

For the Nuclear Regulatory Commission.

**John A. Zwolinski,**

*Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 02-22197 Filed 8-30-02; 8:45 am]

BILLING CODE 7590-01-P

## OVERSEAS PRIVATE INVESTMENT CORPORATION

### September 12, 2002 Board of Directors Meeting

*Time and Date:* Thursday, September 12, 2002, 1:30 p.m. (Open Portion), 1:45 p.m. (Closed Portion).

*Place:* Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

*Status:* Meeting open to the Public from 1:30 p.m. to 1:45 p.m., Closed portion will commence at 1:45 p.m. (approx.).

#### *Matters to be Considered:*

1. President's Report
2. Approval of May 22, 2002 Minutes (Open Portion)

*Further Matters to be Considered:* (Closed to the Public 1:45 p.m.)

1. Proposed FY 2004 Budget Proposal and Allocation of Retained Earnings
2. Finance Project in Russia, Azerbaijan, Uzbekistan, Kazakhstan, and Ukraine
3. Finance Project—Global
4. Approval of May 22, 2002 Minutes (Closed Portion)
5. Pending Major Projects
6. Reports

#### *Contact Person for Information:*

Information on the meeting may be obtained from Connie M. Downs at (202) 336-8438.

Dated: August 29, 2002.

**Connie M. Downs,**

*Corporate Secretary, Overseas Private Investment Corporation.*

[FR Doc. 02-22524 Filed 8-29-02; 2:13 pm]

BILLING CODE 3210-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of September 2, 2002:

A Closed Meeting will be held on Tuesday, September 3, 2002, at 10 a.m.

Commissioner Campos, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meeting.

The subject matter of the Closed Meeting scheduled for Tuesday, September 3, 2002, will be:

Formal orders of investigation;  
Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942-7070.

Dated: August 29, 2002.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-22503 Filed 8-29-02; 11:37 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46419; File No. SR-NASD-2002-109]

### Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Fees for Nasdaq's InterMarket

August 27, 2002.

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 August 8, 2002, the National Association of Securities Dealers, Inc. ("NASD" or "Association"), through its subsidiary, the Nasdaq Stock Market, Inc. ("Nasdaq"), filed with the Securities and Exchange Commission ("Commission" or "SEC") 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 proposes to: (i) Modify the execution fees for Nasdaq InterMarket trades executed through the Intermarket Trading System ("ITS") and Nasdaq's Computer Assisted Execution System ("CAES"); and (ii) establish a credit for the liquidity provider for executions via ITS and CAES.<sup>3</sup> Nasdaq will implement the proposed rule change as quickly as practicable following approval. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

### 7010. System Services

(a)-(c) No change.

(d) Computer Assisted Execution Service.

The charges to be paid by members receiving the Computer Assisted Execution Service (CAES) shall consist of a fixed service charge and a per *share* transaction charge plus equipment-related charges.

#### (1) Service Charges

\$100 per month for each market maker terminal receiving CAES.

#### (2) Transaction Charges

(A) [As of January 1, 1998, \$0.50 per execution] *\$0.003 per share executed up to a maximum of \$75 per execution* shall be paid by an order entry firm or CAES market maker that enters an order into CAES that is executed in whole or in part, *and \$0.002 per share executed up to a maximum of \$50 per execution shall be credited to the CAES market maker that executes such an order.[\*]*

(B) [As of November 1, 1997, \$1.00 per commitment] *\$0.002 per share executed up to a maximum of \$75 per execution* shall be paid by any member that sends a commitment through the ITS/CAES linkage to buy or sell a listed security that is executed in whole or in part, *and \$0.001 per share executed up to a maximum of \$35 per execution shall be credited to a member that executes such an order.[\*\*]*

<sup>3</sup> On June 13, 2002, the NASD, through its subsidiary, Nasdaq, filed a similar proposed rule change that was effective upon filing pursuant to Section 19(b)(3)(A) of the Act. 15 U.S.C. 78s(b)(3)(A). See Securities Exchange Act Release No. 46153 (July 1, 2002), 67 FR 45164 (July 8, 2002) (SR-NASD-2002-68). The proposal was summarily abrogated by Commission order on July 2, 2002. See Securities Exchange Act Release No. 46159.

