SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-85132; File No. SR-NASDAQ-2019-003)

February 14, 2019

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Exchange's Provisions for Excluding a Day From Its Volume Calculations for Purposes of Determining Tiered Pricing

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4 thereunder,[2] notice is hereby given that on January 31, 2019, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's provisions for excluding a day from its volume calculations for purposes of determining tiered pricing.

The text of the proposed rule change is available on the Exchange's Website at http://nasdaq.cchwallstreet.com/, at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in

---

1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's provisions for excluding a day from its volume calculations for purposes of determining tiered pricing. The Exchange is standardizing its practice for removing a day from its options volume calculations with its affiliated options market, Nasdaq PHLX ("Phlx").[3]

To avoid penalizing members when aberrant low volume days result from systems or other issues at the Exchange, or where the Exchange closes early for holiday observance, NOM currently has language in its pricing schedule allowing it to exclude certain days from its average daily volume ("ADV") or other volume calculations.[4] Currently, language in Options 7, Section 2(5) provides that, for purposes of determining Monthly Volume Tiers under this section, any day that the market is not open for the entire trading day will be excluded from such calculation. The Exchange now proposes to amend this provision by first, renumbering this rule as paragraph (a) to Section 2(5) and second, replacing the term "Monthly Volume Tiers" with "equity tier calculations" to clarify the application of its rule.[5] The Exchange also proposes to adopt

3 See Phlx pricing schedule, Options 7, Section 1(b). The Exchange's other affiliated options markets, Nasdaq ISE, Nasdaq GEMX, Nasdaq MRX, and Nasdaq BX will also file similar rule change proposals to conform to Phlx's rule.

4 Other volume calculations include certain cross-asset volume tiers that link rebates on NOM to activity on the Nasdaq Stock Market such as the Tier 6 Customer and Professional Rebate to Add Liquidity in Penny Pilot Options. See Options 7, Section 2(1).

5 Because the Exchange is conforming its practice for options markets only, the current language will remain in place for the equity tier calculations in the NOM pricing schedule

language similar to that on Phlx, which will apply to the options tier calculations in the NOM pricing schedule.[6] Specifically, the Exchange proposes to adopt a new paragraph (b) to Section 2(5), entitled "Removal of Days for Purposes of Options Pricing Tiers," which will provide:

> (i)(A) Any day that the Exchange announces in advance that it will not be open for trading will be excluded from the options tier calculations set forth in its Pricing Schedule; and (B) any day with a scheduled early market close ("Scheduled Early Close") may be excluded from the options tier calculations only pursuant to paragraph (iii) below.
>
> (ii) The Exchange may exclude the following days ("Unanticipated Events") from the options tier calculations only pursuant to paragraph (iii) below, specifically any day that: (A) the market is not open for the entire trading day, (B) the Exchange instructs Participants in writing to route their orders to other markets, (C) the Exchange is inaccessible to Participants during the 30-minute period before the opening of trade due to an Exchange system disruption, or (D) the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours.
>
> (iii) If a day is to be excluded as a result of paragraph (i)(B) or (ii) above, the Exchange will exclude the day from any Participant's monthly options tier calculations as follows:
>
>> (A) the Exchange may exclude from the ADV calculation any Scheduled Early Close or Unanticipated Event; and

---

such as the Tier 6 Customer and Professional Rebate to Add Liquidity in Penny Pilot Options described in note 4 above, with the clarifying modifications discussed above.

6 See note 3 above.

(B) the Exchange may exclude from any other applicable options tier calculation provided for in its Pricing Schedule (together with (iii)(A), "Tier Calculations") any Scheduled Early Close or Unanticipated Event.

provided, in each case, that the Exchange will only remove the day for Participants that would have a lower Tier Calculation with the day included.

While similar to the language currently in place on the Exchange, the proposed language: (1) provides greater flexibility to remove a day in more circumstances, (2) categorizes the potential excluded days into days that are known in advance (i.e., days in proposed paragraph (i), including Scheduled Early Closes), and those that are not (i.e., Unanticipated Events in proposed paragraph (ii)), and (3) modifies the provision so that Participants will only have the day removed when doing so is beneficial for the Participant (i.e., only if the Participant would have a lower volume tier calculation with the day included, hereinafter, the "better of rule"). As it relates to Unanticipated Events, the Exchange will inform all Participants if any such day will be excluded from its Tier Calculations via a system status message disseminated to all Participants. The Exchange notes that it is not proposing to amend the thresholds a Participant must achieve to become eligible for, or the dollar amount associated with, the tiered rebates or fees.

