Management, 202–789–6898, or *judith.grady@prc.gov* as soon as possible.

B. Flagstaff, Arizona Hearing

The Flagstaff hearing will be held on Wednesday, May 21, 2008, at City Hall, 211 West Aspen Ave. The hearing is scheduled to begin at 2 p.m. and conclude at 4 p.m. Details concerning the witness list will be posted on the Commission's Web site.

C. St. Paul, Minnesota Hearing

The St. Paul field hearing will be held on Thursday, June 5, 2008, in City Council Chambers on the third floor of the City Hall/Court House Building, 15 Kellogg Blvd. The hearing is scheduled to begin at 10 a.m. and conclude at 12 p.m. Details concerning the witness list will be posted on the Commission's Web site.

D. Portsmouth, New Hampshire Hearing

The Portsmouth field hearing will be held on Thursday, June 19, 2008, at City Hall, 1 Junkins Ave. The hearing is scheduled to begin at 2 p.m. and conclude at 4 p.m. Details concerning the witness list will be posted on the Commission's Web site.

IV. Ordering Paragraphs

It is Ordered:

1. The Commission will hold the scheduled field hearings and public workshop referred to in the body of this order.

2. The Secretary shall arrange for publication of this notice in the **Federal Register**.

By the Commission.

Dated: May 16, 2008.

Garry J. Sikora,

Acting Secretary.

[FR Doc. E8–11453 Filed 5–21–08; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon written request, copies available from: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213

Extension:

Regulation S–X; SEC File No. 270–3; OMB Control No. 3235–0009.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Information collected and information prepared pursuant to Regulation S–X focus on the form and content of, and requirements for, financial statements filed with periodic reports and in connection with the offer and sale of securities. Investors need reasonably current financial statements to make informed investment and voting decisions.

The potential respondents include all entities that file registration statements or reports pursuant to the Securities Act of 1933 (15 U.S.C. 77a, *et seq.*), the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*) or the Investment Company Act of 1940 (15 U.S.C. 80a–1, *et seq.*).

Regulation S–X specifies the form and content of financial statements when those financial statements are required to be filed by other rules and forms under the federal securities laws. Compliance burdens associated with the financial statements are assigned to the rule or form that directly requires the financial statements to be filed, not to Regulation S–X. Instead, an estimated burden of one hour traditionally has been assigned to Regulation S–X for incidental reading of the regulation. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

Recordkeeping retention periods are based on the disclosure required by various forms and rules other than Regulation S–X. In general, balance sheets for the preceding two fiscal years, income and cash flow statements for the preceding three fiscal years, and condensed quarterly financial statements must be filed with the Commission. Five-year summary financial information is required to be disclosed by some larger registrants.

Filing financial statements, when required by the governing rule or form, is mandatory. Because these statements are provided for the purpose of disseminating information to the securities markets, they are not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or send an e-mail to: *Alexander_T._Hunt@omb.eop.gov*, and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: May 15, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–11430 Filed 5–21–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57818; File No. SR–Amex–2008–30]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Amend the Eligibility Criteria for Components of an Index or Portfolio Underlying Portfolio Depositary Receipts and Index Fund Shares

May 15, 2008.

I. Introduction

On March 25, 2008, the American Stock Exchange LLC (''Amex'' 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 amend Commentary .03 to Amex Rule 1000–AEMI (Portfolio Receipts or ''PDRs'') and Commentary .02 to Amex Rule 1000A–AEMI (Index Fund Shares or ''IFSs,'' and together with PDRs, collectively, ''ETFs'') to modify certain eligibility criteria for components of an index or portfolio underlying ETFs. On April 1, 2008, the Exchange filed Amendment No. 1 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on April 14, 2008.[3] The Commission received no comments on the proposed rule change. This order

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 57631 (April 8, 2008), 73 FR 20074.

