expressed in terms of hours, minutes, and seconds.

(3) Each Reporting Member Organization shall, by the end of each business day, record each item of information required to be recorded under this Rule in such electronic form as is prescribed by the Exchange from time to time.

(4) Maintaining and Preserving Records

(A) Each Reporting Member Organization shall maintain and preserve records of the information required to be recorded under this Rule for the period of time and accessibility specified in SEC rule 17a-4(b).

(B) The records required to be maintained and preserved under this Rule may be immediately produced or reproduced on "micrographic media" as defined in SEC rule 17a-4(f)(1)(i) or by means of "electronic storage media" as defined in SEC rule 17a-4(f)(1)(ii) that meet the conditions set forth in SEC rule 17a-4(f) and be maintained and preserved for the required time in that form.

(b) Order Origination and Receipt

Unless otherwise indicated, the following order information must be recorded under this Rule when an order is received or originated. For purposes of this Rule, the order origination or receipt time is the time the order is received from the customer.

- (1) an order identifier meeting such parameters as may be prescribed by the Exchange assigned to the order by the Reporting Member Organization that uniquely identifies the order for the date it was received;
- (2) the identification symbol assigned by the Exchange to the security to which the order applies;
- (3) the market participant symbol assigned by the Exchange to the Reporting Member Organization;
- (4) the identification of any department or the identification number of any terminal where an order is received directly from a customer;
- (5) where the order is originated by a Reporting Member Organization, the identification of the department of the member organization that originates the order;
- (6) where the Reporting Member Organization is a party to an agreement described in Rule 3405(c), the identification of the Reporting Agent;
- (7) the number of shares to which the order applies;
- (8) the designation of the order as a buy or sell order;
- (9) the designation of the order as a short sale order;
- (10) the designation of the order as a market order, limit order, stop order or stop limit order;
- (11) any limit or stop price prescribed in the order;
- (12) the date on which the order expires, and, if the time in force is less than one day, the time when the order expires;
- (13) the time limit during which the order is in force;
- (14) any request by a customer that an order not be displayed, or that a block size order be displayed, pursuant to rule 604(b) of SEC Regulation NMS;
- (15) special handling requests, specified by the Exchange for purposes of this Rule;
- (16) the date and time the order is originated or received by a Reporting Member Organization;
- (17) an identification of the order as related to a Program Trade or an Index Arbitrage Trade;

- (18) the type of account, i.e., retail, wholesale, employee, proprietary, or any other type of account designated by the Exchange, for which the order is submitted; and
- (19) if the member is relying on the exception provided in FINRA Rule 5320.02 with respect to the order, the unique identification of any appropriate information barriers in place at the department within the member where the order was received or originated.

(c) Order Transmittal

Order information required to be recorded under this Rule when an order is transmitted includes the following.

- (1) When a Reporting Member Organization transmits an order to a department within the member organization, the Reporting Member Organization shall record:
  - (A) the order identifier assigned to the order by the Reporting Member Organization,
  - (B) the market participant symbol assigned by the Exchange to the Reporting Member Organization,
  - (C) the date the order was first originated or received by the Reporting Member Organization,
  - (D) an identification of the department and nature of the department to which the order was transmitted,
  - (E) the date and time the order was received by that department,
  - (F) the number of shares to which the transmission applies, and
  - (G) any special handling requests.
- (2) When a member organization electronically transmits an order to another broker or dealer that is a FINRA member or an Exchange member organization, other than an order transmitted electronically for execution on an Electronic Communications Network:
  - (A) the transmitting Reporting Member Organization shall record:
    - (i) the order identifier assigned to the order by the Reporting Member Organization and the routed order identifier, if different, which the transmitting Reporting Member Organization also must provide to the receiving broker or dealer,

