

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-69471; File No. SR-Phlx-2013-09]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving Proposed Rule Change To Enhance the Functionality Offered on the Options Floor Broker Management System ("FBMS") by, Among Other Things, Automating Functions Currently Performed by Floor Brokers

April 29, 2013.

I. Introduction

On February 6, 2013, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to enhance the functionality offered on the Options Floor Broker Management System ("FBMS") by, among other things, automating functions currently performed by Floor Brokers manually. The proposed rule change was published for comment in the **Federal Register** on February 26, 2013.³ On April 12, 2013, the Exchange extended the time for Commission action to April 29, 2013. The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

Exchange options Floor Brokers are registered with the Exchange for the purpose, while on the options floor, of accepting and executing options orders received from members and member organizations.⁴ Historically, Floor Brokers received orders at their booths on the trading floor and executed such orders manually and in person. The implementation of the Consolidated Options Audit Trail System ("COATS") in 2000 required the capture of certain options order information, including the time of order receipt and execution, contemporaneously with receipt and execution.⁵ As a result of these changes,

the Exchange introduced FBMS, a component of the Exchange's electronic trading system, Phlx XL. FBMS enables Floor Brokers and/or their employees to enter, route, and report transactions stemming from options orders received on the Exchange. FBMS also establishes an electronic audit trail for options orders represented by Floor Brokers on the Exchange. Floor Brokers can use FBMS to submit orders, including Complex Orders,⁶ to Phlx XL, rather than executing the orders in the trading crowd. Orders submitted through FBMS are processed like any other electronic order on the Exchange. Floor Brokers may use FBMS to submit orders for a variety of reasons, including that the order is far away from the market such that the Floor Broker would prefer to place it on the electronic book or that there is a contra-side order on the book with which the order can trade.

The Exchange proposes to make several changes to FBMS.

A. Order Execution in FBMS

The Exchange proposes to enhance FBMS functionalities. Currently, FBMS is a system that is primarily used by Floor Brokers to enter orders and report executed transactions. The Exchange proposes to expand FBMS such that it would become an order execution system as well.

As proposed, all options transactions on the Exchange would be executed: (1) automatically by Phlx XL; (2) by and among members in the trading crowd (as long as none of them is a Floor Broker); or (3) through the FBMS for trades involving at least one Floor Broker.⁷ The Exchange proposes three exceptions that would allow Floor Brokers to execute orders manually: (1) If the Exchange determines to permit manual executions in the event of a problem with Exchange systems; (2) Floor Brokers are handling accommodation transactions⁸ or FLEX trades;⁹ or (3) where an order has more

Section 19(h)(1) of the Securities Exchange Act of 1934, Making Findings and Imposing Remedial Sanctions) ("Options Settlement Order").

⁶ Complex Orders are defined in Phlx Rule 1080.08.

⁷ See proposed Phlx Rule 1000(f).

⁸ As explained in Phlx Rule 1059, specialists—and not FBMS—execute accommodation transactions made pursuant to cabinet trading.

⁹ FLEX orders will continue to be executable by Floor Brokers in the trading crowd pursuant to Exchange Rules 1079 and 1079A, rather than through FBMS because FBMS will not be able to accept FLEX orders, which have varied and complicated terms. Similarly, accommodation transactions (also known as cabinet trades) will continue to be executable by Floor Brokers in the trading crowd pursuant to Exchange Rule 1059. According to the Exchange, neither FLEX nor accommodation transactions are executed through Exchange systems today.

than 15 legs.¹⁰ The Exchange also proposes to amend its rules to state that certain trades executed by Floor Brokers pursuant to Rule 1064—namely, crossing, facilitation, and solicited orders—must be executed through the FBMS.¹¹