approves the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposal

The Exchange proposes to amend Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI to exclude ETFs and securities defined as Managed Fund Shares (Amex Rule 1000B), Trust Issued Receipts (Amex Rule 1200), Commodity-Based Trust Shares (Amex Rule 1200A), Currency Trust Shares (Amex Rule 1200B), Partnership Units (Amex Rule 1500), and Paired Trust Shares (Amex Rule 1600) (together with ETFs, collectively, ''Derivative Securities Products'') when applying certain quantitative listing requirements of Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI. In this way, the Exchange seeks to enable the listing and trading of ETFs that are linked to, or based on, components that are Derivative Securities Products pursuant to Rule 19b–4(e) under the Act.[4]

Amex Rules 1000–AEMI and 1000A–AEMI provide that the Exchange may approve a series of PDRs and IFSs, respectively, for listing and/or trading (including pursuant to unlisted trading privileges) pursuant to Rule 19b–4(e) under the Act,[5] if such series satisfies the criteria set forth in such Rules. In its proposal, the Exchange seeks to exclude Derivative Securities Products when applying certain quantitative listing requirements of Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI relating to the listing of PDRs and IFSs, respectively, based on a U.S. index or portfolio or an international or global index or portfolio.

With respect to Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI, the Exchange proposes to exclude Derivative Securities Products, as components, when applying the following existing component eligibility requirements: (1) Component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum market value of at least $75 million (Commentary .03(a)(A)(1) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(1) to Amex Rule 1000A–AEMI); (2) component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum monthly trading volume during each of the last six months of at least 250,000 shares (Commentary .03(a)(A)(2) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(2) to Amex Rule 1000A–AEMI); and (3) the most heavily weighted component stock must not exceed 30% of the weight of the index or portfolio, and the five most heavily weighted component stocks must not exceed 65% of the weight of the index or portfolio (Commentary .03(a)(A)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(3) to Amex Rule 1000A–AEMI). Component stocks, in the aggregate, excluding Derivative Securities Products, would still be required to meet the criteria of these provisions. Thus, for example, when determining compliance with Commentaries .03(a)(A)(1) and (2) to Amex Rule 1000–AEMI and Commentaries .02(a)(A)(1) and (2) to Amex Rule 1000A–AEMI, component stocks that, in the aggregate, account for at least 90% of the remaining index weight, after excluding any Derivative Securities Products, would be required to have a minimum market value of at least $75 million and minimum monthly trading volume of 250,000 shares during each of the last six months, respectively. In addition, with respect to Commentary .03(a)(A)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(3) to Amex Rule 1000A–AEMI, when determining the component weight for the most heavily weighted stock and the five most heavily weighted component stocks for an underlying index that includes a Derivative Securities Product, the weight of such Derivative Securities Products included in the underlying index or portfolio would not be considered.

In addition, the Exchange proposes to modify the requirements in Commentary .03(a)(A)(4) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(4) to Amex Rule 1000A–AEMI, which provide that the underlying index or portfolio must include a minimum of 13 component stocks. Specifically, the Exchange proposes that there shall be no minimum number of component stocks if: (1) One or more series of ETFs constitute, at least in part, components underlying a series of ETFs; or (2) one or more series of Derivative Securities Products account for 100% of the weight of the index or portfolio. Thus, for example, if the index or portfolio underlying a series of ETFs includes one or more series of ETFs, or if it consists entirely of other Derivative Securities Products, then there would not be required to be any minimum number of component stocks (*i.e.*, one or more components comprising the underlying index or portfolio would be acceptable). However, if the index or portfolio consists of Derivative Securities Products other than ETFs (*e.g.*, Commodity-Based Trust Shares or Currency Trust Shares), as well as securities that are not Derivative Securities Products (*e.g.*, common stocks), then there would have to be at least 13 components in the underlying index or portfolio.