Potential Excluded Days

The Exchange first proposes to adopt language identical to Phlx providing that it will always exclude days where the Exchange announces in advance that it will not be open for trading (e.g., Thanksgiving) from all options tier calculations set forth in its Pricing Schedule.[7] This is also the case today since no trading activity occurs on those days, and the Exchange is only clarifying its current practice within the proposed rule.

---

7 See id. at paragraph (1)(A).

In addition, Phlx adopted the language on instructing members to route away to prevent situations where days that have artificially lower volume could not be excluded, for example, because the exchange experienced an issue in the morning that did not carry over into the trading day.[8] Like Phlx, the Exchange believes that it should have the flexibility to exclude days if members have been instructed to send their orders elsewhere, regardless of whether the issue that resulted in this instruction ultimately impacts the availability of the Exchange for trading.

In addition, the Exchange proposes to adopt identical language as on Phlx to exclude days where the Exchange is inaccessible to Participants during the 30-minute period before the opening of trade (i.e., between 9:00 a.m. to 9:30 a.m. Eastern Time) due to an Exchange system disruption.[9] While the language proposed above on instructing Participants to route away may also cover Exchange system disruptions that occur before the market opens, the Exchange notes that it may not always instruct Participants to route away in such instances. For example, the Exchange may be inaccessible to Participants in the morning due to a systems disruption but the Exchange resolves the issue shortly before 9:30 a.m. and as a result, the Exchange does not instruct Participants to route away. In this instance, the Exchange would not be permitted to exclude the day from its volume calculations. The Exchange generally experiences a high volume of member participation within the 30-minute window leading up to the opening of trade from Participants who submit eligible interest to be included in the Exchange's opening process. As a result, days where Participants are precluded from submitting eligible interest during this 30-minute time period due to an Exchange systems disruption, even if the issue is ultimately resolved by the Exchange before the market opens (and Participants therefore are not instructed to route away), are likely to have lower trading volume. Including such days in calculations of

---

8 See id. at paragraph (2)(B).

9 See id. at paragraph (2)(C).

ADV will therefore make it more difficult for Participants to achieve particular pricing tiers for that month. Accordingly, excluding such days from the monthly tier calculations will diminish the likelihood of a cost increase occurring because a Participant is not able to reach a pricing tier on that date that it would reach on other trading days during the month.

The Exchange further proposes to adopt language identical to Phlx to exclude days where there is an Exchange system disruption that lasts for more than 60 minutes during regular trading hours (i.e., 9:30 a.m. to 4:00 p.m. Eastern Time), even if such disruption would not be categorized as a complete outage of the Exchange's system.[10] Such a disruption may occur where a certain options series traded on the Exchange is unavailable for trading due to an Exchange systems issue, or where the Exchange may be able to perform certain functions with respect to accepting and processing orders, but may have a failure to another significant process, such as routing to other market centers, that would lead Participants who rely on such processes to avoid using the Exchange until the Exchange's entire system was operational. The Exchange believes that certain system disruptions that are not complete system outages could preclude some members from submitting orders to the Exchange. The Exchange also notes that this proposal is consistent with the rules of other options exchanges.[11]

Because the potential excluded days proposed above generally have artificially lower trading volume, the Exchange believes it is reasonable and equitable to exclude such days in determining its options fee and rebate tiers. The Exchange desires to avoid penalizing Participants that might otherwise qualify for certain tiered pricing but that, because of special

---

10 See id. at paragraph 2(D).

11 See BATS BZX Options Exchange Fee Schedule (defining an "Exchange System Disruption" as any day that the exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours); and NYSE Arca Options Fee Schedule (defining an "Exchange System Disruption" as a disruption affects an Exchange system that lasts for more than 60 minutes during regular trading hours).

circumstances on a particular day, did not participate on the Exchange to the extent that they might have otherwise participated. Absent the authority to exclude such days, Participants may experience an effective increase in the cost of trading on NOM, a result that is both unintended and undesirable to the Exchange and to its Participants.

