SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68905; File No. SR-NASDAQ-2013-023)

February 12, 2013

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Rules 7014 and 7018

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1], and Rule 19b-4[2] thereunder, notice is hereby given that on January 31, 2013, 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, II and III below, which Items have been prepared by NASDAQ. 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

NASDAQ is proposing (i) to modify the recently introduced Qualified Market Maker ("QMM") pilot program to increase the incentives for participation provided thereunder; (ii) to replace the Extended Hours Investor Program ("EHIP") with a similar financial incentive program focused both on usage of NASDAQ during pre- and post-market hours and use of NASDAQ's routing facility, to be referred to as the Routable Order Program ("ROP"); and (iii) to modify the securities covered by NASDAQ's recently introduced program of special pricing for certain "Designated Securities."

While changes pursuant to this proposal are effective upon filing, the Exchange will implement the proposed rule changes on February 1, 2013.

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

2 17 CFR 240.19b-4.

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. 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Qualified Market Maker Program

In November 2012,[3] NASDAQ introduced, on a six-month pilot basis, a market quality incentive program under which a member may be designated as a QMM with respect to one or more of its MPIDs if:

- the member is not assessed any "Excess Order Fee" under Rule 7018 during the month;[4] and

3 Securities Exchange Act Release No. 68209 (November 9, 2012), 77 FR 69519 (November 19, 2012) (SR-NASDAQ-2012-126).

4 Rule 7018(m). The Excess Order Fee is aimed at reducing inefficient order entry practices that place excessive burdens on the systems of NASDAQ and its members and that may negatively impact the usefulness and life cycle cost of market data. In general, the determination of whether to impose the fee on a particular MPID is made by calculating the ratio between (i) entered orders, weighted by the distance of the order from the NBBO, and (ii) orders that execute in whole or in part. The fee is imposed on MPIDs that have an "Order Entry Ratio" of more than 100.

- through such MPID the member quotes at the national best bid or best offer ("NBBO") at least 25% of the time during regular market hours[5] in an average of at least 1,000 securities during the month.[6]

Thus, to be a QMM, a member must make a significant contribution to market quality by providing liquidity at the NBBO in a large number of stocks for a significant portion of the day. In addition, the member must avoid imposing the burdens on NASDAQ and its market participants that may be associated with excessive rates of entry of orders away from the inside and/or order cancellation. A QMM may be, but is not required to be, a registered market maker in any security; thus, the QMM designation does not by itself impose a two-sided quotation obligation or convey any of the benefits associated with being a registered market maker. The designation does, however, reflect the QMM's commitment to provide meaningful and consistent support to market quality and price discovery by extensive quoting at the NBBO in a large number of securities. Thus, the program is designed to attract liquidity both from traditional market makers and from other firms that are willing to commit capital to support liquidity at the NBBO. By providing incentives under the program, NASDAQ hopes to provide

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5 Defined as 9:30 a.m. through 4:00 p.m., or such shorter period as may be designated by NASDAQ on a day when the securities markets close early (such as the day after Thanksgiving).

6 A member MPID is considered to be quoting at the NBBO if it has a displayed order at either the national best bid or the national best offer or both the national best bid and offer. On a daily basis, NASDAQ determines the number of securities in which the member satisfied the 25% NBBO requirement. To qualify for QMM designation, the MPID must meet the requirement for an average of 1,000 securities per day over the course of the month. Thus, if a member MPID satisfied the 25% NBBO requirement in 900 securities for half the days in the month, and satisfied the requirement for 1,100 securities for the other days in the month, it would meet the requirement for an average of 1,000 securities. NASDAQ recently filed an amendment with respect to the QMM program to make it clear that if a member seeking to be designated as a QMM terminates the use of one MPID and simultaneously commences use of another MPID during the course of a month, it may aggregate activity on the two MPIDs for purposes of determining its eligibility as a QMM. See SR-NASDAQ-2013-016 (January 30, 2013).

improved trading conditions for all market participants through narrower bid-ask spreads and increased depth of liquidity available at the inside market. In addition, the program reflects an effort to use financial incentives to encourage a wider variety of members, including members that may be characterized as high-frequency trading firms, to make positive commitments to promote market quality.