In connection with the proposal to add order execution functions to FBMS, the Exchange is proposing to add new subsection (g) to Exchange Rule 1000. The proposed rule would require bids and offers to either be entered electronically or made by public outcry in the trading crowd.¹² The Exchange also proposes to define public outcry. As proposed, a member shall be considered to be "in" on a bid or offer while the member remains at the post, unless the member distinctly and audibly states "out."¹³ A member bidding and offering in immediate and rapid succession shall be deemed "in" until the member shall state "out" on either bid or offer.¹⁴ Once the crowd has provided a quote, it will remain in effect until: (A) A reasonable amount of time has passed; or (B) there is a significant change in the price of the underlying security; or (C) the market given in response to the request has been improved.¹⁵ With respect to orders involving a Floor Broker using FBMS to execute an order, a member must audibly say "out" before the Floor Broker submits the order into the FBMS for execution and, if the order is not executed, the member must audibly say "out" before each time the Floor Broker resubmits the order for execution.¹⁶

In connection with order execution, the Exchange also proposes to allow FBMS to execute two-sided orders entered by Floor Brokers, including multi-leg orders up to 15 legs, after the

¹⁰ The Exchange proposes to limit the complexity of FBMS functionality and does not believe that many orders fall into this category or that Floor Brokers would be adversely affected.

¹¹ In addition to making these changes to Rule 1064, the Exchange also proposes to delete Advice B-11, which generally tracks the language of Rule 1064. In addition to generally repeating the substance of Rule 1064, the Exchange noted that Advice B-11 does not contain fine schedules adopted pursuant to the Exchange's minor rule enforcement and reporting plan, unlike other Advices.

¹² See proposed Exchange Rule 1000(g). The proposed rule would also require all bids and offers to be general and not be specified for acceptance by particular members. See *id.*

¹³ See proposed Exchange Rule 1000(g).

¹⁴ See *id.*

¹⁵ See *id.* In the case of a dispute, the term "significant change" would be interpreted on a case-by-case basis by an Options Exchange Official based upon the extent of the recent trading in the option and, in the case of equity and index options, in the underlying security, and any other relevant factors.

¹⁶ See *id.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 68960 (February 20, 2013), 78 FR 13132.

⁴ See Exchange Rule 1060. A floor broker who is the nominee of a member organization qualified to transact business with the public may accept orders from public customers of the member organization. See *id.*

⁵ See In the Matter of Certain Activities of Options Exchanges, Administrative Proceeding File No. 3-10282, Securities Exchange Act Release No. 43268 (September 11, 2000) (Order Instituting Public Administrative Proceedings Pursuant to

Floor Broker has represented the orders in the trading crowd.¹⁷ When a Floor Broker submits an order for execution through FBMS, the order would be executed based on market conditions and in accordance with Exchange rules.¹⁸ FBMS execution functionality would assist the Floor Broker in clearing the Exchange book, consistent with Exchange priority rules.¹⁹ If the order cannot be executed, Phlx XL would attempt to execute the order a number of times for a period of no more than one second, which period shall be established by the Exchange and announced by Options Trader Alert, after which the order would be returned to the Floor Broker on the FBMS.²⁰ The Floor Broker may resubmit the order for execution, as long as the quotes/orders that comprise the cross have not been withdrawn.²¹ Floor Brokers are responsible for handling all FBMS orders in accordance with Exchange priority and trade-through rules, including Exchange Rules 1014, 1033 and 1084.²²

B. Complex Calculator Function in FBMS

The Exchange proposes to provide Floor Brokers with an enhanced FBMS functionality called the complex calculator.²³ FBMS would calculate and display a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis.²⁴ The Exchange stated that this functionality should substantially increase the speed with which Floor Brokers could ascertain the marketability of multi-leg orders at a specified net debit or credit price, and should result in more efficient executions in the trading crowd.

