

benefits; to the Department of Labor, Office of Worker's Compensation to process compensation claims; to the Department of Defense to adjust military retirement; to health insurance carriers to process insurance claims; and to the Department of Veterans Affairs for the purpose of evaluating veteran's benefits to which the individual may be entitled.

(20) To other federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States, pursuant to sections 5 and 10 of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996.

(21) To other federal, state, local or foreign agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals. When disclosures are made as part of computer matching programs, OSHRC will comply with the Computer Matching and Privacy Protection Act of 1988, and the Computer Matching and Privacy Protections Amendments of 1990.

(22) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services, the names, social security numbers, home addresses, dates of birth, dates of hire, quarterly earnings, employer identifying information, and state of hire of employees for the purpose of locating individuals to establish paternity, identifying sources of income, and for other child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 42 U.S.C. 653(n).

(23) To "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)) in accordance with 31 U.S.C. 3711(f).

HISTORY:

April 14, 2006, 71 FR 19556; August 4, 2008, 73 FR 45256; October 5, 2015, 80 FR 60182; September 28, 2017, 82 FR 45324; November 13, 2018, 83 FR 56380.

Dated: February 25, 2019.

Nadine N. Mancini,

General Counsel, Senior Agency Official for Privacy.

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OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Occupational Safety and Health Review Commission (OSHRC) is revising the notice for Privacy Act system-of-records OSHRC-9 and renumbering it as OSHRC-2.

DATES: Comments must be received by OSHRC on or before April 3, 2019. The revised system of records will become effective on that date, without any further notice in the **Federal Register**, unless comments or government approval procedures necessitate otherwise.

ADDRESSES: You may submit comments by any of the following methods:

- *Email:* rbailey@oshrc.gov. Include "PRIVACY ACT SYSTEM OF RECORDS" in the subject line of the message.
- *Fax:* (202) 606-5417.
- *Mail:* One Lafayette Centre, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457.
- *Hand Delivery/Courier:* Same as mailing address.

Instructions: All submissions must include your name, return address, and email address, if applicable. Please clearly label submissions as "PRIVACY ACT SYSTEM OF RECORDS."

FOR FURTHER INFORMATION CONTACT: Ron Bailey, Attorney-Advisor, Office of the General Counsel, via telephone at (202) 606-5410, or via email at rbailey@oshrc.gov.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires federal agencies such as OSHRC to publish in the **Federal Register** notice of any new or modified system of records. As detailed below, OSHRC is revising Visitors' Log Records, OSHRC-9, to account for changes in the names of the pertinent office and positions within the agency, and to update the reference to the applicable General Records Schedule for disposal of records. In addition, OSHRC has previously relied on blanket routine uses to describe the circumstances under which records may be disclosed. Going forward, as revised notices are published for new and modified systems of records, a full description of the routine uses—rather than a reference to blanket routine uses—will be

included in each notice. This is simply a change in format that has not resulted in any substantive changes to the routine uses for this system of records. Finally, due to a previous rescission of a system-of-records notice, OSHRC-2 currently has no system of records assigned to it. OSHRC-9 is thus being renumbered as OSHRC-2.

The notice for OSHRC-2, provided below in its entirety, is as follows.

SYSTEM NAME AND NUMBER

Visitors' Log Records, OSHRC-2.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Executive Director, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457.

SYSTEM MANAGER(S):

Administrative Support Assistant, Office of the Executive Director, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457; (202) 606-5100.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, 40 U.S.C. 121(c).

PURPOSE(S) OF THE SYSTEM:

This system of records assists OSHRC in identifying each person who visits OSHRC's National office, and in restricting access based on his or her purpose for visiting that office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system of records covers all individuals entering OSHRC National office who lack the proper credentials to enter without notifying OSHRC personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes the name of the visitor, the date of the visit, the company represented by the visitor, the arrival and departure times, the purpose of the visit, and the identity of the OSHRC escort.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom the record pertains.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the

circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

(1) To the Department of Justice (DOJ), or to a court or adjudicative body before which OSHRC is authorized to appear, when any of the following entities or individuals—(a) OSHRC, or any of its components; (b) any employee of OSHRC in his or her official capacity; (c) any employee of OSHRC in his or her individual capacity where DOJ (or OSHRC where it is authorized to do so) has agreed to represent the employee; or (d) the United States, where OSHRC determines that litigation is likely to affect OSHRC or any of its components—is a party to litigation or has an interest in such litigation, and OSHRC determines that the use of such records by DOJ, or by a court or other tribunal, or another party before such tribunal, is relevant and necessary to the litigation.

