member or customer relying on the Index Exemption retains, a list of the options, securities and other instruments underlying each options position net delta calculation reported to the Exchange hereunder, and (ii) produce such information to the Exchange upon request.[26]

Reliance on Federal Oversight. As provided under proposed Rule 24.4.05(C), a permitted pricing model includes proprietary pricing models used by members and affiliates that have been approved by the SEC, the Fed or another Federal financial regulator. In adopting the proposed Index Exemption the Exchange would be relying upon the rigorous approval processes and ongoing oversight of a Federal financial regulator. The Exchange notes that it would not be under any obligation to verify whether a member's or its affiliate's use of a proprietary pricing model is appropriate or yielding accurate results.

The Exchange will announce the effective date of the proposed rule change in a regulatory circular to be published no later than 60 days after Commission approval. The effective date shall be no later than 30 days after publication of the regulatory circular.

2. Statutory Basis

The Exchange believes that this proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 ("Act") [27], in general, and furthers the objectives of Section 6(b)(5) of the Act [28] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, 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. The Exchange believes that allowing correlated instruments to be included in the calculation of an equity option's net delta would enable eligible market participants to more fully realize the benefit of the delta based equity hedge exemption. The proposed delta-based index hedge exemption would be substantially similar to the delta-based equity hedge exemption under Rule 4.11.04. Also, the Commission has previously stated its support for recognizing options positions hedged on a delta neutral basis as properly exempted from position limits.[29]

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

CBOE does not believe that the proposed rule change will impose any burden on competition 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

The Exchange neither solicited nor received comments on the proposal.

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. 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–CBOE–2010–021 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–CBOE–2010–021. 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,[30] 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 Web site viewing and printing in the Commission's Public Reference Room, on official business days between the hours of 10 a.m. and 3 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–CBOE–2010–021 and should be submitted on or before April 23, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7462 Filed 4–1–10; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61797; File No. SR–BX–2010–009]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Order Approving Proposed Rule Change, as Modified by Amendments No. 1 and 3 Thereto, Relating to the Directed Order Process on the Boston Options Exchange Facility

March 29, 2010.

I. Introduction

On January 25, 2010, NASDAQ OMX BX, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act

[26] A member would be authorized to report position information of its non-member affiliate pursuant to the written statement required under proposed Rule 24.4.05(E)(3)(ii)(d).

[27] 15 U.S.C. 78f(b).

[28] 15 U.S.C. 78f(b)(5).

[29] *See* Securities Exchange Act Release No. 40594 (October 23, 1998), 63 FR 59362, 59380 (November 3, 1998) (adopting rules relating to OTC Derivatives Dealers).

[30] The text of the proposed rule change is available on the Commission's Web site at *http://www.sec.gov/rules/sro.shtml.*

[31] 17 CFR 200.30–3(a)(12).

of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change amending the rules of the Boston Options Exchange Group, LLC ("BOX") to modify the Directed Order process on BOX. The Exchange filed Amendment No 1. to the proposed rule change on February 10, 2010. The proposed rule change, as modified by Amendment No. 1, was published in the **Federal Register** on February 24, 2010.[3] On March 22, 2010, the Exchange filed Partial Amendment No. 2 ("Amendment No. 2") to the proposed rule change, and on March 24, 2010, the Exchange filed Partial Amendment No. 3 ("Amendment No. 3") to the proposed rule change.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as modified by Amendments No. 1 and 3.

II. Description of the Proposal

The Exchange is proposing modifications to the Directed Order process on BOX.[5] Specifically, the Exchange is proposing to automate the creation of the Guaranteed Directed Order ("GDO") and the manner in which the quote of an Executing Participant ("EP") [6] is handled during the Directed Order process.