Additionally, the Exchange proposes to change the manner in which Complex Orders are entered into FBMS. Currently, Floor Brokers may enter Complex Orders, as defined in Rule 1080.08, consisting of two option legs into FBMS for execution using the Complex Order functionality of Phlx XL, pursuant to Rule 180.08(b)(iii). The Exchange proposes to allow Complex Orders consisting of up to six legs (one of which may be stock) to be entered

through FBMS.²⁵ According to the Exchange, this functionality should assist Floor Brokers in pricing multi-leg orders for representation in the trading crowd, as well as with pricing multi-leg orders for submission for execution as a two-sided order.

C. Multi-Leg Order Spread Type Priority

The Exchange proposes to apply a new spread priority to certain multi-leg orders that are submitted to FBMS. This priority, which is the same as the priority set forth in Rule 1080.08(c)(iii) that applies to complex orders in Phlx XL, will apply to multi-leg orders that meet the definition of a Complex Order as set forth in Rule 1080.08. This priority will also apply to multi-leg orders that contain a conforming ratio that complies with the conforming ratio set forth in Rule 1080.08(a)(ix).²⁶

As set forth in proposed Rule 1033(i), Spread Type Orders²⁷ consisting of a conforming ratio may be executed at a total credit or debit price with priority over individual bids or offers established in the marketplace (including customers) that are not better than the bids or offers comprising such total credit or debit, provided that at least one option leg is executed at a better price than the established bid or offer for that option contract and no option leg is executed at a price outside of the established bid or offer for that option contract. Because certain orders will continue to be executed on the floor and not through FBMS, the Exchange is retaining Rules 1033 (d), (e), (g), and (h), which effectively require one leg of a spread to be improved for every two legs of a multi-leg order.

D. Additional Changes

The Exchange proposes to amend Exchange Rule 1014(g)(vi) and Option Floor Procedure Advice F-2, which pertain to how trades are allocated, matched and time stamped. Currently, trades executed electronically via Phlx XL are automatically trade reported without further action required by the executing parties. As proposed, trades executed electronically through FBMS are also automatically reported.

The Exchange also proposes to amend Exchange Rule 1066, Certain Types of Orders Defined, and rename it "Certain Types of Floor-Based (Non-Phlx XL) Orders Defined" to make clear that the order types in the rule reflect what can be traded on the floor. The order types that are handled and executed automatically by Phlx XL appear in Exchange Rule 1080. The Exchange is also proposing introductory language specifically stating that these order types are eligible for entry by a Floor Broker for execution through FBMS and, with respect to transactions when there is no Floor Broker involved, for execution by members in the trading crowd. The Exchange also proposes to delete the following order types, because FBMS will not accept these order types:²⁸ multi-part order, delta order, market-on-close order, and one-cancels-the-other order.²⁹ The Exchange stated that these order types are being deleted because they are not easily automated and are rarely used.

The Exchange proposes to rename "Hedge Order" in Exchange Rule 1066(f) to "Multi-leg Order," and make corresponding changes in Exchange Rules 1033(d), 1063(e) and Option Floor Procedure Advices C-2 and F-14. A synthetic options order would be re-categorized as a type of multi-leg order in Exchange Rule 1066(f)(5), rather than a separate order type in Exchange Rule 1066(g). The definition and description of an Intermarket Sweep Order would be moved from Exchange Rule 1066(i) to Exchange Rule 1080.03 because such order is (and would continue to be) only available on Phlx XL. Exchange Rule 1066(f) would also be amended to add three new definitions—Spread Type Order; Complex Order (to help distinguish between the multi-leg orders that also meet the definition of Complex Order in Exchange Rule 1080.08 from those that do not);³⁰ and DNA Order, which will now be submitted through FBMS. Exchange Rule 1066 would contain all of the order types available for open outcry trading on the trading floor and through FBMS; Exchange Rule 1080 continues to govern the order types available through PHLX XL.

¹⁷ See proposed Exchange Rule 1063(e)(iv).

¹⁸ See *id.*

¹⁹ See *id.*

²⁰ See *id.*

²¹ See *id.*

²² See *id.*

²³ See proposed Exchange Rule 1063(e)(iii).