Consistent with current Commentary .03(a)(A)(5) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(5) to Amex Rule 1000A–AEMI, all securities in the index or portfolio would have to be ''US Component Stocks'' (as defined in Amex Rules 1000–AEMI(b)(3) and 1000A–AEMI(b)(4))[6] listed on a national securities exchange and NMS Stocks, as defined in Rule 600 of under the Act.[7]

With respect to Commentary .03(a)(B) to Amex Rule 1000–AEMI and Commentary .02(a)(B) to Amex Rule 1000A–AEMI, the Exchange proposes to exclude Derivative Securities Products, as components, when applying the following existing component eligibility requirements: (1) Component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum market value of at least $100 million (Commentary .03(a)(B)(1) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(1) to Amex Rule 1000A–AEMI); (2) component stocks that, in the aggregate, account for at least 90% of the weight of the index or portfolio each must have a minimum worldwide monthly trading volume during each of the last six months of at least 250,000 shares (Commentary .03(a)(B)(2) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(2) to Amex Rule 1000A–AEMI); and (3) the most heavily weighted component stock must not exceed 25% of the weight of the index or portfolio, and the five most heavily weighted component stocks must not exceed 60% of the weight of the index or portfolio (Commentary .03(a)(B)(3) to

[4] Rule 19b–4(e) under the Act provides that the listing and trading of a new derivative securities product by a self-regulatory organization (''SRO'') shall not be deemed a proposed rule change, pursuant to Rule 19b–4(c)(1) (17 CFR 240.19b–4(c)(1)), if the Commission has approved, pursuant to Section 19(b) of the Act (15 U.S.C. 78s(b)), the SRO's trading rules, procedures, and listing standards for the product class that would include the new derivatives securities product, and the SRO has a surveillance program for the product class. *See* 17 CFR 240.19b–4(e).

[5] *See id.*

[6] ''US Component Stock'' is an equity security that is registered under Section 12(b) or 12(g) of the Act or an American Depositary Receipt, the underlying equity security of which is registered under Section 12(b) or 12(g) of the Act. *See* Amex Rules 1000–AEMI(b)(3) and 1000A–AEMI(b)(4).

[7] *See* 17 CFR 242.600(b)(47).

Amex Rule 1000–AEMI and Commentary .02(a)(B)(3) to Amex Rule 1000A–AEMI). Thus, for example, when determining compliance with Commentaries .03(a)(B)(1) and (2) to Amex Rule 1000–AEMI and Commentaries .02(a)(B)(1) and (2) to Amex Rule 1000A–AEMI, component stocks that, in the aggregate, account for at least 90% of the remaining index weight, after excluding any Derivative Securities Products, would be required to have a minimum market value of at least $100 million and minimum worldwide monthly trading volume of 250,000 shares during each of the last six months, respectively. In addition, with respect to Commentary .03(a)(B)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(3) to Amex Rule 1000A–AEMI, when determining the component weight for the most heavily weighted stock and the five most heavily weighted component stocks for an underlying index that includes a Derivative Securities Product, the weight of such Derivative Securities Products included in the underlying index or portfolio would not be considered.

In addition, the Exchange proposes to modify the requirements in Commentary .03(a)(B)(4) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(4) to Amex Rule 1000A–AEMI, which provide that the underlying index or portfolio must include a minimum of 20 component stocks. Specifically, the Exchange proposes that there shall be no minimum number of component stocks if: (1) One or more series of ETFs constitute, at least in part, components underlying a series of ETFs; or (2) one or more series of Derivative Securities Products account for 100% of the weight of the index or portfolio. Thus, for example, if the index or portfolio underlying a series of ETFs includes one or more series of ETFs, or if it consists entirely of other Derivative Securities Products, then there would not be required to be any minimum number of component stocks (*i.e.*, one or more components comprising the underlying index or portfolio would be acceptable). However, if the index or portfolio consists of Derivative Securities Products other than ETFs (*e.g.*, Commodity-Based Trust Shares or Currency Trust Shares), as well as securities that are not Derivative Securities Products (*e.g.*, common stocks), then there would have to be at least 20 components in the underlying index or portfolio.

