

for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>13</sup> and Rule 19b-4(f)(6)<sup>14</sup> thereunder.

A proposed rule change filed under Rule 19b-4(f)(6)<sup>15</sup> under the Act does not normally become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),<sup>16</sup> the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission previously approved the listing of options on iShares Ethereum Trust, the Fidelity Ethereum Fund, the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, and the Grayscale Ethereum Mini Trust.<sup>17</sup> As noted above, NOM's Options 4 Rules were amended by an ISE rule change<sup>18</sup> as those Rules are incorporated by reference to ISE's Options 4 Rules, so NOM has the ability to list the options on the Ether Trusts. This proposal establishes position and exercise limits for options on the Ether Trusts. The Commission believes that waiver of the operative delay could benefit investors by assuring that trading in Ether Trust options are subject to the same position and exercise limits in place on other exchanges. Therefore, the Commission

believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.<sup>19</sup>

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. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

#### 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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-NASDAQ-2025-033 on the subject line.

##### *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-2025-033. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NASDAQ-2025-033 and should be submitted on or before May 8, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102844; File No. SR-PHLX-2025-19]

### Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule Equity 7, Section 3, To Eliminate the Market Data Revenue Rebate Program

April 11, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 10, 2025, Nasdaq PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III 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 a proposal to amend Rule Equity 7, Section 3, to eliminate the Market Data Revenue ("MDR") Rebate program, as described further below.

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>13</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>14</sup> 17 CFR 240.19b-4(f)(6).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

<sup>16</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>17</sup> See Securities Exchange Act Release No. 102797 (April 9, 2025), (SR-Choe-2024-036) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Permit the Listing and Trading of Options on Shares of the Fidelity Ethereum Fund) See also Securities Exchange Act Release No. 102798 (April 9, 2025), (SR-ISE-2024-35) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, to Permit the Listing and Trading of Options on the iShares Ethereum Trust). See also Securities Exchange Act Release No. 102799 (April 9, 2025), (SR-NYSEAMER-2024-45) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 2, to Amend Exchange Rule 915 To Permit the Listing and Trading of Options on the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, and the Grayscale Ethereum Mini Trust).

<sup>18</sup> See SR-ISE-2025-11.

<sup>19</sup> For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/phlx/rulefilings>, 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 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 Rule Equity 7, Section 3, to eliminate the Market Data Revenue ("MDR") Rebate program for PSX. The MDR Rebate program was designed to improve displayed liquidity and promote order flow to the Exchange by offering an incentive for market participants to quote on the Exchange.<sup>3</sup> The MDR Rebate program calls for 40% of MDR that exceeds fixed thresholds in any one of two pools ("Excess MDR") to be shared with PSX participants in proportion to their respective eligible quoting activity in Tape A and C securities, as described further below.

#### Elimination of Market Data Revenue Rebate Program

Currently, the MDR Rebate program Section (a) provides that, assuming that the requirements of this PSX MDR Rebate Section are met, a PSX Participant may receive a quarterly MDR rebate in proportion to the PSX Participant's quoting of displayed orders in Tape A and C securities from the previous calendar quarter ("MDR Rebate"), as described further in Section (e).

Section (b) provides that, to qualify for the MDR Rebate, a PSX Participant must quote at the National Best Bid or Offer ("NBBO") at least 25% of the time during Market Hours in an average of at

least 250 securities for Tape A securities or at least 300 securities for Tape C securities through the PSX Participant's MPID per day over the course of the quarter. A PSX Participant is considered to be quoting at the NBBO if the PSX Participant's MPID quotes a displayed order of at least 100 shares in the security and prices the order at either the national best bid or the national best offer or both the national best bid and offer for the security.

Section (c) provides that MDR will be calculated separately for quotes in each Tape A and C security, for a total of two MDR pools. If the MDR received by the Exchange in any given pool exceeds the following thresholds in any given calendar quarter, 40% of such excess MDR will be payable to PSX Participants in proportion to their respective quoting of displayed orders in that pool:

Tape A	Tape C
\$110,000	\$200,000

Section (d) provides a *de minimis* requirement that states that a PSX Participant will not receive an MDR Rebate in any calendar quarter in which the total MDR Rebate attributed to the PSX Participant is less than \$500.