Under the program as originally implemented, a member that is a QMM with respect to a particular MPID (a "QMM MPID")[7] will receive:

- an "NBBO Setter Incentive credit" of $0.0005 with respect to displayed orders with a size of at least one round lot that set the NBBO or that first allow NASDAQ to join another trading center at the NBBO and that are entered through a QMM MPID; and
- a 25% discount on fees for ports used for entering orders for a QMM MPID, up to a total discount of $10,000 per QMM MPID per month.[8] The specific fees subject to this discount are: (i) all ports using the NASDAQ Information Exchange ("QIX") protocol,[9] (ii) Financial Information Exchange ("FIX") trading ports,[10] and (iii) ports using other trading telecommunications protocols.[11]

In order to further increase the appeal of the QMM program to potential participants, NASDAQ is adding the following additional benefits for QMMs:

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7 NASDAQ is adding the defined term "QMM MPID" to the rule through this proposed rule change.

8 The ports subject to the discount are not used for receipt of market data.

9 The applicable undiscounted fees are $1,200 per month for a port pair or ECN direct connection port pair, and $1,000 per month for an unsolicited message port. See Rule 7015(a).

10 The applicable undiscounted fee is $500 per port per month. See Rule 7015(b).

11 The applicable undiscounted fee is $500 per port pair per month. See Rule 7015(g).

- NASDAQ will provide a credit of $0.0001 per share executed with respect to all orders in securities priced at $1 or more per share that provide liquidity and that are entered through a QMM MPID, other than orders qualifying for the higher NBBO Setter Incentive credit described above. The $0.0001 credit will be in addition to any credit payable under Rule 7018. However, if a QMM also participates in the Investor Support Program (the "ISP"), NASDAQ will pay the greater of any applicable credit under the ISP or the QMM program, but not a credit under both programs.
- NASDAQ will provide a credit of $0.0020 per share executed for all midpoint pegged or midpoint peg post-only orders ("midpoint orders") in securities priced at $1 or more per share entered through a QMM MPID (in lieu of the credit payable under Rule 7018). NASDAQ notes that under Rule 7018, midpoint orders receive a higher rebate than other forms of non-displayed orders because they offer price improvement.
- For a number of shares not to exceed the number of shares of liquidity provided through a QMM MPID (the "Numerical Cap"), NASDAQ will charge a fee of $0.0028 per share executed for orders in securities priced at $1 or more per share that access liquidity on the Nasdaq Market Center and that are entered through the same QMM MPID; provided, however, that orders that would otherwise be charged $0.0028 per share executed under Rule 7018 will not count toward the Numerical Cap. For shares above the Numerical Cap, NASDAQ will charge the rate otherwise applicable under Rule 7018.

NASDAQ is proposing these discounts as a means of recognizing the value of market participants that consistently quote at the NBBO in a large number of securities and providing greater incentives to market participants to meet the applicable quoting requirements. Even when such market participants are not formally registered as market makers, they risk capital by offering immediately executable liquidity at the price most favorable to market participants on the opposite side of the market. Such activity promotes price discovery and dampens volatility and thereby enhances the attractiveness of NASDAQ as a trading venue.

Routable Order Program and Extended Hours Investor Program

NASDAQ is replacing its Extended Hours Investor Program with a similar program focused on recognizing the propensity of members representing retail customers to make more extensive use of exchange-provided routing facilities and pre- and post-market trading sessions, as compared with proprietary traders. NASDAQ believes that this correlation results from the low cost and simplicity of exchange-provided routing, and the convenience of pre- and post-market trading for persons who are not professional traders. Accordingly, NASDAQ is proposing a new program that, together with the ISP, is aimed at encouraging greater participation in NASDAQ by members that represent retail customers.[12] The EHIP will be eliminated, however, because it has not been successful in attracting additional trading activity to NASDAQ.