Consistent with current Commentary .03(a)(B)(5) to Amex Rule 1000–AEMI and Commentary .02(a)(B)(5) to Amex Rule 1000A–AEMI, each component that is a U.S. Component Stock (which would include each Derivative Securities Product) would be required to be listed on a national securities exchange and be an NMS Stock, as defined in Rule 600 under the Act, and each component that is a Non-US Component Stock (as defined in Amex Rules 1000–AEMI(b)(4) and 1000A–AEMI(b)(5)) [8] would be required to be listed and traded on an exchange that has last-sale reporting.

III. Discussion and Commission's Findings

After careful review and based on the Exchange's representations, 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.[9] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of an exchange be designed 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, protect investors and the public interest.

Under Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI, one or more series of Derivative Securities Products may be included as a component comprising the index or portfolio underlying a series of ETFs.[11] The Commission notes that, based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations. However, because Derivative Securities Products are themselves subject to specific initial and continued listing requirements, the Commission believes that it would be reasonable to exclude Derivative Securities Products, as components, when applying certain quantitative listing requirements related to the listing of PDRs and IFSs. For example, the index component eligibility standards for ETFs require, among others, that there be a minimum of 13 component stocks in an underlying U.S. index or portfolio and a minimum of 20 component stocks in an international or global index or portfolio. If one or more series of ETFs constitutes, at least in part, a component of a U.S. or international index underlying a series of ETFs, the Commission believes that not requiring a minimum number of components underlying such overlying ETFs would be reasonable because each component ETF already requires a minimum of 13 or 20 component stocks, as the case may be. In addition, if the index or portfolio underlying a series of ETFs consists entirely of other component Derivative Securities Products, then there would be no required minimum number of component stocks. The Commission notes that, if a series of ETFs is based on the performance of an underlying index or portfolio composed, in part, of: (1) An ETF and another non-Derivative Securities Product (*e.g.*, common stock), or (2) a Derivative Securities Product other than an ETF, then the minimum number of component stock requirement will continue to apply.

In addition, because component Derivative Securities Products may comprise 100% of the weight of any index underlying a series of ETFs, the Commission believes that providing for an exception to the concentration limits contained in Commentary .03(a)(A)(3) to Amex Rule 1000–AEMI and Commentary .02(a)(A)(3) to Amex Rule 1000A–AEMI with respect to component Derivative Securities Products is reasonable. The Commission further notes that component Derivative

[8] ''Non-US Component Stock'' is an equity security that is not registered under Section 12(b) or 12(g) of the Act and that is issued by an entity that (1) is not organized, domiciled, or incorporated in the United States, and (2) is an operating company (including Real Estate Investment Trusts and income trusts, but excluding investment trusts, unit trusts, mutual funds, and derivatives). *See* Amex Rules 1000–AEMI(b)(4) and 1000A–AEMI(b)(5).

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

[10] 15 U.S.C. 78f(b)(5).

[11] Under Commentary .03 to Amex Rule 1000–AEMI and Commentary .02 to Amex Rule 1000A–AEMI, a series of a Derivative Securities Product may be included as a U.S. Component Stock or Non-U.S. Component Stock underlying a series of PDRs or IFSs, respectively, so long as the shares of such series meet the definitions of U.S. Component Stock and Non-U.S. Component Stock, as applicable. *See supra* notes 6 and 8. *See also* Commentaries .03(a)(A)(5) and .03(a)(B)(5) to Amex Rule 1000–AEMI and Commentaries .02(a)(A)(5) and .02(a)(B)(5) to Amex Rule 1000A–AEMI (requiring that, in any event, all securities in the applicable index or portfolio must be a U.S. Component Stock listed on a national securities exchange and an NMS Stock, as defined in Rule 600 under the Act, or, in the case of an international or global index or portfolio, must be a Non-U.S. Component Stock that is listed and traded on an exchange that has last-sale reporting).