²⁴ See *id.* According to the Exchange, FBMS currently accepts up to 20 legs of a complex order. The Exchange believes that limiting the proposed complex calculator to 15 legs should be sufficient for Floor Brokers' current business needs.

²⁵ See proposed Exchange Rule.

²⁶ As set forth in Rule 1080.08(a)(ix), a conforming ratio "is where the ratio between the sizes of the options components of a Complex Order is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00)."

²⁷ A spread type order includes a spread, straddle and combination order and is an order to buy a stated number of option contracts and to sell a stated number of option contracts in a different series of the same option and may be bid for or offered on a total net debit or credit basis. See Exchange Rule 1066(f).

²⁸ The Exchange is also proposing to delete Exchange Rule 1033(i), Inter-Currency Spread Priority, because FBMS will not handle multi-leg orders involving two different underlying currencies.

²⁹ The Exchange is also deleting this order type in Exchange Rule 1063(b).

³⁰ A spread type order, which can only be entered through FBMS, can have up to 15 legs, while a Complex Order entered for handling through PHLX XL can have up to six legs, each including the underlying security.

E. Implementation

The Exchange proposes to implement the enhancements with a trial period of two to four weeks, to be determined by the Exchange, during which the new FBMS enhancements and related rules would operate along with the existing FBMS and rules. The Exchange seeks to begin implementation on June 1, 2013.³¹ During this period, Floor Brokers would still be able to execute orders verbally in the trading crowd and submit the execution reports through FBMS, like they do currently. Floor Brokers would also be able to use the new FBMS to execute trades.

III. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange.³² In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act³³ in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange proposes to amend its rules to, among other things, require Floor Brokers to execute orders via FBMS rather than manually on the trading floor, unless one of the enumerated exceptions applies.³⁴ In part, the proposal would allow Floor Brokers to use FBMS to cross orders, including multi-leg orders with up to 15 legs. The Commission believes that such automation may benefit the Exchange, its members and users, and other market participants by, for example, producing more accurate and timely trade reporting. The Commission believes that this proposal should allow Floor Brokers to better manage orders and is reasonably designed to increase compliance with applicable Commission rules and regulations and with Exchange rules. For example, the

FBMS would prohibit an execution of a two-sided order if that cross would trade through a better price on the book or on another market.³⁵ Automating formerly manual trades should help ensure that trades do not violate the priority of orders on the book or trade through the NBBO.³⁶

Moreover, the Commission finds that the enhanced functionality of FBMS provided by the complex calculator, which would calculate and display a suggested price of each individual component of a multi-leg order, up to 15 legs, submitted on a net debit or credit basis, will aid Floor Brokers in calculating the prices of the components of a multi-leg order, which has the potential to increase the speed with which Floor Brokers can represent such orders. Taken together, the Commission believes that these changes will be beneficial to the market as a whole by contributing to the efficient functioning of the securities markets and the price discovery process and by contributing to the efficient functioning of the securities markets.

The Commission also finds that the proposed Spread Type Order priority is consistent with the requirements of the Act. The FBMS would validate that a multi-leg order meets the definition of Complex Order (as defined in Exchange Rule 1080.08) and would apply the new spread priority provision. If a multi-leg order does not meet the definition of Complex Order because the multi-leg order has more than six legs, then the proposed spread priority provision would nevertheless apply if the multi-leg order has a conforming ratio (as defined in Exchange Rule 1080.08(a)(ix)). The Commission believes that the proposed Spread Type Order priority could improve Floor Brokers' ability to execute multi-leg orders, which could benefit investors and other market participants. The Commission notes that other options exchanges have similar complex order priority provisions for Complex Orders that do not limit the number of legs and

that require only one leg to be improved.³⁷

Additionally, the Commission finds that the Exchange's proposal to amend Exchange Rule 1014(g)(vi) and Option Floor Procedure Advice F-2 so that trades executed electronically through FBMS will be automatically reported (without further action required by executing parties) is consistent with the requirements of the Act. Currently, trades executed electronically via Phlx XL are automatically reported, and the proposed change would ensure automatic reporting for trades executed via FBMS. The Commission believes that this proposal will benefit investors and other market participants by providing quicker and more reliable confirmation of trade executions.