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

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

[\*As of September 1, 2000, a CAES market maker that receives and executes a CAES order or any part of a CAES order will not be required to pay a CAES transaction charge.]

[\*\*As of September 1, 2000, a member that receives a commitment through the ITS/CAES linkage to buy or sell a security that is executed in whole or in part will not be required to pay a CAES transaction charge.]

(e)–(r) No change.

\* \* \* \* \*

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

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth below in Sections A, B, and C, 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

Nasdaq's InterMarket ("InterMarket") is a quotation, communication, and execution system that allows NASD members to trade stocks listed on the New York Stock Exchange, Inc. ("NYSE") and the American Stock Exchange LLC ("Amex").<sup>4</sup> The InterMarket competes with regional exchanges such as the Chicago Stock Exchange, Inc. ("CHX") and the Cincinnati Stock Exchange, Inc. ("CSE") for retail order flow in stocks listed on the NYSE and the Amex. The InterMarket is comprised of (1) CAES, a system that facilitates the execution of trades in listed securities between NASD members that participate in the InterMarket, and (2) ITS, a system that facilitates the execution of trades between NASD members and specialists on the floors of national securities exchanges that trade listed securities.<sup>5</sup>

Nasdaq proposes to modify the fee structure of the InterMarket to encourage market participants to provide additional liquidity to support executions through the InterMarket and

thereby enhance its competitiveness. Specifically, Nasdaq will replace the current CAES execution fee of \$0.50 with a per share execution fee of \$0.003, and will credit \$0.002 per share to a member whenever it provides the liquidity to support an execution through CAES (*i.e.*, sells in response to a buy order, or buys in response to a sell order). The maximum fee will be capped at \$75 per execution, and the maximum credit will be capped at \$50 per execution.

Similarly, Nasdaq proposes that the current ITS execution fee of \$1.00 will be replaced with a per share execution fee of \$0.002, and a member that provides liquidity to support an ITS execution will receive a credit of \$0.001 per share. There will be a maximum fee of \$75 per execution, and a maximum credit of \$35 per execution.

The proposed fee structure is similar to the structure that has been in place for Nasdaq's SuperSOES system since November 2001 and that will be used for Nasdaq's SuperMontage system when it is launched in the third quarter of 2002.<sup>6</sup>

#### 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with section 15A(b)(5) of the Act,<sup>7</sup> which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and section 15A(b)(6) of the Act,<sup>8</sup> which requires that the rules are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that the proposed transaction execution fees will be imposed equally on members that use the InterMarket to place orders, whereas the proposed credits will be available to all members that enhance the viability of the InterMarket by providing liquidity to support executions. Moreover, Nasdaq believes that the level of the fees and credits are reasonable because its revenues from a given level of transaction activity under the new fee structure will be lower than its revenues from the same level of transaction activity under the prior fee structure.

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

Nasdaq believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Nasdaq has neither solicited nor received written comments on the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2002-109 in the caption above and should be submitted by September 24, 2002.

<sup>4</sup> Nasdaq's InterMarket formerly was referred to as Nasdaq's Third Market. See *e.g.*, Securities Exchange Act Release No. 42907 (June 7, 2000), 65 FR 37445 (June 14, 2000) (SR-NASD-00-32).

<sup>5</sup> See CAES/ITS User Guide, at [www.intermarket.nasdaqtrader.com](http://www.intermarket.nasdaqtrader.com), for further details.

<sup>6</sup> See Securities Exchange Act Release Nos. 44910 (October 5, 2001), 66 FR 52167 (October 12, 2001) (SR-NASD-2001-67); and 45906 (May 10, 2002), 67 FR 34965 (May 16, 2002) (SR-NASD-2002-44).

<sup>7</sup> 15 U.S.C. 78o-3(b)(5).

<sup>8</sup> 15 U.S.C. 78o-3(b)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 02-22343 Filed 8-30-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46407; File No. SR-Phlx-2002-17]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto by the Philadelphia Stock Exchange, Inc. Relating to Participation Rights in Trades Involving Crossing, Facilitation, and Solicited Orders

August 23, 2002.