Section (e) describes the steps for calculating MDR Rebates:

*Step 1.* Calculate, on a daily basis (per MPID), the product of three factors: number of shares in the quotation, the duration of the quotation at the NBBO (for both the bid and the offer), and the price of the security.

*Step 2.* For each security, sum the daily values from Step 1 across the quarter, the sum of which represents the PSX Participant's quote credits (per MPID) in each security.

*Step 3.* For each security, sum all PSX Participants' quote credits to obtain the total quote credits available per security.

*Step 4.* Divide each PSX Participant's quote credits (per MPID) (from Step 2) into the total quote credits available per security (from Step 3) to obtain a Participant's percentage of the security they are quoting (per MPID).

*Step 5.* Calculate the income allocation weight for each security based on the share of revenue allocated to the symbol by the SIP that quarter.

*Step 6.* For each security, multiply a PSX Participant's percentage of security they are quoting (per MPID) (from Step 4) by the income allocation weight of the security (from Step 5).

*Step 7.* For each PSX Participant's MPID, sum the values calculated in Step 6 across all securities in the pool (*i.e.*, in the same Tape) to obtain the PSX

Participant's allocation percentage for the excess MDR in the pool.

*Step 8.* For each PSX Participant with eligible quote activity in the pool, multiply the PSX Participant's allocation percentage (from Step 7) by the excess MDR in the pool to determine the dollar amount of the PSX Participant's MDR Rebate in the pool.

As for calculating the pool of funds from which MDR Rebates will be paid, unlike the SIPs, the Exchange will derive MDR Rebate allocation from a fixed value that will not be subject to adjustment (*i.e.*, the amount of MDR actually received by the Exchange on a quarterly basis). This avoids the problem of having to adjust MDR rebates that have already been paid to PSX Participants to comport to adjustments to MDR made by the SIPs.<sup>4</sup> As illustrated in the example provided in Section (e), the Exchange sets forth in the proposed rule text the methodology for calculating and distributing Excess MDR.<sup>5</sup>

The Exchange is proposing to remove this program because it is not heavily utilized and has not achieved success in attracting the quoting activity that it was intended to target. As such, this rebate program no longer provides a growth incentive that is aligned with the Exchange's needs.

#### 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,<sup>6</sup> in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,<sup>7</sup> 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's proposed changes to its schedule of credits are reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations

<sup>4</sup> For example, if MDR paid to the Exchange was less than anticipated in Q3 2024 due to an adjustment to the MDR paid to the Exchange in Q2 2024 (*i.e.*, actual MDR in Q2 fell short of estimates), the Exchange will not recoup the difference from the PSX Participants that had been paid the Q2 MDR Rebate. Instead, the MDR Rebate for Q3 will be calculated based on the actual MDR paid to the Exchange in Q3.

<sup>5</sup> Example on MDR Rebate program available at Nasdaq PHLX LLC Rulebook, Equity 7, Section 3, <https://listingcenter.nasdaq.com/rulebook/phlx/rules/Phlx%20Equity%207>.

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

<sup>7</sup> 15 U.S.C. 78f(b)(4) and (5).

<sup>3</sup> See Securities Exchange Act Release No. 34-100060 (May 3, 2024), 89 FR 39668 (May 9, 2024) (SR-Phlx-2024-18).

in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, “[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution”; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’. . . .”<sup>8</sup>

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system “has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.”<sup>9</sup>

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. The Exchange believes it is reasonable, equitable, and not unfairly discriminatory to eliminate the MDR program because the MDR Rebate program has had little demonstrable impact on overall quoting quality or participation. The program’s complexity and minimal financial return do not

justify the administrative burden associated with its maintenance. The Exchange has limited resources to devote to incentive programs, and it is appropriate for the Exchange to reallocate these incentives periodically in a manner that best achieves the Exchange’s overall mix of objectives. Those participants that are dissatisfied with the elimination of this program are free to shift their order flow to competing venues that provide incentives or qualifying criteria more in line with participants’ objectives.