The Commission also finds that the Exchange's proposed changes and deletions to Exchange Rules 1033, 1063, 1066, and 1080 are consistent with the Act. The Exchange is renaming Rule 1066 from "Certain Types of Orders Defined" to "Certain Types of Floor-Based (Non-Phlx XL) Orders Defined," which the Commission believes will make clear to investors and other market participants that the order types in the rule reflect what can be traded on the floor. The Exchange is also amending Rule 1080, which lists the order types that are handled and executed automatically by Phlx XL, to provide introductory language that specifically states that the listed order types are eligible either for entry by a Floor Broker for execution through FBMS or for execution by members in the trading crowd where the transaction does not involve a Floor Broker. Additionally, the Exchange is deleting from Rule 1066 several order types (multi-part order, delta order, market-on-close order, and one-cancels-the-other order³⁸) that are not easily automated and rarely used. The Exchange is deleting from Rule 1033(i) the "Inter-Currency Spread Priority" because FBMS will not handle multi-leg orders involving two different underlying currencies. The Exchange is also renaming "Hedge Order" in Rule 1066(f) to "Multi-leg Order," and making corresponding changes in Exchange Rules 1033(d), 1063(e), and the Option Floor Procedure Advices C-2 and F-14. Additionally, a synthetic options order would be re-categorized as a type of multi-leg order in Exchange Rule 1066(f)(5), rather than a separate order type in Exchange Rule 1066(g). The definition and description of an Intermarket Sweep Order would be

³¹ Phlx confirmed that the implementation of FBMS will begin on June 1, 2013. See email from Edith Hallahan, Phlx, to Dhawal Sharma, Attorney Advisor, Division of Trading and Markets, Commission.

³² In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³³ 15 U.S.C. 78f(b).

³⁴ As part of these changes, the Exchange will delete Advice B-11, which generally tracks the language of Rule 1064, which the Exchange proposes to amend.

³⁵ The Exchange noted that Floor Brokers may choose not to execute the cross if orders exist on the book that would prevent the cross from executing. In this scenario, the FBMS would notify the Floor Brokers that such orders on the book exist, and the Floor Broker would have to exercise his discretion as to whether to proceed.

³⁶ Also of relevance is Rule 155, which requires that "a Floor Broker handling an order is to use due diligence to execute the order at the best price or prices available to him in accordance with the Rules of the Exchange." The Commission notes that, with the changes made to the FBMS and to the manner in which Floor Brokers handle orders, Floor Brokers will still be obligated to adhere to the principles articulated in Rule 155.

³⁷ See, e.g., ISE Rule 722(b)(2).

³⁸ The "one-cancels-the-other order" type is also being deleted from Exchange Rule 1063(b).

moved from Exchange Rule 1066(i) to Exchange Rule 1080.03 because such order is (and would continue to be) only available on Phlx XL. Exchange Rule 1066(f) would also be amended to add three new definitions—Spread Type Order; Complex Order and DNA Order. The Commission believes that these changes are consistent with and necessary in light of the changes being made to FBMS, and are appropriate and beneficial to investors because they update the Exchange's Rules and provide the investing public with clearer information on order types available for execution on the Exchange.

The Commission also finds that the addition of new subsection (g) to Exchange Rule 1000 is consistent with the Act. Exchange Rule 1000(g) would require bids and offers to either be entered electronically or made by public outcry in the trading crowd. As described above, public outcry is defined in Rule 1000(g). The Commission believes that the additional clarity provided by Rule 1000(g) on how bids and offers are made and maintained on the trading floor is appropriate because, in light of the elimination of most Floor Broker verbal executions, additional emphasis will be placed on how long a bid/offer is in effect.