Categories of Excluded Days

In light of the foregoing proposal, the Exchange seeks to categorize the potential excluded days proposed above between days that are known in paragraph (i) and days that are not in paragraph (ii), and define the latter as Unanticipated Events. For planned days, the Exchange proposes to further distinguish between days that the Exchange announces in advance that it will not be open for trading in paragraph (i)(A) (e.g., Thanksgiving), and Scheduled Early Closes in paragraph (ii)(B) (e.g., the trading day after Thanksgiving). The Exchange notes that it currently considers Scheduled Early Closes as a subset of days that the market is not open for the entire trading day. The Exchange believes it would be more clear to distinguish Scheduled Early Closes in paragraph (i) as a day that is planned for in advance, and separately consider days that are not open for the entire trading day as Unanticipated Events in paragraph (ii)(A). As proposed, (ii)(A) would continue to cover unplanned days where the Exchange declares a trading halt in all securities or honors a market-wide trading halt declared by another market. The other scenarios that will be categorized as Unanticipated Events in paragraph (ii) are days that the Exchange instructs members in writing to route away and the two systems-related disruptions, each as further described above. The foregoing proposal is consistent with how Phlx categorizes potential excluded days today.[12]

---

12 See note 3 above at paragraphs (1) and (2).

Better of Rule

Similar to Phlx, the proposed language also specifies how the potential excluded days will be removed from the Exchange's volume calculations. In particular, the language will allow the Exchange to exclude any Scheduled Early Close or Unanticipated Event from its calculations of ADV or any other applicable options volume tiers provided for in its Pricing Schedule, provided that the Exchange will only remove such days for Participants that would have a lower volume calculation with the day included (i.e., the better of rule).[13]

Phlx adopted the better of rule to avoid penalizing members that step up and trade on days with artificially low volume so that it only excludes such days for members that would have a lower volume calculation with the day included. This language would also be helpful on the Exchange as it would ensure that Participants that continue to execute a large volume of contracts are not inadvertently disadvantaged when the Exchange removes a day from its volume calculations. Furthermore, Phlx adopted the catch-all provision applying to other options tier calculations set forth in its pricing schedule, but not specified within paragraph (3) of its rule, so that it would have flexibility to apply the better of rule going forward to all options pricing programs administered by the Exchange that are based on volume calculations.[14] The Exchange believes that adopting a similar principle-based approach for its options volume calculations would ensure that days are removed from such calculations only if doing so would be beneficial for the Participant. As such, the proposed language will not apply to straight volume accumulations as Participants do not benefit when a day is removed for such accumulations.

---

13 Phlx similarly excludes Scheduled Early Closes and Unanticipated Events from its ADV calculations and other applicable volume calculations in its pricing schedule, subject in each case to the better of rule. See note 3 above at paragraph (3).

14 See id. at paragraph (3)(C).

Again, the Exchange believes that the approach of Phlx would be beneficial as it counts volume executed during an excluded day toward its members' straight volume accumulations.

In addition, the Exchange proposes to harmonize its language with Phlx's language by adding further detail throughout the proposed rule text to bring greater transparency as to how the Exchange will apply the better of rule when removing days from its tier calculations. First, the Exchange proposes to make clear that it will only remove days pursuant to the better of rule by specifying in paragraphs (i)(B) and (ii) that such days may be excluded from the tier calculations only pursuant to paragraph (iii).[15] Paragraph (iii) will then provide that if a day is to be excluded as a result of paragraph (i)(B) or (ii), the Exchange will be required to exclude the day from any Participant's monthly options tier calculations as detailed within paragraph (iii).[16] With the proposed changes, the Exchange seeks to clarify that it will exclude days from any Participant's tier calculations in a uniform manner to ensure that days are removed only in situations where the Participant benefits. The Exchange will look at each potential excluded day in a month and determine for every Participant their ADV or other applicable volume calculation based on their trading volume on that day. If any Participant would have a lower volume calculation with the particular day included, the Exchange will exclude that day for that Participant. As such, the proposed changes specify that the Exchange will apply the better of rule in a uniform manner for all Participants, and that there is no arbitrary selection of "winners" or "losers" when the Exchange excludes days.

