

the effective date of the proposed rule change would be November 10, 2003.

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

NQLX proposes to amend NQLX Rule 419 to make the information recording and submission requirements for Block Trades and Exchange for Physical Trades consistent. Previously, certain requirements applicable to Exchange for Physical Trades were not explicitly applicable to Block Trades.

The text of the proposed rule change appears below. New text is in *italic*. Deleted text is in [brackets].

\* \* \* \* \*

Rule 419 Block Trades.\* \* \*

(g) Information Recording, Submission, and Dissemination

(1) For a [each] Block Trade[,] *in addition to the requirements of Rules 408(b) and 408(c),* a Member or Person Associated with a Member must [ensure that information is recorded and retained] *record on an Order Ticket [consistent with Rule 408(c)] the identity of the individual arranging the Block Trade and time stamp the Order when negotiation begins.*

(2)—(7) No change

\* \* \* \* \*

### **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 419 so that the information recording and submission requirements for Block Trades and Exchange for Physical Trades are consistent. Previously, certain requirements applicable to Exchange for Physical Trades were not explicitly applicable to Block Trades. First, amended Rule 419(g) would require members to comply with the requirements of NQLX Rule 408(b), in addition to those of NQLX Rule 408(c), when recording and retaining

information on an Order Ticket for a Block Trade. Second, amended NQLX Rule 419(g) would require members to record on an Order Ticket the identity of the individual arranging the Block Trade and to time stamp the Order when negotiations begin.

NQLX believes that the proposed rule change is consistent with the requirements, where applicable, under Section 6(h)(3)(J) of the Act<sup>4</sup> and the criteria, where applicable, under Section 2(a)(1)(D)(i)(IX) of the CEA,<sup>5</sup> as modified by joint orders of the Commission and the CFTC.<sup>6</sup>

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

NQLX files the proposed rule change pursuant to Section 19(b)(7) of the Act.<sup>7</sup> NQLX believes that the proposed rule change is consistent with the requirements of the Commodity Futures Modernization Act of 2000,<sup>8</sup> including the requirement that NQLX have audit trails necessary and appropriate to facilitate coordinated surveillance to detect, among other things, manipulation.<sup>9</sup> NQLX further believes that its proposed rule change complies with the requirements under Section 6(h)(3) of the Act<sup>10</sup> and the criteria under Section 2(a)(1)(D)(i) of the CEA,<sup>11</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>12</sup> in general, and Section 6(b)(5) of the Act,<sup>13</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, 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 November 10, 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.<sup>14</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 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-2003-08 and should be submitted by December 24, 2003.

<sup>4</sup> 15 U.S.C. 78f(h)(3)(J).

<sup>5</sup> 7 U.S.C. 2(a)(1)(D)(i)(IX).

<sup>6</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>7</sup> 15 U.S.C. 78s(b)(7).

<sup>8</sup> Pub. L. 106-554, 114 Stat. 2763 (2000).

<sup>9</sup> 15 U.S.C. 78f(h)(3)(J).

<sup>10</sup> 15 U.S.C. 78f(h)(3).

<sup>11</sup> 7 U.S.C. 2(a)(1)(D)(i).

<sup>12</sup> 15 U.S.C. 78f.

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78s(b)(1).