Securities Products that are U.S. Component Stocks comprising, at least in part, an index or portfolio underlying a series of Units must meet the definition of NMS Stock [12] and already have been listed and trading on a national securities exchange pursuant to a proposed rule change approved by the Commission pursuant to Section 19(b)(2) of the Act [13] or submitted by a national securities exchange pursuant to Section 19(b)(3)(A) of the Act,[14] or would have been listed by a national securities exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[15] Component Derivative Securities Products that are Non-U.S. Component Stocks comprising, at least in part, an international or global index or portfolio underlying a series of Units must already have been listed and trading on an exchange that has last-sale reporting.

The Commission believes that the proposed rule change will facilitate the listing and trading of additional types of exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the listing and trading criteria set forth in the proposal are intended to protect investors and the public interest. The Commission notes that it has approved a substantively identical proposal of another national securities exchange.[16] The Commission is not aware of any regulatory issue that should cause it revisit that finding and, as such, believes it is reasonable and consistent with the Act for the Exchange to modify the index component eligibility criteria for ETFs in the manner described in the proposal.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[17] that the proposed rule change (SR–Amex–2008–30), as modified by Amendment No. 1 thereto, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–11424 Filed 5–21–08; 8:45 am]

BILLING CODE 8010–01–P

[12] *See supra* note 7.

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

[14] 15 U.S.C. 78s(b)(3)(A).

[15] *See supra* note 4.

[16] *See* Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29).

[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57816; File No. SR–CBOE–2008–41]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change Relating to the Automated Improvement Auction

May 14, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 15, 2008, Chicago Board Options Exchange, Incorporated (''CBOE'' 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 substantially prepared by the Exchange. 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 allow orders for less than 50 contracts to be entered into the Automated Improvement Mechanism (''AIM'') at a price that matches the national best bid or offer (''NBBO''). The text of the proposed rule change is available at the Exchange, on the Exchange's Web site (*http://www.cboe.org/Legal*), and in the Commission's Public Reference Room.

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 Exchange 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

In order to provide additional opportunities for price improvement, the Exchange proposes to expand the application of its electronic AIM auction process. Under the AIM auction process, a member that represents agency orders may submit an order it represents as agent (''Agency Order'') along with a second order (a principal order or a solicited order for the same amount as the Agency Order) into the AIM auction where other participants can compete with the submitting member's second order to execute against the Agency Order. A member (the ''Initiating Member'') may initiate the AIM auction process provided certain requirements are met. These requirements include a condition that the Initiating Member stop the entire Agency Order as principal or with a solicited order at the following price: (i) If the Agency Order is for 50 contracts or more, at the better of the NBBO or the Agency Order's limit price (if the order is a limit order); and (ii) if the Agency Order is for less than 50 contracts, at the better of (A) the NBBO price improved by one minimum price improvement increment, which increment shall be determined by the Exchange but may not be smaller than one cent; or (B) the Agency Order's limit price (if the order is a limit order).

The Exchange is now proposing to modify this condition with respect to the stop price for orders of less than 50 contracts. Under the proposed rule change, such orders would be stopped at the better of the NBBO or the Agency Order's limit price (if the order is a limit order). Thus, orders for less than 50 contracts would be treated the same as orders for 50 contracts or more for purposes of the AIM stop price requirement. The Exchange believes this is a reasonable modification designed to provide additional flexibility for members to obtain executions on behalf of their customers while continuing to provide a meaningful, competitive auction. The Exchange believes this expansion of AIM would have the added benefit of providing members with an alternative method of achieving an execution at the NBBO for their customers without having to pay taker fees that may be associated with routing an order to another market in those scenarios where CBOE's best bid or offer is inferior to the NBBO.[3]

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

[2] 17 CFR 240.19b–4.

[3] Several options exchanges have adopted a fee structure in which firms receive a rebate for the execution of orders resting in the limit order book (*i.e.,* posting liquidity) and pay a fee for the execution of orders that trade against liquidity resting on the limit order book (*i.e.,* taking liquidity). Taker fees currently range up to $0.45 per contract and are charged without consideration of the order origin category, including public customer orders. In contrast, CBOE does not generally charge a fee for the execution of public customer orders. The effective price paid by a