previous day's closing price of the underlying security at the time of initial listing. Subsequently, the Exchange may list up to 60 additional strike prices that are within thirty percent (30%) of the previous day's close, or more than 30% away from the previous day's close provided demonstrated customer interest exists for such series.[5]

The Exchange has also adopted a delisting policy with respect to QOS in ETF options.[6] On a monthly basis, the Exchange reviews series that are outside a range of five (5) strikes above and five (5) strikes below the current price of the underlying ETF, and delists series with no open interest in both the put and the call series having either: (i) A strike price higher than the highest strike price with open interest in the put and/or call series for a given expiration month; or (ii) a strike price lower than the lowest strike price with open interest in the put and/or call series for a given expiration month. Notwithstanding the foregoing, the delisting policy also provides that customer requests to add strikes and/or maintain strikes in QOS in ETF options in series eligible for delisting shall be granted by the Exchange.

The Exchange also may list Quarterly Option Series based on an underlying index pursuant to similar provisions in Rule 24.9. There are two noteworthy distinctions between the rules for listing QOS based on an ETF versus QOS based on an index. First, whereas the initial listing of QOS based on an underlying ETF is restricted to strike prices within $5 from the previous day's closing price of the underlying security, the initial listing of strikes for QOS based on an underlying index is restricted to: (i) A price that is within thirty percent (30%) of the previous day's close, and (ii) no more than five strikes above and five strikes below the value of the underlying index. Second, whereas the Exchange may list up to 60 additional strike prices for each QOS based on an ETF, there is no firm cap on the additional listing of strikes for QOS based on an underlying index; rather, additional strike prices may be listed provided the new listings do not result in more than five strike prices on the same side of the underlying index value as the new listings. To date, the Exchange has not listed any Quarterly Option Series based on an underlying index.

In support of its proposal to permanently establish the QOS Program, and as required by the terms of the Pilot Program,[7] the Exchange submitted to the Commission a report detailing the Exchange's experience with the QOS Program (the ''Report'').[8] In addition to the Report, the Exchange represented that it has not experienced any capacity-related problems with respect to Quarterly Option Series, and that it has the necessary systems capacity to continue to support the option series listed under the QOS Program. Finally, the Exchange stated its belief that there is sufficient investor interest in, and demand for, the QOS Program to warrant its permanent approval.

After careful review, the Commission finds that the proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange,[9] and, in particular, the requirements of Section 6(b)(5) of the Act,[10] which requires, among other things, that the rules of a national securities exchange be designed 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.

The Commission finds that the QOS Program, as evidenced by the Report, has furthered the public interest by offering investors an alternative means of managing their risk exposures and carrying out their investment objectives. The Commission notes CBOE's representation that there is sufficient investor interest in the QOS Program to warrant its permanent approval. The Commission further notes CBOE's representations that it has not experienced any capacity-related problems with respect to Quarterly Option Series, and that the Exchange has the necessary system capacity to continue to support the option series listed under the QOS Program. Accordingly, the Commission finds that the proposed QOS Program strikes a reasonable balance between the Exchange's desire to offer a wider array of investment opportunities and the need to avoid the unnecessary proliferation of option series that could compromise systems capacity. The Commission expects CBOE to continue to monitor the trading and quotation volume associated with the QOS Program, and the effect the QOS Program has on the capacity of the Exchange's, OPRA's, and vendors' systems. In addition, the Commission expects the Exchange, consistent with its QOS delisting policy, to continue to monitor for option series with little or no open interest and trading activity and to act promptly to delist such options in order to mitigate the number of options series with no open interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–CBOE–2009–029) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–15350 Filed 6–29–09; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–60165; File No. SR–BX–2009–029]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish a Flash and Cancel Order

June 23, 2009.

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 June 17, 2009, NASDAQ OMX BX, Inc. (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change, as amended, as constituting a rule change under Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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[5] ''Demonstrated customer interest'' includes interest expressed by institutional, corporate or individual customers or their brokers. Market-Makers trading for their own account may not be considered when determining customer interest under this provision.

[6] *See* Securities Exchange Act Release No. 57410 (March 3, 2008), 73 FR 12483 (March 7, 2008) (SR–CBOE–2007–96).

[7] *See* Securities Exchange Act Release No. 54123, *supra* note 4.

[8] The Report was submitted under separate cover and seeks confidential treatment under the Freedom of Information Act.

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

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

[11] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

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

The Exchange proposes a rule change to establish a Flash and Cancel order. The Exchange has filed this proposal under Exchange Act Rule 19b–4(f)(6) [4] and, as such, the proposal is immediately effective.

The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://nasdaqtrader.com/Trader.aspx?id=Boston_Stock_Exchange*.

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

Nasdaq OMX BX is proposing to establish a new voluntary Flash and Cancel Order type. A Flash and Cancel Order will provide an optional pre-cancellation display period for market and marketable limit orders so designated. Under the proposal, market and marketable limit orders designated as Flash and Cancel Orders will, after first executing to the maximum extent possible in Nasdaq OMX BX's book, have their unexecuted portions displayed for potential execution at the NBBO such that a trade-through will not occur, to Nasdaq OMX BX market participants and market data vendors for a period of time determined by Nasdaq OMX BX which will not exceed one-half of one second. If any unfilled balance remains after such display, such marketable unfilled balance shall be cancelled back to the entering party, and such non-marketable unfilled balance shall be placed on the book for potential execution. As with other Nasdaq OMX BX order types, the attributes of the Flash and Cancel Order may be combined with all Nasdaq OMX BX order types. Nasdaq OMX BX will provide an electronic method to distinguish the Flash Order during the flash period from the System's protected quote under Regulation NMS.