A. Quote Shelving and GDO

Currently, upon receipt of a Directed Order an EP must either submit the Directed Order to the PIP [7] or send the Directed Order to the BOX Book. When the EP sends the Directed Order to the BOX Book and the EP's quotation on the opposite side of the market from the Directed Order is equal to the National Best Bid or Offer ("NBBO") and the Directed Order is also executable against the NBBO, the EP must guarantee execution of the Directed Order at the current NBBO for at least the size of his quote. This guarantee is called the GDO. Under the current rule, the EP must immediately send the Directed Order with the GDO to the Trading Host. Sending the GDO to the Trading Host enables it to simultaneously take down or "shelve" the EP's quote and any pending quote updates while the Directed Order is being exposed on the BOX Book.

Under the proposal, if the Directed Order is executable against the current NBBO and the EP is also quoting at such NBBO on the opposite side of the Directed Order, the GDO will be automatically created by the Trading Host and the EP's quote will be automatically shelved. In addition, the GDO creation and the quote shelving will be moved to an earlier point in the Directed Order process. Where presently they occur only when the Directed Order is sent to the BOX Book by the EP, they will now take place immediately upon the Trading Host's receipt of the Directed Order from the submitting order flow provider ("OFP").[8]

Once the GDO has been generated by the Trading Host, the EP will systemically be prohibited from posting a quotation. The EP's pending quote that was taken down by the Trading Host will not be released until: (i) The Directed Order is modified by the submitting OFP; (ii) the EP sends the Directed Order to the PIP; or (iii) the EP submits the Directed Order to the BOX Book, and either one of the following occurs: (a) the Directed Order trades in full; (b) the Directed Order exposition ends; or (c) the Directed Order is modified or cancelled by the submitting OFP during such exposition.

Under the proposal, if the Directed Order is modified by the submitting OFP once the Trading Host has automatically established the GDO, then the modified Directed Order shall no longer be considered a Directed Order and shall be immediately released to the BOX Book and treated as a regular order.[9] If no GDO had been established, then the modified Directed Order shall be resubmitted to the EP. The proposal provides that it shall be considered by the Exchange to be conduct inconsistent with just and equitable principles of trade for any Options Participant or person to communicate with an EP about the terms or conditions of a Directed Order prior to its outcome in the BOX Trading Host (*e.g.* execution, cancellation).

Under the proposal, the EP's obligations when using the PIP remain the same as under the current rule, however in some instances the obligation will be met automatically by the Trading Host. For example, if a GDO has been automatically generated, then the Trading Host will prohibit the EP from adjusting his quotation prior to submitting the Directed Order to the PIP process. Moreover, upon submission of the Directed Order to the PIP, the Trading Host will only accept a Primary Improvement Order priced at or better than (i) the GDO or (ii) the NBBO at the time the EP sent the Directed Order to the PIP, whichever is better for the Directed/PIP Order.

The Exchange proposes to add certain details and clarifications to the rule regarding the treatment of Directed Orders that have been released to the BOX Book for exposure when a GDO has been automatically generated. The proposal clarifies that when the EP does not PIP the Directed Order and releases it to the BOX Book, if a GDO has been automatically generated and the Directed Order is not executable against the current NBBO, then the Trading Host will expose the order at the better GDO price for three (3) seconds.[10] Under the proposal, if a GDO has been automatically generated and the Directed Order is executable against the current NBBO, the Directed Order will immediately execute against the BOX Book if the BOX Best Bid or Offer is equal to or better than the NBBO and GDO. Any remaining quantity not executed will immediately be exposed to BOX Participants at the better of the NBBO or GDO price. As is the case under the current rule, this exposure period will last three (3) seconds, during which time any Options Participant,

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 61531 (February 17, 2010), 75 FR 8416 (hereinafter referred to as "Notice").

[4] Amendment No. 3 replaced and superseded Amendment No. 2 in its entirety. In Amendment No. 3, the Exchange made conforming changes to its rule text to reflect a recently approved proposed rule change. *See* Securities Exchange Act Release No. 61577 (February 24, 2010), 75 FR 9496 (March 2, 2010) (SR–BX–2010–017). This technical amendment does not require notice and comment as it did not materially affect the substance of the rule filing.