To be eligible for the new Routable Order Program, a member must have an MPID through which it provides an average daily volume of at least 35 million shares of displayed liquidity using orders that employ the SCAN or LIST routing strategies, including an average

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12 The Commission has expressed concern that a significant percentage of the orders of individual investors are executed in over-the-counter markets, that is, at off-exchange markets. Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure, "Concept Release"). In the Concept Release, the Commission recognized the strong policy preference under the Act in favor of price transparency and displayed markets. See also Mary L. Schapiro, Strengthening Our Equity Market Structure (Speech at the Economic Club of New York, Sept. 7, 2010) ("Schapiro Speech," available on the Commission website) (comments of Commission Chairman on what she viewed as a troubling trend of reduced participation in the equity markets by individual investors, and that nearly 30 percent of volume in U.S.-listed equities is executed in venues that do not display their liquidity or make it generally available to the public).

daily volume of at least 2 million shares that are provided prior to the NASDAQ Opening Cross and/or after the NASDAQ Closing Cross.[13] SCAN is a basic routing strategy that is widely used by firms that represent retail customers. SCAN orders check the Nasdaq Market Center System for available shares, while remaining shares are simultaneously routed to destinations on the applicable routing table. If shares remain un-executed after routing, they are posted on the book. Once on the book, if the order is subsequently locked or crossed by another market center, the System will not route the order to the locking or crossing market center.[14] LIST is a routing strategy that is used by firms that wish for their orders to participate in the opening and closing processes of each security's primary listing exchange, to access liquidity on all exchanges if marketable, and otherwise to post to the NASDAQ book. Members, including those that represent retail customers, use the LIST strategy to offload on the Exchange and its routing broker the technical complexity associated with routing orders to participate in the market open and/or close.

With respect to SCAN and LIST orders in securities priced at $1 or more per share that are entered through an MPID that qualifies for the ROP, NASDAQ will charge a fee of $0.0029 per share executed with respect to such orders when they access liquidity in the Nasdaq Market Center.[15] If such orders are designated for display in the Nasdaq Market Center and provide

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13 If a member seeking to participate in the ROP terminates the use of one MPID and simultaneously commences use of another MPID during the course of a month, it may aggregate activity on the two MPIDs for purposes of determining its eligibility.

14 The SKIP routing strategy is a form of SCAN in which the entering firm instructs the System to bypass any market centers included in the SCAN System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. The ROP does not apply to SKIP orders, however, as it is less used by members that represent retail customers.

15 When such orders execute at other market centers, the routing fees provided for in Rule 7018 will apply.

liquidity after posting to the book, NASDAQ will provide a credit of $0.0037 per share executed. With respect to SCAN and LIST orders in securities priced less than $1 per share that are entered through an MPID that qualifies for the ROP, NASDAQ will charge a fee of 0.30% of the total transaction cost with respect to such orders when they access liquidity in the Nasdaq Market Center,[16] and will provide a credit of $0.00003 per share executed if they are designated for display and provide liquidity after posting to the book. These fees and credits are in lieu of the fees and credits otherwise charged or provided under Rule 7018. Moreover, orders that qualify for these fees and credits are not eligible to receive additional credits under the ISP, but are included in calculations with regard to eligibility to participate in the ISP and other incentive programs under Rule 7014.

Designated Securities Pricing

In December 2012,[17] NASDAQ introduced a discounted execution fee of $0.0028 per share executed for the following securities ("Designated Securities"):

BAC	Bank of America Corporation
DIA	SPDR Dow Jones Industrial Average ETF
EEM	iShares MSCI Emerging Markets Index ETF
F	Ford Motor Co.
GE	General Electric Company
GEN	GenOn Energy, Inc.
HPQ	Hewlett-Packard Company
INTC	Intel Corporation
IWM	iShares Russell 2000 Index ETF
MSFT	Microsoft Corporation
NOK	Nokia Corporation
QQQ	Powershares QQQ ETF
S	Sprint Nextel Corp.
SPY	SPDR S&P 500 ETF
TZA	Direxion Daily Small Cap Bear 3X Shares ETF

[16] When such orders execute at other market centers, the routing fees provided for in Rule 7018 will apply.