Equity 7, Section 118

In light of the foregoing proposal to amend the provisions for removing days in Options 7, Section 2, the Exchange proposes to make related changes to its current provisions for

---

15 See id. at paragraphs (1)(B) and (2) for similar language on Phlx.

16 See id. at paragraph (3) for similar language on Phlx.

removing days in Equity 7, Section 118. Currently, the Exchange has a number of cross-asset volume tiers in its equity pricing schedule, which link reduced transaction fees on the Nasdaq Stock Market to activity on NOM,[17] similar to the rebate tiers on NOM that link to activity on the Nasdaq Stock Market as discussed above.[18] Furthermore, the Exchange has language in Equity 7, Section 118(j) allowing it to exclude certain days from the volume calculations in its equity pricing schedule.[19] The Exchange now seeks to amend Section 118(j) to make clear that this language will continue to apply to the equity tier calculations within Section 118, and the language proposed in Options 7, Section 2(5)(b) will apply to the options tier calculations in Section 118.[20]

---

17 For example, Nasdaq charges a reduced transaction fee of $0.0029 per share if the member adds Customer, Professional, Firm, Non-NOM Market Maker and/or Broker-Dealer liquidity in Penny Pilot Options and/or Non- Penny Pilot Options of 1.15% or more of total industry ADV in the customer clearing range for Equity and ETF option contracts per day in a month on NOM. See Equity 7, Section 118(a)(1).

18 See note 4 above. Also, for example, footnote "e" of the NOM pricing schedule provides that NOM Participants that transact in all securities through one or more of its Nasdaq Market Center MPIDs that represent 3.00% or more of Consolidated Volume in the same month on The Nasdaq Stock Market will receive a $0.52 per contract rebate to add liquidity in Penny Pilot Options as Customer or Professional and $1.00 per contract rebate to add liquidity in Non-Penny Pilot Options as Customer or Professional. See Options 7, Section 2(1).

19 In particular, Section 118(j) presently provides that, for purposes of determining average daily volume and total consolidated volume under this section, any day that the market is not open for the entire trading day will be excluded from such calculation. In addition, for purposes of calculating Consolidated Volume and the extent of a member's trading activity, expressed as a percentage of or ratio to Consolidated Volume, the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

20 See note 17 above.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[21] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[22] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change is reasonable and equitable as it provides a new framework for removing days from the Exchange's options volume tier calculations that the Exchange believes is beneficial to Participants and consistent with similar provisions already in place on Phlx. The proposed rule change would allow the Exchange to remove a day from its options volume calculations in more circumstances, and ensures that the Exchange will only do so in circumstances where beneficial for the Participant. The Exchange believes that it is reasonable and equitable to exclude a day from its volume calculations when Participants are instructed to route their orders to other markets as this preserves the Exchange's intent behind adopting volume-based pricing, and avoids penalizing Participants that follow this instruction.

The Exchange similarly believes it is reasonable and equitable to exclude a day from its volume calculations when the Exchange's system experiences a disruption during the 30-minute period prior to the opening of trade which renders the Exchange inaccessible to Participants. Without this change, Participants that are precluded from submitting eligible interest during the 30-minute window before the opening of trade may be negatively impacted, even if the Exchange resolves the issue before the market opens and as a result, does not instruct

---

[21] 15 U.S.C. 78f(b).

[22] 15 U.S.C. 78f(b)(4) and (5).

Participants to route away. The proposed change to exclude such days will diminish the likelihood of a cost increase occurring because a member is not able to reach a volume tier calculation on that date that it would reach on other trading days during the month.

Similarly, excluding a day where the Exchange's system experiences a disruption that lasts for more than 60 minutes intra-day is reasonable and equitable because the proposal seeks to avoid penalizing Participants that might otherwise qualify for certain tiered pricing but that, because of an Exchange systems disruption, did not participate on the Exchange to the extent they might have otherwise participated. The Exchange believes that certain systems disruptions could preclude some Participants from submitting orders to the Exchange even if such issue is not actually a complete systems outage.