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 March 18, 2002, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Phlx. On May 2, 2002, July 24, 2002, and August 20, 2002, Phlx submitted Amendment Nos. 1, 2, and 3 to the proposed rule change, respectively.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Phlx proposes to adopt Commentary .02 to Phlx Rule 1064, Crossing, Facilitation and Solicited Orders, governing the crossing of equity option orders by floor brokers, to give the member firm from which an order originates a participation right in trades that are proposed to be crossed in

certain circumstances. The Exchange further proposes to adopt Commentary .03 to Phlx Rule 1064, setting forth a general requirement that a member or member organization facilitating a customer order pursuant to this rule shall disclose all securities that are components of the customer order which is subject to facilitation before requesting bids and offers for the execution of all components of the order.

The text of the proposed rule change follows. Additions are italicized.

\* \* \* \* \*

#### Crossing, Facilitation and Solicited Orders

Rule 1064. (a)-(d) No change.

*Commentary:*

.01. No change.

.02. *Firm Participation Guarantees. (i) Notwithstanding the provisions of paragraphs (a) and (b) of this Rule, when a Floor Broker holds an equity option order of the eligible order size or greater ("original order"), the Floor Broker is entitled to cross a certain percentage of the original order with other orders that he is holding or in the case of a customer order, with a facilitation order of the originating firm (i.e., the firm from which the original customer order originated).*

*(ii) The Options Committee may determine, on an option by option basis, the eligible size for an order that may be transacted pursuant to this Commentary, however, the eligible order size may not be less than 500 contracts. Orders for less than 500 contracts may be crossed pursuant to this rule but are not subject to subsection (iii) below pertaining to participation guarantees. In accordance with his responsibilities for due diligence, a Floor Broker representing an order of the eligible order size or greater which he wishes to cross shall request bids and offers for such option series and make all persons in the trading crowd aware of his request. In determining whether an order satisfies the eligible order size requirement, any multi-part or spread order must contain one leg alone which is for the eligible order size or greater. If the same member organization is the originating firm and also the specialist for the particular class of options to which the order relates, then the specialist is not entitled to any Enhanced Specialist Participation with respect to the particular cross transaction.*

*(iii) The percentage of the order which a Floor Broker is entitled to cross, after all public customer orders that were (1) on the limit order book and then (2)*

*represented in the trading crowd at the time the market was established have been satisfied, is determined as follows: (A) 20% of the remaining contracts in the order if the order is traded at the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market; or (B) 40% of the remaining contracts in the order if the order is traded between the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market.*

*(iv) When crossing an order pursuant to this Commentary, a Floor Broker must disclose on its order ticket for any order which is subject to crossing, all of the terms of such order, including any contingency involving, and all related transactions in, either options or underlying or related securities. The Floor Broker must disclose all securities that are components of the customer order which is subject to crossing before requesting bids and offers for the execution of all components of the order.*

*(v) Once the trading 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. In the case of a dispute, the term "significant change" will be interpreted on a case-by-case basis by two Floor Officials based upon the extent of the recent trading in the option and in the underlying security, and any other relevant factors.*

*(vi) If a trade pursuant to this Commentary occurs when the specialist is on parity with one or more controlled accounts, then the Enhanced Specialist Participation which is established pursuant to Exchange Rule 1014(g)(ii)-(iv) shall apply only to the number of contracts remaining after the following orders have been satisfied: those public customer orders which trade ahead of the cross transaction, and any portion of an order being crossed against the original order being represented by the Floor Broker. The Enhanced Specialist Participation may only be 20% of the original order after customer orders have been executed for orders crossed pursuant to this paragraph unless the Floor Broker has chosen to cross less than its 20% entitlement, in which case the Enhanced Specialist Participation will be a percentage that combined with the percentage the firm crossed is no more than 40% of the original order. If the trade occurs at a price other than the specialist's disseminated bid or offer, the specialist is entitled to no guaranteed participation.*

<sup>9</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>3</sup> See letters from Richard S. Rudolph, Director and Counsel, Phlx, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 1, 2002 (Amendment No. 1); and to Ira Brandriss, Special Counsel, Division, Commission, dated July 23, 2002, and August 19, 2002 (Amendment Nos. 2 and 3). The proposal was originally filed to be immediately effective pursuant to Section 19(b)(3)(A) of the Act. In Amendment No. 1, Phlx changed its status to a proposal filed pursuant to Section 19(b)(2) of the Act and requested accelerated effectiveness. The changes made by Amendment Nos. 2 and 3 have been incorporated into this notice.