- (ii) the market participant symbol assigned by the Exchange to the Reporting Member Organization,
  - (iii) the market participant symbol assigned by the Exchange to the broker or dealer to which the order is transmitted,
  - (iv) the date the order was first originated or received by the Reporting Member Organization,
  - (v) the date and time the order is transmitted,
  - (vi) the number of shares to which the transmission applies, and
  - (vii) whether the order is an intermarket sweep order; and
- (B) the receiving broker or dealer shall record, in addition to all other information items in Rule 3404(b) that apply with respect to such order:
- (i) the routed order identifier assigned to the order by the member organization that transmits the order and
  - (ii) the market participant symbol assigned by the Exchange to the member organization that transmits the order.
- (3) When a member organization electronically transmits an order for execution on an Electronic Communications Network:
- (A) the transmitting Reporting Member Organization shall record:
- (i) the fact that the order was transmitted to an Electronic Communications Network,
  - (ii) the order identifier assigned to the order by the Reporting Member Organization and the routed order identifier, if different, which the transmitting Reporting Member Organization also must provide to the receiving Electronic Communications Network,
  - (iii) the market participant symbol assigned by the Exchange to the Reporting Member Organization,
  - (iv) the market participant symbol assigned by the Exchange to the Electronic Communications Network to which the order is transmitted,
  - (v) the date the order was first originated or received by the Reporting Member Organization,

- (vi) the date and time the order is transmitted,
  - (vii) the number of shares to which the transmission applies, and
  - (viii) whether the order is an intermarket sweep order; and
- (B) the receiving Electronic Communications Network shall record:
- (i) the fact that the order was received by an Electronic Communications Network,
  - (ii) the routed order identifier assigned to the order by the member organization that transmits the order,
  - (iii) the market participant symbol assigned by FINRA to the transmitting Reporting Member Organization, and
  - (iv) other information items in Rule 3404(b) that apply with respect to such order, which must include information items (1), (2), (3), (6), (7), (8), (10), (11), (12), (13), (15), and (16).
- (4) When a member organization manually transmits an order to another broker that is a FINRA member or an Exchange member organization, other than to an Electronic Communications Network:
- (A) the transmitting Reporting Member Organization shall record:
- (i) the fact that the order was transmitted manually,
  - (ii) the order identifier assigned to the order by the Reporting Member Organization,
  - (iii) the market participant symbol assigned by the Exchange to the Reporting Member Organization,
  - (iv) the market participant symbol assigned by the Exchange to the broker or dealer to which the order is transmitted,
  - (v) the date the order was first originated or received by the Reporting Member Organization,
  - (vi) the date and time the order is transmitted,
  - (vii) the number of shares to which the transmission applies,



- (viii) for each order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the Reporting Member Organization, and
  - (ix) whether the order is an intermarket sweep order; and
- (B) the receiving broker or dealer shall record, in addition to all other information items in Rule 3404(b) that apply with respect to such order:
- (i) the fact that the order was received manually and
  - (ii) the market participant symbol assigned by the Exchange to the member organization that transmits the order.
- (5) When a member organization manually transmits an order to an Electronic Communications Network:
- (A) the transmitting Reporting Member Organization shall record:
- (i) the fact that the order was transmitted manually,
  - (ii) the order identifier assigned to the order by the Reporting Member Organization,
  - (iii) the market participant symbol assigned by the Exchange to the Reporting Member Organization,
  - (iv) the market participant symbol assigned by the Exchange to the Electronic Communications Network to which the order is transmitted,
  - (v) the date the order was first originated or received by the Reporting Member Organization,
  - (vi) the date and time the order is transmitted,
  - (vii) the number of shares to which the transmission applies,
  - (viii) for each order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the Reporting Member Organization, and
  - (ix) whether the order is an intermarket sweep order; and
- (B) the receiving Electronic Communications Network shall record:
- (i) the fact that the order was received manually,

