

update its rules applicable to FCOs and thereby facilitate its ability to administer its FCO program.

#### IV. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>38</sup> for approving the proposed rule change, as amended, prior to the thirtieth day after publication of the Notice in the **Federal Register**. The Commission notes that the proposal, as modified by Amendment No. 1, was published for a 15-day comment period,<sup>39</sup> and that it did not receive any comment letters on the proposal. The Commission notes that the proposal, as modified by Amendment No. 1, extends to the New Currencies the same rule set that currently is applicable to FCOs traded on the Exchange, as proposed to be amended by the current filing. The proposal is similar to another exchange's FCO program, including most of the proposed New Currencies, the position limits, and the up-front modified spot price, and so does not raise additional issues that have not been considered previously by the Commission.<sup>40</sup> Accordingly, the Commission finds that the proposed rule change does not raise any novel regulatory issues and believes that accelerating approval of this proposal at the conclusion of a 15-day comment period should benefit investors by offering them the ability to invest in FCOs based on the New Currencies and by offering the new FCO features, methodologies, and processes without further delay. In particular, the proposal should greatly simplify the pricing methodology and structure of Phlx's FCOs with respect to, among other things, strike, bid and ask, spot and settlement prices, and should consequently facilitate the ability of investors to more readily understand and trade these products.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>41</sup> that the proposed rule change (SR-Phlx-2009-40), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>42</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-15611 Filed 7-1-09; 8:45 am]

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### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-60179; File No. SR-NYSE-2009-61]

#### Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Decommissioning the Requirement for Member Organizations To Report Program Trading Activity on the Daily Program Trading Report

June 26, 2009.

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 June 24, 2009, the New York Stock Exchange LLC (the "Exchange" or "NYSE") 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 the NYSE. The NYSE has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(1) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 decommission the requirement for member organizations to report program trading activity on the Daily Program Trading Report ("DPTR").

The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and <http://www.nyse.com>.

#### 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 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 implement the previously approved decommissioning of the requirement that member organizations report program trading activity via the Daily Program Trading Report ("DPTR").<sup>5</sup> Because certain entities previously used DPTR data, the Exchange delayed implementing the decommissioning of the DPTR requirement to provide adequate time to coordinate with such entities. The Exchange files this rule proposal to announce the stated policy of the Exchange that the last trade date for which member organizations will be required to file the DPTR with the Exchange will be July 10, 2009 and therefore the last required date to submit the DPTR will be July 14, 2009.

##### Background

In 2007, the Exchange filed a rule proposal to update the definition of program trading and to make certain conforming changes to rules governing program trading at the Exchange (the "2007 rule filing").<sup>6</sup> In addition to amending the definition of program trading, the Exchange proposed to streamline the reporting process that member organizations must follow when reporting program trading.<sup>7</sup>

In the 2007 rule filing, the Exchange proposed to eliminate DPTR. The 2007 filing noted that there was some duplication between the DPTR data and the audit trail information that member organizations provide to the Exchange via account-type indicators at the time that they submit program trades to the Exchange. The Exchange uses account type indicators to capture program trade information for those portions of the

<sup>5</sup> See Securities Exchange Act Release No. 55793 (May 22, 2007), 72 FR 29567 (May 29, 2007) (SR-NYSE-2007-34).

<sup>6</sup> See Securities Exchange Act Release No. 55615 (Apr. 11, 2007), 72 FR 19225 (Apr. 17, 2007) (SR-NYSE-2007-34).

<sup>7</sup> Beginning in 1988, the Exchange required that member organizations report program trading by the close of the second business day following the trade day on the DPTR.

<sup>38</sup> 15 U.S.C. 78s(b)(2).

<sup>39</sup> See Notice, *supra* note 4.

<sup>40</sup> See *supra* note 37 (citing to the approval order for SR-ISE-2006-59).

<sup>41</sup> 15 U.S.C. 78s(b)(2).

<sup>42</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> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 19b-4(f)(1).

program trades that are submitted to and executed on the Exchange.

In the 2007 rule filing, the Exchange also proposed to redefine two of the existing program trading related account type indicators.

Following approval of the rule filing and after consultation with the Commission the Exchange announced that it would delay implementation of the two redefined account type indicators, and pending such implementation, member organizations would be required to continue filing the DPTR with the Exchange.<sup>8</sup> The current delayed implementation date of the redefined account type indicators is June 30, 2009. Accordingly, the Exchange still requires member organizations to submit DPTR.

#### Proposed Stated Policy, Practice, and Interpretation of Exchange Rules

The Exchange proposes to implement the decommissioning of the DPTR requirement following the July 10, 2009 trade date. Accordingly, the last required submission of the DPTR will be on July 14, 2009, which is the second business day after the last trade date for which the DPTR is required.

Separately, the Exchange notes that in connection with this proposed stated policy, the Exchange will *not* be implementing the proposed redefined program trading account type indicators (J and K) and will continue to use the existing J and K audit trail account types. Upon further analysis and based on industry input, the Exchange has determined that these redefined account type indicators do not enhance the regulatory audit trail because the proposed redefined J and K could subsume some of the other, more granular account type indicators that the Exchange currently receives. Accordingly, the Exchange sees no benefit to changing the current J and K account types.

In lieu of DPTR, the Exchange will utilize existing account type indicator data—which captures program trade information for those orders that are submitted to and executed on the Exchange—to report to the Commission on a weekly basis the program trading statistics for portions of program trades executed on the Exchange. Accordingly, beginning on July 23, 2009, the Exchange will provide the Commission with its weekly statistics on program trading based on account type indicator data rather than DPTR data. Similarly, at

the same time, the weekly statistics regarding program trades that the Exchange provides to media outlets will also be derived from account type indicator data rather than the DPTR.