In addition, the Exchange believes that it is reasonable and equitable to only exclude a day from its volume calculations for Participants that would otherwise have a lower volume calculation with the day included. Without these changes, Participants that route away in accordance with the Exchange's instructions, or that step up and trade significant volume on excluded trading days, may be negatively impacted, resulting in an effective cost increase for those Participants. In addition, having a catch-all in paragraph (iii)(B) so that the better of rule applies to other options volume calculations than ADV to allow the Exchange to apply the rule going forward to all pricing programs based on volume calculations will further protect Participants. The Exchange notes that aberrant low volume days resulting from, for instance, an Unanticipated Event, impacts all volume calculations, and allowing the Exchange to exclude such days from any volume tier calculation if the Participant would have a lower tier calculation with the day included will further protect Participants from being inadvertently penalized.

Furthermore, the Exchange believes that categorizing the potential excluded days is reasonable and equitable because it will bring greater transparency to the application of its rule. Specifically, the Exchange is distinguishing between planned and unplanned days in paragraphs (i) and (ii), defining the latter as Unanticipated Events, and stipulating how the Exchange will exclude such days pursuant to this rule. Categorizing days in this manner will clarify the application of its rule in light of the Exchange's proposal to expand the rule to adopt additional days that may be excluded from its volume calculations. Providing in paragraph (i)(A) that the Exchange will always exclude from its tier calculations days that it announces in advance it will not be open for trading will clarify current practice. Furthermore, the Exchange believes that the proposed changes to specify how days in paragraphs (i)(B) and (ii) may be excluded from its volume calculations will bring greater transparency by delineating the various circumstances in which the better of rule will apply. Providing in paragraph (iii) that the Exchange may exclude any Scheduled Early Close or Unanticipated Event from the Tier Calculations, subject to the better of rule, will make clear that the Exchange will take a consistent approach when excluding days for purposes of its volume based pricing tiers. Furthermore, the proposed changes specifying that the days in paragraphs (i)(B) and (ii) may be excluded only pursuant to paragraph (iii), and requiring the Exchange to exclude such days pursuant to the specifications in paragraph (iii) will likewise make clear that the Exchange will take a consistent approach with respect to excluding days from its Tier Calculations. As discussed above, these modifications will clarify that the Exchange will apply the better of rule in a uniform manner to all Participants, and that there is no arbitrary selection of "winners" or "losers."

The Exchange also believes that specifying in its equity and options pricing schedules that the proposed rule for excluding days in Options 7, Section 2(5)(b) applies only to options tier calculations, and that the current rules for excluding days[23] continue to apply to the equity tier calculations is reasonable and equitable. As discussed above, the Exchange has a number of cross-asset tiers within its equity and options pricing schedule,[24] and believes that the proposed changes will clarify the application of the Exchange's provisions for excluding days in light of the Exchange's initiative to standardize its practice across the options markets.

Finally, the Exchange believes that the proposed rule change is not unfairly discriminatory because it will apply equally to all Exchange members that transact on the Nasdaq Stock Market and on NOM. Nasdaq Stock Market members that are not currently Participants on NOM are eligible to become Participants by amending their membership application to add NOM. Moreover, the Exchange notes that any NOM Participant may trade equities on the Nasdaq Stock Market because they are already approved members.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to protect Participants from the possibility of a cost increase by excluding days when overall participation might be significantly lower than a typical trading day. The Exchange believes that the proposed modifications to its tier calculations are pro-competitive and will result in lower total costs to end users, a positive outcome of competitive markets. Furthermore, other options exchanges have adopted rules that are substantially similar to the Exchange's proposal.[25]

---

23 See Equity 7, Section 118(j) and Options 7, Section 2(5)(a).

24 See notes 4, 17, and 18 above.

25 See notes 3 and 11 above.

The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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

No written comments were either solicited or received.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[26] and paragraph (f) of Rule 19b-4 thereunder.[27] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (http://www.sec.gov/rules/sro.shtml); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2019-003 on the subject line.

---

26 15 U.S.C. 78s(b)(3)(A)(ii).

27 17 CFR 240.19b-4(f).

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-NASDAQ-2019-003. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (http://www.sec.gov/rules/sro.shtml). 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 website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2019-003, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman
Deputy Secretary

[28] 17 CFR 200.30-3(a)(12).