

account number or identifier in, the Trade Registration System.

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

(a) No change.

(b) Information Recording, Submission, and Dissemination

(1)–(2) No change.

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

(4) After [sending the confirmation for the Exchange for Physical Trade] *posting both sides of the Futures Leg in the Trade Registration System to the account of the submitting Member*, NQLX will disseminate through the ATS the following information:

(i)–(vi) No change.

(5) No change.

(6) As soon as practicable, but no longer than 10 minutes, after receipt of confirmation for the Exchange for Physical Trade from NQLX, *but no later than sufficiently before the close of the Trade Registration System to allow for the orderly allocation and claim of the Futures Leg*, the submitting Member (or its Clearing Member, if applicable) must transfer through the Trade Registration System the applicable Futures Contract to the Member for the buyer of the Futures Leg (or its Clearing Member, if applicable).

(7) As soon as practicable, but no longer than 10 minutes, after the Futures Leg appears on the Trade Registration System pursuant to Rule 420(b)(6) *and before the close of the Trade Registration System*, the Member for the buyer of the Futures Leg (or its Clearing Member, if applicable) must accept the Futures Leg through, and designate the buyer's Customer account number or identifier in, 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 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 NQLX Rules 419(g) and 420(b) to make NQLX's allocation and claim requirements for block trades and exchange for physical trades consistent with the CFTC's new Rule 1.35(a–1)(5)(iii)(A) <sup>5</sup> requirement that allocations of bunched orders must occur as soon as practicable but “no later than a time sufficiently before the end of the day the order is executed to ensure that clearing records identify the ultimate customer for each trade.”

NQLX believes that amended NQLX Rules 419(g) and 420(b) are consistent with the CFTC's new rule relating to allocation of bunched orders while providing the necessary and appropriate trade audit trail for block and exchange for physical trades, specifically in the areas of trade processing and clearing. NQLX also believes that the proposed rule change is consistent with the requirements, where applicable, under Section 6(h)(3)(J) of the Act <sup>6</sup> and the criteria, where applicable, under Section 2(a)(1)(D)(i)(IX) of the CEA, <sup>7</sup> as modified by joint orders of the Commission and the CFTC. <sup>8</sup>

###### **2. Statutory Basis**

NQLX files the proposed rule change pursuant to Section 19(b)(7) of the Act. <sup>9</sup> NQLX believes that the proposed rule change is consistent with the requirements of the Commodity Futures Modernization Act of 2000, <sup>10</sup> including the requirement that NQLX have audit trails necessary and appropriate to facilitate coordinated surveillance to detect, among other things, manipulation. <sup>11</sup> NQLX further believes that its proposed rule change complies with the requirements under Section 6(h)(3) of the Act <sup>12</sup> and the criteria

<sup>5</sup> 17 CFR 1.35(a–1)(5)(iii)(A).

<sup>6</sup> 15 U.S.C. 78f(h)(3)(J).

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

<sup>8</sup> See 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) and Joint Order Granting the Modification of Listing Standards Requirements (American Depository Receipts), Securities Exchange Act Release No. 44725 (August 20, 2001), 67 FR 42760 (June 25, 2002).

<sup>9</sup> 15 U.S.C. 78s(b)(7).

<sup>10</sup> Pub. L. 106–554, 114 Stat. 2763 (2000).

<sup>11</sup> 15 U.S.C. 78f(h)(3)(J).

<sup>12</sup> 15 U.S.C. 78f(h)(3).

under Section 2(a)(1)(D)(i) of the CEA, <sup>13</sup> 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, <sup>14</sup> in general, and Section 6(b)(5) of the Act, <sup>15</sup> in particular, in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities 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 rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

##### *C. Self-Regulatory Organization's Statement of 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**

The proposed rule change has become effective on July 16, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, had the authority to 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. <sup>16</sup>

#### **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](mailto:rule-comments@sec.gov). 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

<sup>13</sup> 7 U.S.C. 2(a)(1)(D)(i).

<sup>14</sup> 15 U.S.C. 78f.

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

<sup>16</sup> 15 U.S.C. 78s(b)(1).