#### 2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Act<sup>9</sup> which requires the rules of an exchange to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, because the Commission has previously approved the decommissioning of the DPTR, this rule filing simply implements a previously approved change.

#### 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 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

No written comments were solicited or received with respect to the proposed rule change.

#### 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<sup>10</sup> and Rule 19b-4(f)(1)<sup>11</sup> thereunder. The proposed rule change effects a change that constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. In particular, the Commission previously approved the elimination of the DPTR reporting requirements. The Exchange has delayed implementing that prior rule change and through this rule filing, announces its stated policy that July 10, 2009 will be the last trade date for which member organizations will be required to file the DPTR.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate 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](mailto:rule-comments@sec.gov). Please include File Number SR-NYSE-2009-61 on the subject line.

##### Paper Comments

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

All submissions should refer to File Number SR-NYSE-2009-61. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<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 inspection and copying 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 such filing also will be available for inspection and copying at the principal office of the NYSE. 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 publicly available. All submissions should refer to File Number SR-NYSE-2009-61 and should be submitted on or before July 23, 2009.

<sup>8</sup> See NYSE Information Memos 07-52 (June 11, 2007), 07-88 (Aug. 31, 2007), 08-4 (Jan. 16, 2008), 08-25 (Apr. 30, 2008), and 08-64 (Dec. 15, 2008) (extending the reporting requirement changes to June 30, 2009).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

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

<sup>11</sup> 17 CFR 19b-4(f)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E9-15613 Filed 7-1-09; 8:45 am]

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## DEPARTMENT OF STATE

[Public Notice 6690]

### Designation and Determination Under the Foreign Missions Act

Pursuant to the authority vested in the Secretary of State by the laws of the United States, including the Foreign Missions Act, 22 U.S.C. 4301 *et seq.*, and delegated by the Secretary to me as one of the President's principal officers for foreign affairs by Delegation of Authority No. 245-1 of February 13, 2009, and at the direction of the Secretary of State, and after due consideration of the benefits, privileges, and immunities provided to missions of the United States abroad, as well as matters related to the protection of the interests of the United States, and at the request of foreign missions, I hereby designate exemption from real property taxes on property owned by foreign governments and used to house staff of permanent missions to the United Nations or the Organization of American States or of consular posts as a benefit for purposes of the Foreign Missions Act. I further determine that such exemption shall be provided to such foreign missions on such terms and conditions as may be approved by the Office of Foreign Missions and that any state or local laws to the contrary are hereby preempted. Prior inconsistent guidance is hereby rescinded. This action is in accord with the tax treatment of foreign government-owned property in the United States used as residences for staff of bilateral diplomatic missions, see Department of State, Notice: Property Owned by Diplomatic Missions and Used to House the Staff of Those Missions is Exempt from General Property Taxes, 51 FR 27303 (July 30, 1986), and conforms to the general practice abroad of exempting government-owned property used for bilateral or multilateral diplomatic and consular mission housing.

This action is necessary to facilitate relations between the United States and foreign states, to protect the interests of the United States, to allow for a more cost effective approach to obtaining benefits for U.S. missions abroad, and to

assist in resolving a dispute affecting U.S. interests and involving foreign governments which assert that international law requires the exemption from taxation of such diplomatic and consular properties. The dispute has become a major irritant in the United States' bilateral relations and threatens to cost the United States hundreds of millions of dollars in reciprocal taxation. As the largest foreign-government property owner overseas, the United States benefits financially much more than other countries from an international practice exempting staff residences from real property taxes, and it stands to lose the most if the practice is undermined. Responsive measures taken against the United States because of the dispute also have impeded significantly the State Department's ability to implement urgent and congressionally mandated security improvements to our Nation's diplomatic and consular facilities abroad, imposing unacceptable risks to the personnel working in those facilities. This action will allow the United States to press forward with improvements that will protect those who represent the Nation's interests abroad.

The exemption from real property taxes provided by this designation and determination shall apply to taxes that have been or will be assessed against any foreign government with respect to property subject to this determination, and shall operate to nullify any existing tax liens with respect to such property, but shall not operate to require refund of any taxes previously paid by any foreign government regarding such property. These actions are not exclusive and are independent of alternative legal grounds that support the tax exemption afforded herein.

June 23, 2009.

**Jacob J. Lew,**

*Deputy Secretary of State for Management and Resources, Department of State.*

[FR Doc. E9-15818 Filed 7-1-09; 8:45 am]

BILLING CODE 4710-43-P

## DEPARTMENT OF STATE

[Public Notice 6689]

### In the Matter of the Designation of Kata'ib Hizballah (and Other Aliases) as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter, and in consultation with the

Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter "INA") (8 U.S.C. 1189), exist with respect to Kata'ib Hizballah (and other aliases).

Therefore, I hereby designate that organization and its aliases as a foreign terrorist organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

Dated: June 24 2009.

**James Steinberg,**

*Deputy Secretary of State, Department of State.*

[FR Doc. E9-15661 Filed 7-1-09; 8:45 am]

BILLING CODE 4710-10-P

## DEPARTMENT OF STATE

[Public Notice 6688]

### In the Matter of the Designation of Kata'ib Hizballah (and Other Aliases) as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, Executive Order 13284 of January 23, 2003, and Executive Order 13372 of February 16, 2005, I hereby determine that the organization known as Kata'ib Hizballah (and other aliases) has committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that "for those persons \* \* \* determined to be subject to the order who might have a constitutional presence in the United States \* \* \* prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual," I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

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