- (ii) the market participant symbol assigned by the Exchange to the transmitting Reporting Member Organization, and
  - (iii) other information items in Rule 3404(b) that apply with respect to such order, which must include information items (1), (2), (3), (6), (7), (8), (10), (11), (12), (13), (15), and (16).
- (6) When a member organization transmits an order to a person that is not a FINRA member or an Exchange member organization, including but not limited to a national securities exchange, the Reporting Member Organization shall record:
- (A) the fact that the order was transmitted to a non-member,
  - (B) the order identifier assigned to the order by the Reporting Member Organization,
  - (C) the market participant symbol assigned by FINRA to the Reporting Member Organization,
  - (D) the date the order was first originated or received by the Reporting Member Organization,
  - (E) the date and time the order is transmitted,
  - (F) the number of shares to which the transmission applies,
  - (G) for each manual order to be included in a bunched order, the bunched order route indicator assigned to the bunched order by the Reporting Member Organization,
  - (H) the routed order identifier or other unique identifier required by the non-member receiving the order, as applicable,
  - (I) identification of the non-member where the trade was transmitted, and
  - (J) whether the order is an intermarket sweep order.

(d) Order Modifications, Cancellations, and Executions

Order information required to be recorded under this Rule when an order is modified, canceled, or executed includes the following.

- (1) When a Reporting Member Organization modifies or receives a modification to the terms of the order, the Reporting Member Organization shall record, in addition to all other applicable information items (including a new order

identifier) that would apply as if the modified order were originated or received at the time of the modification:

- (A) the order identifier assigned to the order by the Reporting Member Organization prior to the modification,
  - (B) the date and time the modification was originated or received, and
  - (C) the date the order was first originated or received by the Reporting Member Organization,
- (2) When the Reporting Member Organization cancels or receives a cancellation of an order, in whole or part, the Reporting Member Organization shall record:
- (A) the order identifier assigned to the order by the Reporting Member Organization,
  - (B) the market participant symbol assigned by the Exchange to the Reporting Member Organization,
  - (C) the date the order was first originated or received by the Reporting Member Organization,
  - (D) the date and time the cancellation was originated or received,
  - (E) if the open balance of an order is canceled after a partial execution, the number of shares canceled, and
  - (F) whether the order was canceled on the instruction of a customer or the Reporting Member Organization.
- (3) When a Reporting Member Organization executes an order, in whole or in part, the Reporting Member Organization shall record:
- (A) the order identifier assigned to the order by the Reporting Member Organization,
  - (B) the market participant symbol assigned by the Exchange to the Reporting Member Organization,
  - (C) the date the order was first originated or received by the Reporting Member Organization,
  - (D) the Reporting Member Organization's number assigned for purposes of identifying transaction data in PSX, the Nasdaq Market Center, ADF, Trade

Reporting Facility or other system or service as may be designated by the Exchange,

- (E) the designation of the order as fully or partially executed,
- (F) the number of shares to which a partial execution applies and the number of unexecuted shares remaining,
- (G) the identification number of the terminal where the order was executed,
- (H) the date and time of execution;
- (I) the execution price,
- (J) the capacity in which the member organization executed the transaction (e.g., agency, principal or riskless principal), and
- (K) the national securities exchange or facility operated by a registered securities association where the trade was reported.

(e) Exchange member organizations shall assign and enter a unique order identifier, in the form prescribed by the Exchange, to all orders that are electronically transmitted to PSX. An order identifier shall not be required for orders that are manually transmitted.]

**[Rule 3405. Order Data Transmission Requirements]**

[(a) Securities Listed on NASDAQ.

Except as provided in paragraph (b), with respect to orders for securities listed on the NASDAQ Stock Market, Exchange member organizations and persons associated with a member organization shall comply with subsections (d), (e), and (f) of this Rule at all times.

(b) Proprietary Trading Firms.

Proprietary Trading Firms and their associated persons shall be required to comply with subsections (d), (e), and (f) of this Rule only when they receive a request from the Exchange to submit order information with respect to specific time periods identified in such request. Nothing in this Rule shall be construed to limit the obligations of Proprietary Trading Firms and their associated persons under any other Rule of the 3400 Series, including but not limited to, Rule 3404.