(2) To an appropriate agency, whether federal, state, local, or foreign, charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes civil, criminal or regulatory violations, and such disclosure is proper and consistent with the official duties of the person making the disclosure.

(3) To a federal, state, or local agency maintaining civil, criminal or other relevant enforcement information, such as current licenses, if necessary to obtain information relevant to an OSHRC decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a license, grant or other benefit.

(4) To a federal, state, or local agency, in response to that agency's request for a record, and only to the extent that the information is relevant and necessary to the requesting agency's decision in the matter, if the record is sought in connection with the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a license, grant or other benefit by the requesting agency.

(5) To an authorized appeal grievance examiner, formal complaints manager,

equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee, only to the extent that the information is relevant and necessary to the case or matter.

(6) To OPM in accordance with the agency's responsibilities for evaluation and oversight of federal personnel management.

(7) To officers and employees of a federal agency for the purpose of conducting an audit, but only to the extent that the record is relevant and necessary to this purpose.

(8) To OMB in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process, as set forth in Circular No. A-19.

(9) To a Member of Congress or to a person on his or her staff acting on the Member's behalf when a written request is made on behalf and at the behest of the individual who is the subject of the record.

(10) To the National Archives and Records Administration (NARA) for records management inspections and such other purposes conducted under the authority of 44 U.S.C. 2904 and 2906.

(11) To appropriate agencies, entities, and persons when: (a) OSHRC suspects or has confirmed that there has been a breach of the system of records; (b) OSHRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OSHRC, the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OSHRC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(12) To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with FOIA, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

(13) To another federal agency or federal entity, when OSHRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information

systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored on paper in binders.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records can be retrieved manually by name or date.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with NARA's General Records Schedule 5.6, Item 111.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained in a binder placed on the front desk. During duty hours, the binder is under surveillance of personnel occupying the front desk. After duty hours, the front desk can be accessed only by those who possess an office key or access card.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should notify: Privacy Officer, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.6 (procedures for requesting records).

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their records should notify: Privacy Officer, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457. For an explanation on the specific procedures for contesting the contents of a record, refer to 29 CFR 2400.8 (Procedures for requesting amendment), and 29 CFR 2400.9 (Procedures for appealing).

NOTIFICATION PROCEDURES:

Individuals interested in inquiring about their records should notify: Privacy Officer, OSHRC, 1120 20th Street NW, Ninth Floor, Washington, DC 20036-3457. For an explanation on how such requests should be drafted, refer to 29 CFR 2400.5 (notification), and 29 CFR 2400.6 (procedures for requesting records).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

April 14, 2006, 71 FR 19556; August 4, 2008, 73 FR 45256; October 5, 2015, 80 FR 60182; and September 28, 2017, 82 FR 45324.

Dated: February 25, 2019.

Nadine N. Mancini,

General Counsel, Senior Agency Official for Privacy.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-85203]

Order Granting Applications by Nasdaq BX, Inc. and Nasdaq PHLX LLC for Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Order Audit Trail System Rules Incorporated by Reference

February 26, 2019.

Nasdaq BX, Inc. (“BX”) and Nasdaq PHLX LLC (“Phlx”) (each the “Exchange” and collectively, the “Exchanges”) have filed with the Securities and Exchange Commission (“Commission”) an application for an exemption from the rule filing requirements of Section 19(b) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ with respect to certain rules of Financial Industry Regulatory Authority (“FINRA”) that the Exchanges seek to incorporate by reference. Section 36(a)(1) of the Exchange Act,² subject to certain limitations, authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

The Exchanges each filed a proposed rule change³ under Section 19(b) of the Exchange Act to amend their respective Order Audit Trail System (“OATS”) rules, some of which incorporate by reference the rules contained in the FINRA Rule 7400 Series entitled “Order Audit Trail System,” as such rules may be in effect from time to time, and reference FINRA Rule 4590 entitled “Synchronization of Member Business Clocks.” In the proposed rule changes, the Exchanges proposed to incorporate by reference FINRA Rules 4590, 7440,

and 7450, and thus make these rules applicable to Exchange members in the case of BX, and member organizations in the case of Phlx.⁴