Nasdaq OMX BX notes that flash and cancel order functionality is already in use by other markets that such functionality can be expected to provide Nasdaq OMX BX system users with greater control over their trading. Except for the behavior of the Flash and Cancel Order described here, nothing in the proposal will modify or alter any existing rule or process related to order priority, order execution, trade-through protection or locked or crossed markets.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[5] in general, and with Section 6(b)(5) of the Act,[6] in particular, in that the proposal is 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. Nasdaq OMX BX notes that similar functionality has already been found to be consistent with the Act by the Commission.[7]

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

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments on the proposed rule change were neither solicited nor received.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9]

At any time within 60 days of the filing of the 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*. Please include File Number SR–BX–2009–029 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–BX–2009–029. 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

[4] 17 CFR 240.19b–4(f)(6).

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

[7] Securities Exchange Act Release No. 54422 (September 11, 2006), 71 FR 54537 (September 15, 2006) (SR–CBOE–2004–21); Securities Exchange Act Release No. 59359 (February 4, 2009), 74 FR 6927 (February 11, 2009) (SR–CBOE–2008–123).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

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 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 publicly available. All submissions should refer to File Number SR–BX–2009–029 and should be submitted on or before July 21, 2009.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E9–15351 Filed 6–29–09; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

[Public Notice: 6679]

Notice of Request for Public Comment and Submission to OMB of Proposed Collection of Information

Title: 30-Day Notice of Proposed Information Collection: DS–3077, Request for Entry into Children's Passport Issuance Alert Program, OMB 1405–0169.

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995.

- *Title of Information Collection:* Request for Entry into Children's Passport Issuance Alert Program.
- *OMB Control Number:* 1405–0169.
- *Type of Request:* Revision.
- *Originating Office:* CA/OCS/PRI.
- *Form Number:* DS–3077.
- *Respondents:* Concerned parents or their agents, institutions, or courts.
- *Estimated Number of Respondents:* 4,420.
- *Estimated Number of Responses:* 4,420.
- *Average Hours Per Response:* 30 minutes.
- *Total Estimated Burden:* 2,210 hrs.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

DATES: Submit comments to the Office of Management and Budget (OMB) for up to 30 days from June 30, 2009.

ADDRESSES: Direct comments and questions to Katherine Astrich, the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB), who may be reached at 202–395–4718. You may submit comments by any of the following methods:

- *E-mail: kastrich@omb.eop.gov.* You must include the DS form number, information collection title, and OMB control number in the subject line of your message.
- *Mail (paper, disk, or CD–ROM submissions):* Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503.
- *Fax:* 202–395–5806.

FOR FURTHER INFORMATION CONTACT: You may obtain copies of the proposed information collection and supporting documents from Derek A Rivers, Bureau of Consular Affairs, Overseas Citizens Services (CA/OCS/PRI), U.S. Department of State, SA–29, 4th Floor, Washington, DC 20520, who may be reached on (202) 736–9082 or *ASKPRI@state.gov.*

SUPPLEMENTARY INFORMATION: We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary to properly perform our functions.
- Evaluate the accuracy of our estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond.

Abstract of Proposed Collection

The information requested will be used to support entry of a minor's (an unmarried person under 18) name into the Children's Passport Issuance Alert Program (CPIAP). CPIAP provides a mechanism for parents or other persons with legal custody of a minor to obtain information regarding whether the Department has received a passport application for the minor. This program was developed as a means to prevent international abduction of a minor or to help prevent other travel of a minor without the consent of a parent or legal guardian. If a minor's name and other identifying information has been entered into the CPIAP, when the Department receives an application for a new, replacement, or renewed passport for the minor, the application will be placed on hold for up to 60 days and Passport Services will attempt to notify the requestor of receipt of the application. Form DS–3077 will be primarily submitted by a parent or legal guardian of a minor.

Methodology

The completed form DS–3077 may be submitted to Passport Services by e-mail, fax, or mail.

Dated: June 18, 2009.

Mary Ellen Hickey,

Managing Director, Bureau of Consular Affairs, Department of State.

[FR Doc. E9–15440 Filed 6–29–09; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Hunterdon County, NJ

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Cancellation of the notice of intent.

SUMMARY: This notice rescinds the previous Notice of Intent (NOI) published on November 24, 2006 (71 FR 67955) to prepare an Environmental Impact Statement (EIS) for a proposed South Branch Parkway project in Hunterdon County, New Jersey.

FOR FURTHER INFORMATION CONTACT: Roger S. Lall, Director of Engineering, Federal Highway Administration, New Jersey Division Office, 840 Bear Tavern Road, Suite 310, West Trenton, New Jersey 08628; Telephone: (609) 637–4200 or Elkins Green, Director, Division of Environmental Resources, New Jersey Department of Transportation, 1035 Parkway Avenue, Trenton, New Jersey 08625; Telephone: (609) 530–8075.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New Jersey Department of Transportation (NJDOT), is rescinding the NOI to prepare an EIS for a project that had been proposed to construct the South Branch Parkway in Raritan Township, Hunterdon County, New Jersey, Federal Project No. HPP–0037(130).

The proposed action included the construction of a limited access highway on new location for a distance of approximately 3.7 miles; extending from a proposed intersection at

[10] 17 CFR 200.30–3(a)(12).