[17] Securities Exchange Act Release No. 68421 (December 13, 2012), 77 FR 75232 (December 19, 2012) (SR-NASDAQ-2012-135).

VXX	iPath S&P 500 VIX ST Futures ETN
XLF	Financial Select Sector SPDR ETF
YHOO	Yahoo! Inc.

The discounted fee applies to all orders in Designated Securities entered through an MPID through which a member accesses, provides, or routes shares of liquidity that represent more than 0.25% of Consolidated Volume[18] during the month, including a daily average volume of at least 2 million shares of liquidity provided. By lowering the fee for accessing liquidity in these securities, NASDAQ hoped to encourage members to give greater priority to NASDAQ in their routing decisions, thereby lowering their costs and improving the execution experience of liquidity providers in Designated Securities. In order to qualify for the discount, members must demonstrate a commitment to regular participation in the Nasdaq Market Center by reaching relatively modest usage levels (shares accessed, provided or routed representing 0.25% of Consolidated Volume), including an average daily volume of 2 million or more shares of liquidity provided.

Based on the performance of the program to date, NASDAQ has determined to modify the list of Designated Securities as follows:

AAPL	Apple Inc.
CSCO	Cisco Systems, Inc.
DELL	Dell Inc.
INTC	Intel Corporation
MSFT	Microsoft Corporation
MU	Micron Technology Inc.
NWSA	News Corp.
ORCL	Oracle Corporation
QQQ	PowerShares QQQ ETF
YHOO	Yahoo! Inc.

18 “Consolidated Volume” is defined as the total consolidated volume reported to all consolidated transaction plans by all exchanges and trade reporting facilities.

The change reflects the fact that the program of Designated Securities has been most successful at increasing the share of orders routed to NASDAQ in NASDAQ-listed securities. Accordingly, NASDAQ is modifying the program to focus exclusively on NASDAQ-listed securities for which NASDAQ believes that the incentive provided through the program has the most potential to increase NASDAQ's share of executions.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[19] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[20] 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 or system which NASDAQ operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposed changes are reflective of NASDAQ's ongoing efforts to use pricing incentive programs to attract orders of retail customers to NASDAQ and improve market quality. The QMM program is intended to encourage members to promote price discovery and market quality by quoting at the NBBO for a significant portion of each day in a large number of securities, thereby benefitting NASDAQ and other investors by committing capital to support the execution of orders. The proposed changes to the program are intended to further promote these goals by providing additional incentives for market participants to achieve the requirements for participation in the program. Specifically, the proposed changes are consistent with statutory requirements in the following respects:

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19 15 U.S.C. 78f.

20 15 U.S.C. 78f(b)(4) and (5).

- The proposal reduces the access fee paid by QMMs to $0.0028 per share executed, for a number of shares that reflects the number of shares of liquidity provided by the QMM. This change is reasonable because it reflects a price reduction from the rate of $0.0030 or $0.0029 per share executed otherwise applicable. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it is being offered to market participants that make significant contributions to market quality by satisfying the QMM requirements, thereby benefitting other NASDAQ market participants.
- The proposal increases the rebate paid with respect to orders, other than orders that set or join the NBBO under the terms of the NBBO Setter Incentive program, by $0.0001. This change is reasonable because it provides a modest additional incentive for market participants to achieve the market quality requirements of the QMM program, while still providing an appropriate differentiation from orders that qualify for the NBBO Setter Incentive program, thereby receiving an extra rebate of $0.0005. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it is being offered to market participants that make significant contributions to market quality by satisfying the QMM requirements, thereby benefitting other NASDAQ market participants.
- The proposal increases the rebate paid with respect to midpoint orders to $0.0020 per share executed, as compared with the rebate of $0.0015 or $0.0017 per share executed otherwise payable under Rule 7018. This change is reasonable, because it will result in a price reduction with respect to these orders. It is also reasonable because it is consistent with NASDAQ's existing practice of paying a higher rebate with respect to

midpoint orders than with respect to other forms of non-displayed orders due to the greater potential for midpoint orders to provide price improvement to market participants that execute against them. The change is consistent with an equitable allocation of fees and is not unfairly discriminatory because it is being offered to market participants that make significant contributions to market quality by satisfying the QMM requirements, thereby benefitting other NASDAQ market participants.