The Exchanges request, pursuant to Rule 0-12 under the Exchange Act,⁵ that the Commission grant the Exchanges an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to each Exchange’s rules that are effected solely by virtue of a change to FINRA Rules 4590, 7440, and 7450 that are incorporated by reference. Specifically, the Exchanges request that they be permitted to incorporate by reference changes made to FINRA Rules 4590, 7440, and 7450 that are cross-referenced in the Exchanges’ rules without the need for each Exchange to separately file, pursuant to Section 19(b) of the Exchange Act, the same proposed rule change as filed by FINRA.⁶

The Exchanges represent that FINRA Rules 4590, 7440, and 7450 are regulatory in nature and that they do not intend to incorporate by reference any trading rules.⁷ Further, the Exchanges represent that they will, as a condition of this exemption, provide written notice to their members whenever FINRA proposes a change to FINRA Rules 4590, 7440, and 7450.⁸ Such notice will alert the members of each Exchange to the proposed rule change and give them an opportunity to comment on the proposal. The Exchanges state that they will also inform members in writing when the Commission approves any such proposed rule change.⁹

The Exchanges believe this exemption is appropriate because it will result in the Exchanges’ rules pertaining to OATS compliance remaining consistent at all times, thus ensuring consistent regulation of joint members of the Exchanges, as well as the Nasdaq Market.¹⁰

⁴ The Exchanges stated in their proposed rule changes specified in note 3 above that the changes would not be operative until such time as the Commission granted their request for an exemption from the rule filing requirements of Section 19(b) of the Exchange Act.

⁵ 17 CFR 240.0-12.

⁶ See Letter from T. Sean Bennett, Principal Associate General Counsel, Nasdaq Inc., to Brent J. Fields, Secretary, Commission, dated November 29, 2018.

⁷ See *id.* at 2.

⁸ The Exchanges also state that they will provide such notice on their websites in the same section they use to post their own proposed rule changes pursuant to Rule 19b-4(l) of the Exchange Act. In addition, the Exchanges state that their websites will include a link to the FINRA website where the proposed rule change would be located. *Id.*

⁹ *Id.*

¹⁰ *Id.*

The Commission has issued exemptions similar to the Exchanges’ request.¹¹ In granting one such exemption in 2010, the Commission repeated a prior, 2004 Commission statement that it would consider similar future exemption requests from other self-regulatory organizations (“SROs”), provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission’s release governing procedures for requesting exemptive orders pursuant to Rule 0-12 under the Exchange Act;¹²

- The incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.*, the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and

- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.¹³

The Commission believes that the Exchanges have satisfied each of these

¹¹ See, *e.g.*, Securities Exchange Act Release Nos. 80338 (March 29, 2017), 82 FR 16464 (April 4, 2017) (order granting exemptive request from MIAX PEARL, LLC relating to rules of Miami International Securities Exchange, LLC incorporated by reference); 72650 (July 22, 2014), 79 FR 44075 (July 29, 2014) (order granting exemptive requests from NASDAQ OMX BX, Inc. and the NASDAQ Stock Market LLC relating to rules of NASDAQ OMX PHLX LLC incorporated by reference); 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR-BX-2012-030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc.’s exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (“BATS Options Market Order”); and 57478 (March 12, 2008), 73 FR 14521, 14539-40 (March 18, 2008) (order approving SR-NASDAQ-2007-004 and SR-NASDAQ-2007-080, and granting exemptive request relating to rules incorporated by reference by The NASDAQ Options Market).

¹² See 17 CFR 240.0-12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (“Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule”).

¹³ See BATS Options Market Order, *supra* note 11 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (“2004 Order”).

¹ 15 U.S.C. 78s(b).

² 15 U.S.C. 78mm(a)(1).

³ See Securities Exchange Act Release Nos. 84227 (September 20, 2018), 83 FR 48483 (September 25, 2018) (SR-BX-2018-045) and 84545 (November 6, 2018), 83 FR 56387 (November 13, 2018) (SR-Phlx-2018-68).