#### *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.

#### *Intermarket Competition*

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The Exchange does not have significant market share, to be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues, which comprises upwards of 45% of industry volume.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their

competitive standing in the financial markets.

#### *Intramarket Competition*

In terms of intramarket competition, the proposed change to the credit available to a member does not impose a burden on competition and will not place any category of Exchange participant at a competitive disadvantage. The Exchange notes that its members are free to trade on other venues to the extent they believe that these proposals are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

#### *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.<sup>10</sup>

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### **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 (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include file number SR-*PHLX*–2025–19 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange

<sup>8</sup> *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

<sup>9</sup> Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (“Regulation NMS Adopting Release”).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-PHLX-2025-19. This file number should be included on the subject line if email 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 (<https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PHLX-2025-19 and should be submitted on or before May 8, 2025.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>11</sup>

**Sherry R. Haywood,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-102837; File No. SR-BOX-2025-10]

### Self-Regulatory Organizations; BOX Exchange LLC; Notice of Filing of Proposed Rule Change To Amend BOX Rules 3120 (Position Limits), 5020 (Criteria for Underlying Securities), and 5055 (FLEX Equity Options) To Permit the Listing and Trading of Options on the Fidelity Ethereum Fund

April 11, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 10, 2025, BOX Exchange LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule from interested persons.

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

The Exchange proposes to amend Rules 3120 (Position Limits), 5020 (Criteria for Underlying Securities), and 5055 (FLEX Equity Options) to permit the listing and trading of options on the Fidelity Ethereum Fund. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at <https://rules.boxexchange.com/rulefilings>.

#### 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 self-regulatory organization 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 Item IV below. The self-regulatory organization 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 Exchange proposes to amend Rules 3120 (Position Limits) and 5020 (Criteria for Underlying Securities) to allow the Exchange to list and trade options on the Fidelity Ethereum Fund (the "Fidelity Fund").<sup>3</sup> Additionally, the Exchange proposes to amend Rule 5055 (FLEX Equity Options). This is a competitive filing that is based on a proposal recently submitted by Cboe Exchange, Inc. ("CBOE") and approved by the Commission.<sup>4</sup>

As discussed herein and as provided in the CBOE Approval Order, the Exchange believes options on the Fidelity Fund would permit increased hedging strategies and cost efficiency, with respect to the underlying Funds. Further, permitting the listing of such options would enhance the transparency and efficiency of markets in these and correlated products. Current Rule 5020(h) provides that subject to certain other criteria set forth in that Rule, securities deemed appropriate for options trading include Exchange-Traded Fund Shares ("ETFs"), that represent certain types of interests<sup>5</sup> and exchange-traded products

<sup>3</sup> See Securities Exchange Act Release No. 100224 (May 23, 2024), 89 FR 46937 (May 30, 2024) (SR-NYSEArca-2023-70; SR-NYSEArca-2024-31; SR-NASDAQ-2023-045; SR-CboeBZX-2023-069; SR-CboeBZX-2023-070; SR-CboeBZX-2023-087; SR-CboeBZX-2023-095; and SR-CboeBZX-2024-018) (Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendments Thereto, to List and Trade Shares of Ether-Based Exchange-Traded Products) ("Ethereum ETP Approval Order").

<sup>4</sup> See Securities Exchange Act Release No. 102797 (April 9, 2025) (Order Approving SR-CBOE-2025-036, as modified by Amendment No. 1) ("CBOE Approval Order").

<sup>5</sup> See Rule 5020(h) which provides that securities deemed appropriate for options trading shall include shares or other securities ("Exchange-Traded Fund Shares") that are traded on a national securities exchange and are defined as an "NMS stock" under Rule 600 of Regulation NMS and that (i) represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold portfolios of securities and/or financial instruments, including, but not limited to, stock index futures contracts, options on futures, options on securities and indices, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse repurchase agreements (the "Financial Instruments") and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more

Continued

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.