(c) Securities Listed on the Exchange.

With respect to orders for securities listed on the Exchange, Exchange member organizations and their associated persons shall be required to comply with subsections (d), (e), and (f) of this Rule for orders for securities listed on the Exchange only when

they receive a request from the Exchange to submit order information with respect to specific time periods identified in such request. Nothing in this Rule shall be construed to limit the obligations of Exchange member organizations and their associated persons under any other Rule of the 3400 Series, including but not limited to, Rule 3404.

(d) General Requirement

All applicable order information required to be recorded under Rule 3404 shall be transmitted to FINRA's Order Audit Trail System by each Reporting Member Organization or by a Reporting Agent pursuant to an agreement described by paragraph (c) of this Rule.

(e) Method of Transmitting Data

- (1) Order information shall be transmitted in electronic form, as may be prescribed by the Exchange from time to time, to a receiving location designated by the Exchange.
- (2) Each Reporting Member Organization shall transmit to the Order Audit Trail System a report containing each applicable item of order information identified in Rule 3404(b), (c), and (d) whenever an order is originated, received, transmitted to another department within the member organization or to another broker or dealer that is a FINRA member or an Exchange member organization, modified, canceled, or executed. Each report shall be transmitted on the day such event occurred; provided, however, that if any item of information identified in Rule 3404(b), (c), and (d) is not available on such day, then the report shall be transmitted on the day that all such items of information become available. Order information reports may be aggregated into one or more transmissions, during such business hours as may be prescribed by the Exchange.

(f) Reporting Agent Agreements

- (1) Any Reporting Member Organization may enter into an agreement with a Reporting Agent pursuant to which the Reporting Agent agrees to fulfill the obligations of such Reporting Member Organization under this Rule. Any such agreement shall be evidenced in writing, which shall specify the respective functions and responsibilities of each party to the agreement that are required to effect full compliance with the requirements of this Rule.
- (2) All written documents evidencing an agreement described in paragraph (1) shall be maintained by each party to the agreement.
- (3) Each Reporting Member Organization remains primarily responsible for compliance with the requirements of this Rule, notwithstanding the existence of an agreement described in this paragraph.]

**[Rule 3406. Violation of Order Audit Trail System Rules]**

[Failure of a member organization or person associated with a member organization to comply with any of the requirements of the Rule 3400 Series may be considered conduct that is inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 707.]

**[Rule 3407. Exemption to the Order Recording and Data Transmission Requirements]**

[(a) The Exchange, for good cause shown after taking into consideration all relevant factors, may exempt subject to specified terms and conditions, a member organization from the recording and order data transmission requirements of Rules 3404 and 3405, respectively, for manual orders, if such exemption is consistent with the protection of investors and the public interest, and the member organization meets the following criteria:

- (1) the member organization and current control affiliates and associated persons of the member organization have not been subject within the last five years to any final disciplinary action, and within the last ten years to any disciplinary action involving fraud;
- (2) the member organization has annual revenues of less than \$2 million;
- (3) the member organization does not conduct any market making activities in equity securities listed on the Exchange;
- (4) the member organization does not execute principal transactions with its customers (with limited exception for principal transactions executed pursuant to error corrections); and
- (5) the member organization does not conduct clearing or carrying activities for other firms.

(b) An exemption provided pursuant to this Rule shall not exceed a period of two years. At or prior to the expiration of a grant of exemptive relief under this Rule, a member organization meeting the criteria set forth in paragraph (a) above may request a subsequent exemption, which will be considered at the time of the request consistent with the protection of investors and the public interest.

(c) This Rule shall be in effect until July 10, 2011.]