[5] *See* Chapter VI, Section 5(c). A Directed Order is any Customer Order to buy or sell which has been directed to a particular Market Maker by an OFP. *See* Chapter I, Section 1(a)(21) of the BOX Rules. Terms not otherwise defined herein shall have the meaning assigned to them in the BOX Rules.

[6] When a BOX Market Maker indicates its interest in receiving Directed Orders, the receiving Market Maker is referred to as the EP.

[7] *See* Chapter V, Section 18 of the BOX Rules.

[8] The proposal clarifies that if a GDO has been automatically generated and is pending, then upon receipt by the Trading Host of a subsequent Directed Order for the same EP for the same series and side of the market, such subsequent order will not be considered a Directed Order but will be treated as a regular order. The Trading Host will not send the order to the EP, but will immediately release it to the BOX Book as a regular order. If no GDO has been automatically generated, then such subsequent order will be sent to the EP and treated as a new Directed Order. *See* electronic mail from Wayne Pestone, Chief Legal Officer, BOX, to Heather Seidel, Terri Evans and Sarah Schandler, Division of Trading and Markets, Commission, dated February 3, 2010 (confirming that the Directed Order process currently functions in this manner on BOX).

[9] Upon modification or cancellation of the Directed Order, the Trading Host will immediately reestablish the EP's quote, including any of the EP's pending quote modifications, with a new time priority; or in the case of a pending quote cancellation, the EP's quote will be cancelled.

[10] *See* electronic mail from Wayne Pestone, Chief Legal Officer, BOX, to Heather Seidel, Terri Evans and Sarah Schandler, Division of Trading and Markets, Commission, dated February 3, 2010 (confirming that the Directed Order process currently functions in this manner on BOX).

except for the EP, may submit an order to the BOX Book in response, and any orders submitted to the BOX Book during this period will execute immediately against any remaining quantity of the Directed Order, in time priority. Also as is the case under the current rule, after exposure of the Directed Order for three (3) seconds, the Trading Host will release the GDO, where it will be able to execute against any remaining quantity of the Directed Order.

During the exposure period, the EP may not decrement the size, worsen the price of his GDO or submit a contra order. Because the Trading Host will now automatically create the GDO and shelve the EP's quote, it will not process such changes to the GDO or pending quote, except a decrementation of the GDO size down to the size of the remaining Directed Order after execution with the BOX Book. The EP may increase the size of his GDO, the same as today. Under the proposal the EP also may better the price of his GDO or modify his pending quote to be reestablished, but the Trading Host will not apply such modification until the quote is reestablished. Following execution of the Directed Order, the Trading Host will reestablish the quote of the EP with a new time priority, decremented by any executed portion of the GDO or as modified by the EP.

The Exchange also proposes to make several additional changes to the text of Chapter VI, Section 5(c). The Exchange proposes to change several references to "Market Maker" to "EP" to more closely align the rule text with the terminology used to describe the Directed Order process. In addition, the Exchange proposes to add the word "current" before certain instances of the term "NBBO" in order to clarify which NBBO is being referenced at a particular stage in the Directed Order process. The Exchange also is proposing to remove from Section 5(c)(iii)(1) certain language about the function of the NBBO filter process pursuant to Chapter V, Section 16(b), which the Exchange views as unnecessary and duplicative.

B. Market Maker Quoting Obligations

The Exchange proposes to add new Supplementary Material .02 to Chapter VI, Section 5(c)(ii). The proposed Supplementary Material .02 states that when a Market Maker's quote is shelved while acting as EP, such time without posting a quote will not count towards fulfilling his obligations for purposes of the Market Maker's quoting obligations under Chapter VI, Section 6(d) of the BOX Rules.