The Commission finds that it is consistent with the Act for the Exchange to begin implementation of the new FBMS enhancements and related rules on June 1, 2013, with a two to four week trial period. The Commission believes that this will provide Floor Brokers and other market participants with an appropriate amount of time to familiarize themselves with the changes, and, similarly, a trial period of two to four weeks will allow the Exchange and market participants to work together in making a transition from floor based executions to FBMS.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act³⁹ that the proposed rule change (SR-Phlx-2013-09) is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴⁰

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2013-10445 Filed 5-2-13; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

In the Matter of Biopharm Asia, Inc., China Organic Agriculture, Inc., and Guilin Paper, Inc.; Order of Suspension of Trading

April 19, 2013.

Correction

In notice document 2013-09635, appearing on page 23970, in the issue of Tuesday, April 23, 2013, make the following correction:

On page 23970, in the first column, the Subject in the heading is corrected to read as set forth above.

[FR Doc. C1-2013-09635 Filed 5-2-13; 8:45 am]

BILLING CODE 1505-01-D

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60 Day Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intention to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before July 2, 2013.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collections, to Ariel Teichman, Management Analyst, Office of Entrepreneurial Development, Small Business Administration, 409 3rd Street SW., Room 6043, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACTS: Ariel Teichman, Management Analyst, 202-205-6592 edmis@sba.gov or Curtis B. Rich, Management Analyst, 202-205-7030 curtis.rich@sba.gov.

Title: "Entrepreneurial Development Management Information System (EDMIS) Client Intake Form & Management Training Form"

Abstract: SBA Forms 641 (*Client Intake Form*) and 888 (*Management Training Form*) are used to collect counseling, training and economic impact information from SBA partners and District Offices. Revisions will eliminate redundancy, provide for

greater transparency and accountability for program performance, and improve SBA's ability to remain responsive to requests for information from the public, Congress, and program oversight agencies.

Description of Respondents: The SBA Resource Partners, including Small Business Development Centers (SBDC), Women's Business Centers (WBC), and SCORE. In addition, Veterans Business Outreach Centers (VBOCs) and Regional Clusters.

Form Number's: 641,888.

Annual Responses: 1.4 million.

Annual Burden: 160,000.

Curtis Rich,

Management Analyst.

[FR Doc. 2013-10500 Filed 5-2-13; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Notice Seeking Exemption Under the Small Business Investment Act, Conflicts of Interest; VPC SBIC I, LP; License No. 05/05-0308

Notice is hereby given that VPC SBIC I, LP, 227 West Monroe Street, Suite 3900, Chicago, IL, 60606, a Federal Licensee under the Small Business Investment Act of 1958, as amended ("the Act"), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration ("SBA") Rules and Regulations (13 CFR 101730). VPC SBIC I, LP proposes to provide debt financing to Global Employment Holdings, Inc., 10375 Park Meadows Drive, Suite 475, Littleton, CO, 80124 ("GEYH"). The proceeds will be used to redeem maturing debt and fund an acquisition.

The financing is brought within the purview of § 107.730(a) of the Regulations because Victory Park Credit Opportunities, L.P., Victory Park Credit Opportunities Intermediate Fund, L.P., and Victory Park Capital Advisors, LLC, Associates of the Licensee, are majority owners of and control GEYH, and because portions of the financing will be used to repay obligations to additional Associates of the Licensee, VPC Fund II, L.P. and VPC Intermediate Fund II (Cayman), L.P.; this transaction is considered Financing an Associate and Providing Financing to discharge an obligation to an Associate requiring prior SBA approval.

Notice is hereby given that any interested person may submit written comments on the transaction within 15

³⁹ 15 U.S.C. 78s(b)(2).

⁴⁰ 17 CFR 200.30-3(a)(12).