NASDAQ further believes that the proposed ROP is consistent with the requirements of the Act. Specifically, as with the existing ISP, the goal of the program is to provide meaningful incentives for members that represent significant numbers of retail customers to increase their participation in NASDAQ. The proposed fees and credits applicable to orders covered by the ROP are reasonable because they reflect significant fee reductions, thereby reducing the costs of members that represent retail customers and that take advantage of the program, and potentially also reducing costs to the customers themselves. The change is consistent with an equitable allocation of fees because NASDAQ believes that it is reasonable to use fee reductions as a means to encourage greater retail participation in NASDAQ. Because retail orders are more likely to reflect long-term investment intentions than the orders of proprietary traders, they promote price discovery and dampen volatility. Accordingly, their presence in the NASDAQ market has the potential to benefit all market participants. For this reason, NASDAQ believes that it is equitable to provide significant financial incentives to encourage greater retail participation in the market. NASDAQ further believes that the proposed program is not unreasonable discriminatory because it is offered to firms representing retail customers that provide significant levels of liquidity, and is therefore complementary to existing programs, such as the ISP, that already aim to encourage greater retail participation.

NASDAQ believes that the proposed elimination of the EHIP is reasonable because no market participants have taken advantage of it since its inception, and therefore its elimination will not have a significant impact on members' fees and credits. Similarly, the elimination is consistent with an equitable allocation of fees and is not unreasonable discriminatory because significant financial incentives aimed at encouraging retail participation in a manner similar to the EHIP are already offered and are being added to NASDAQ's fee schedule through this filing.

NASDAQ believes that the proposal to modify the pricing incentive for Designated Securities is reasonable because it will focus an existing fee reduction on securities that NASDAQ believes are more likely to have their volumes on NASDAQ increase, thereby reducing fees for a larger number of trades. The proposal is consistent with an equitable allocation of fees and not unfairly discriminatory because it will reduce fees for members that have demonstrated a commitment to regular participation in the Nasdaq Market Center through reaching specified levels of overall usage and liquidity provision. Incentives focused on the members that provide liquidity are prevalent in securities markets because higher levels of liquidity provision aid price discovery and dampen volatility. In addition, the focus of the incentive on Designated Securities is equitable and not unreasonably discriminatory because, despite strong quotes in terms of size and time at the inside, NASDAQ's share of executions in these securities has declined, thereby risking the willingness of members to continue to offer liquidity at current levels. By providing an incentive for members to access NASDAQ's quote in these securities, the price change will benefit liquidity providers as well as liquidity accessors. The discount is also not unfairly discriminatory because NASDAQ believes that the modified list of Designated Securities will be more widely traded than the former list, and the change will therefore result in broader pricing reductions.

Finally, NASDAQ 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, NASDAQ 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. NASDAQ believes that all aspects of the proposed rule change reflect this competitive environment because the changes reflect significant price reductions, offset only to a small extent by the elimination of the EHIP.

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

NASDAQ 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, as amended. Specifically, NASDAQ believes that these changes reflect significant price reductions, offset only to a small extent by the elimination of the EHIP. Such reductions reflect the high degree of competition in the cash equities markets and will further enhance that competition by lowering fees and possibly encouraging NASDAQ's competitors to make competitive responses. The market for order execution is extremely competitive and members may readily opt to disfavor NASDAQ's execution services if they believe that alternatives offer them better value. Accordingly, NASDAQ believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, NASDAQ does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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) of the Act[21] and paragraph (f) of Rule 19b-4 thereunder.[22] 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-2013-023 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-NASDAQ-2013-023. This file number should be included on the subject line if e-mail is used. To help the Commission process and review

21 15 U.S.C. 78s(b)(3)(A).

22 17 CFR 240.19b-4(f).

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; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2013-023 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.[23]

Kevin M. O'Neill
Deputy Secretary

[23] 17 CFR 200.30-3(a)(12).