C. Implementation

The Exchange has represented that after Commission approval and at least one week prior to implementation of the rule change, Boston Options Exchange Regulation LLC will issue a regulatory circular to all Participants that will inform Participants of the implementation date and will give Participants an opportunity to make any necessary modifications to coincide with the implementation date.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of an exchange are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.[12]

As noted above, BOX Rules currently provide that if an EP is at the NBBO and the Directed Order is marketable, the EP must guarantee execution of that order at the NBBO for at least the size of his quote. Under the current rule, the EP is responsible for submitting a GDO to the Trading Host. Pursuant to the proposed rule change, the Exchange is proposing to automate the GDO process. The Commission believes that automating the GDO process, including "shelving" the EP's quote, should help ensure that GDOs are generated in compliance with BOX rules. Further, the Commission believes that automating the creation of the GDO by the Trading Host will aid Market Makers in complying with the BOX rules regarding Directed Orders.

The Exchange has proposed the addition of language to the rule text to describe the treatment of a Directed Order when the Directed Order is subsequently modified or cancelled, depending upon whether a GDO has been automatically generated. The Commission believes that the Exchange's proposed treatment of modified or cancelled Directed Orders is consistent with the Act. As discussed above, the Exchange has proposed that it would be conduct inconsistent with just and equitable principles of trade for any Options Participant or person to communicate with an EP about the terms or conditions of a Directed Order prior to its outcome in the BOX Trading Host. Moreover, when a Directed Order is modified or cancelled after a GDO has been automatically generated, the EP's quote will be reestablished with a new time priority. The Commission believes that these provisions should ensure that Directed Orders are not modified or cancelled in a manner that would be inconsistent with the Act.

As set forth above, the Exchange has proposed the addition of language to the rule text to describe what occurs on BOX when a GDO has been automatically generated and is pending and the Trading Host receives a subsequent Directed Order for the same EP. The Exchange has also proposed the addition of language to the rule text to clarify the treatment of Directed Orders that have been released to the Box Book for exposure after a GDO has been automatically generated. The Exchange has represented that the processes described by this additional and clarifying language are currently a part of the Directed Order process on BOX although not specifically set forth in the current rule text. The Exchange also proposes to make several non-substantive changes in the text of Chapter VI, Section 5(c) to more closely align the rule text with the terminology used to describe the Directed Order process and to remove duplicative language. The Commission believes that these changes and additions, which will provide greater clarity throughout the Directed Order process for Market Makers, OFPs and other Participants on BOX and will more closely align the rule text with the Directed Order process as it occurs on BOX, are consistent with the Act.

The Commission also believes that the Exchange's proposed addition of Supplementary Material .02, clarifying that the time that a Market Maker's quote is shelved does not count towards fulfilling his quoting obligations under Chapter VI, Section 6(d) of the BOX Rules, is appropriate and consistent with the Act. The Commission notes that Market Makers are subject to quoting requirements under Chapter VI, Section 6(d). Specifically, Market Makers are required on a daily basis to post quotes at least 80 percent of the

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(4). In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

time an options class is open for trading in 90 percent of their appointed classes. Furthermore, Market Makers must post valid quotations at least 60 percent of the time in each of their appointed classes during the time that the class is open for trading. Accordingly, the Commission believes that it is appropriate for the Exchange to exclude the time a Market Maker's quote is shelved under the Directed Order process in determining whether a Market Maker has satisfied his quoting obligations as no quote will be posted by the Market Maker during such time the quote is shelved.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–BX–2010–009), as modified by Amendments No. 1 and 3 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–7431 Filed 4–1–10; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 6910]

Advisory Committee on International Economic Policy; Notice of Open Meeting

The Advisory Committee on International Economic Policy (ACIEP) will meet from 2 p.m. to 4 p.m. on Thursday, April 15, 2010, at the U.S. Department of State, 2201 C Street, NW., Room 1107, Washington, DC. The meeting will be hosted by the Assistant Secretary of State for Economic, Energy, and Business Affairs Jose W. Fernandez and Committee Chair Ted Kassinger. The ACIEP serves the U.S. Government in a solely advisory capacity, and provides advice concerning issues and challenges in international economic policy. The meeting will focus on key economic and commercial priorities for the Department. Subcommittee reports and discussions will be led by the Economic Empowerment in Strategic Regions Subcommittee, the Economic Sanctions Subcommittee, and the Investment Subcommittee.