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**OPTION FLOOR PROCEDURE ADVICES AND ORDER & DECORUM REGULATIONS**

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## **C-2 Options Floor Broker Management System**

The SEC has approved a proposed rule change to amend C-2 upon announcement by the Exchange that the Consolidated Audit Trail has achieved a level of accuracy and reliability sufficient to replace the Consolidated Options Audit Trail System.

Options Floor Broker Management System. In order to create an electronic audit trail for options orders represented by Floor Brokers on the Exchange's Options Floor, a Floor Broker or such Floor Broker's employees shall, contemporaneously upon receipt of an order and prior to the representation of such an order in the trading crowd, record all options orders represented by such Floor Broker onto the electronic Options Floor Broker Management System (as described in Rule 1080, Commentary .06). The [following] specific information with respect to orders represented by a Floor Broker shall be recorded by such Floor Broker or such Floor Broker's employees and shall consist of the elements required by the Rule 900A Series (the "required information").: (i) the order type (i.e., customer, firm, broker-dealer, professional) and order receipt time; (ii) the option symbol; (iii) buy, sell, cross or cancel; (iv) call, put, complex (i.e., spread, straddle), or contingency order as described in Rule 1066; (v) number of contracts; (vi) limit price or market order or, in the case of a complex or multi-leg order, net debit or credit, if applicable; (vii) whether the transaction is to open or close a position; and (viii) The Options Clearing Corporation ("OCC") clearing number of the broker-dealer that submitted the order (collectively, the "required information"). A Floor Broker must enter complete alpha/numeric identification assigned by the Exchange for all orders entered on behalf of Exchange Registered Option Traders. Any additional information with respect to the order shall be inputted into the Options Floor Broker Management System contemporaneously upon receipt, which may occur after the representation and execution of the order.]

Pursuant to Rule 1000(f), Floor Brokers are not permitted to execute orders in the Exchange's options trading crowd (subject to certain exceptions). In the event of a malfunction in the Options Floor Broker Management System or in the event that the Exchange determines that Floor Brokers are permitted to execute orders in the Exchange's options trading crowd for a specific reason pursuant to Rule 1000(f)(iii), Floor Brokers shall record the required information on trade tickets, and shall not represent an order for execution which has not been time stamped with the time of entry on the trading floor. Such trade tickets shall be time stamped upon the execution of such an order. Floor Brokers or their employees shall either enter the required information that is recorded on such trade tickets into the Exchange's electronic trading system or ensure that such information is entered for inclusion in the electronic audit trail.

Floor Brokers or their employees shall enter the required information (as described above) for FLEX options, or ensure that such information is entered, into the Exchange's electronic audit trail in the same electronic format as the required information for equity, equity index and U.S. dollar-settled foreign currency options. Floor Brokers or their employees shall enter the required information for FLEX options into the electronic audit

trail on the same business day that a specific event surrounding the lifecycle of an order in FLEX options (including, without limitation, orders, price or size changes, execution or cancellation) occurs.

FBMS is also designed to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after representation in the trading crowd. When a Floor Broker submits an order for execution through FBMS, the order will be executed based on market conditions and in accordance with Exchange rules. FBMS execution functionality will assist the Floor Broker in clearing the Exchange book, consistent with Exchange priority rules. If the order cannot be executed, the System will attempt to execute the order a number of times for a period of no more than one second, which period shall be established by the Exchange and announced by Options Trader Alert, after which it will be returned to the Floor Broker on the FBMS. The Floor Broker may resubmit the order for execution, as long as the quotes/orders that comprise the cross have not been withdrawn. Floor Brokers are responsible for handling all FBMS orders in accordance with Exchange priority and trade-through rules, including Rules 1014, 1033 and 1084.

FINE SCHEDULE (Implemented on a two-year running calendar basis)

1st Occurrence	\$500.00
2nd Occurrence	\$1,000.00
3rd Occurrence	\$2,000.00
4th Occurrence and Thereafter	Sanction is discretionary with Business Conduct Committee

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