This meeting is open to public participation, though seating is limited. Entry to the building is controlled; to obtain pre-clearance for entry, members of the public planning to attend should provide, by Monday, April 12, their name, professional affiliation, valid government-issued ID number (*i.e.,* U.S. Government ID [agency], U.S. military ID [branch], passport [country], or drivers license [state]), date of birth, and citizenship to Sherry Booth by fax (202) 647–5936, e-mail (*Boothsl@state.gov*), or telephone (202) 647–0847. One of the following forms of valid photo identification will be required for admission to the State Department building: U.S. driver's license, U. S. Government identification card, or any valid passport. Enter the Department of State from the C Street lobby. In view of escorting requirements, non-Government attendees should plan to arrive 15 minutes before the meeting begins. Requests for reasonable accommodation should be made to Sherry Booth prior to Thursday, April 8th. Requests made after that date will be considered, but might not be possible to fulfill.

For additional information, contact Senior Coordinator Nancy Smith-Nissley, Office of Economic Policy Analysis and Public Diplomacy, Bureau of Economic, Energy and Business Affairs, at (202) 647–1682 or *Smith-NissleyN@state.gov.*

Dated: March 29, 2010.

Sandra E. Clark,

Office Director, Office of Economic Policy Analysis and Public Diplomacy, U.S. Department of State.

[FR Doc. 2010–7477 Filed 4–1–10; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Establishment of the Future of Aviation Advisory Committee

AGENCY: U.S. Department of Transportation, Office of the Secretary of Transportation.

ACTION: Notice of Intent to Establish the Future of Aviation Advisory Committee.

SUMMARY: On March 24, 2010, the Secretary of Transportation authorized the establishment of a Federal Advisory Committee to address aviation issues. The Future of Aviation Advisory Committee (FAAC) will present information, advice, and recommendations to the Secretary of Transportation on ensuring the competitiveness of the U.S. aviation industry and its capability to address the evolving transportation needs, challenges, and opportunities of the global economy. The committee will consist of approximately 19 voting members. The committee will provide its recommendations to the Secretary of Transportation and will make them available to the public. The membership of the FAAC will be representative of the various stakeholders in the aviation industry.

DATES: This charter will be effective 15 days after the posting of this notice.

FOR FURTHER INFORMATION CONTACT: Christa Fornarotto, Deputy Assistant Secretary of Transportation Office of Aviation and International Affairs, 202–366–4551 or *Aloha.Ley@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

On November 12, 2009, the Secretary of Transportation convened a meeting of the aviation industry stakeholders. The Secretary solicited input from the attendees about identifying the most important issues currently facing the aviation industry.

In accordance with the requirements of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. 2, the Department is publishing this notice to announce the Secretary's intent to establish an advisory committee. The advisory committee's objective will be to provide advice and recommendations to the Secretary regarding the aviation issues identified in its charter.

The advisory committee is expected to meet at least four times during this year to carry out its duties. Meetings of subcommittees or work groups may occur more frequently. Members of the public may review the draft charter for FAAC at *http://www.regulations.gov* in docket number DOT–OST–2010–0074.

Issued the 26th day of March, 2010, in Washington, DC.

Ray LaHood,

Secretary of Transportation.

[FR Doc. 2010–7440 Filed 4–1–10; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub-No. 13)]

Railroad Cost of Capital—2009

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of decision instituting a proceeding to determine the railroad industry's 2009 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).