SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 84 FR 49778, September 23, 2019.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Wednesday, September 25, 2019 at 10:00 a.m.

CHANGES IN THE MEETING: The Open Meeting scheduled for Wednesday, September 25, 2019 at 10:00 a.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: September 24, 2019.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2019–21095 Filed 9–25–19; 11:15 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–87060; File No. SR–CboeEDGX–2019–047]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rule 21.21 (Solicitation Auction Mechanism)

September 23, 2019.

I. Introduction

On July 31, 2019, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') 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 adopt Rule 21.21, the Solicitation Auction Mechanism (''SAM''), a solicited order mechanism for larger-sized orders. The proposed rule change was published for comment in the **Federal Register** on August 15, 2019.[3] On September 9, 2019, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received no comments regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

As described more fully in the Notice,[5] the Exchange proposes to adopt Rule 21.21 [6] establishing a solicited order mechanism. The proposal permits an Options Member (the ''Initiating Member'') to execute electronically a larger-sized order it represents as agent (''Agency Order'') against a solicited order(s) (''Solicited Order(s)''), provided that it submits both the Agency Order and Solicited Order(s) into the SAM.[7]

A. Eligibility and SAM Auction Process

The Initiating Member may initiate a SAM in any class traded on the Exchange.[8] The order size of an Agency Order marked for SAM processing must be at least the minimum size designated by the Exchange, which may not be less than 500 standard option contracts or 5,000 mini-option contracts. The size of the Solicited Order(s) must be for/total the same size as the Agency Order.[9] In addition, the Initiating Member must designate each of the Agency Order and Solicited Order as all-or-none (''AON''),[10] and the price of the Agency Order and Solicited Order must be in an increment of $0.01.[11] Also, an Initiating Member may not designate an Agency Order or Solicited Order as Post Only.[12]

The Solicited Order must stop the entire buy (sell) Agency Order at a price that is at or better than the then-current NBO (NBB).[13] Regarding resting orders that are on the same side as the Agency Order, the proposal provides that if the Agency Order is to buy (sell), the stop price must be at least $0.01 better than the Exchange best bid (offer), unless the Agency Order is a Priority Customer order and the resting order is a non-Priority Customer order, in which case the stop price must be at or better than the Exchange best bid (offer).[14] Regarding resting orders that are on the opposite side as the Agency Order, the proposal provides that if the Agency Order is to buy (sell) and the Exchange best offer (bid) represents (i) a Priority Customer order on the EDGX Book, the stop price must be at least $0.01 better than the Exchange best offer (bid); or (ii) a quote or order that is not a Priority Customer order on the EDGX Book, the stop price must be at or better than the Exchange best offer (bid).[15]

A ''SAM sweep order'' or ''SAM ISO'' is the submission of two orders for crossing in a SAM without regard for better-priced Protected Quotes (as defined in Exchange Rule 27.1) because the submitting Options Member routed an ISO(s) simultaneously with the routing of the SAM ISO to execute against the full displayed size of any Protected Quote that is better than the stop price and has swept all interest in the EDGX Book with a price better than the stop price. If the Initiating Member submits a SAM sweep order to a SAM, the stop price, SAM responses, and executions will be permitted at a price inferior to the Initial NBBO. Any execution(s) resulting from these sweeps will accrue to the SAM Agency Order.[16]

The Exchange system will initiate the SAM process by sending a SAM auction notification message detailing the side, size, price, origin code, Auction ID, and options series of the Agency Order to all Options Members that elect to receive SAM auction notification messages.[17] SAM auction notification messages will not be included in the disseminated BBO or disseminated to the Options Price Reporting Authority (''OPRA'').[18] The SAM auction will last for a period of time determined by the Exchange (the ''SAM auction period''), which may be no less than 100 milliseconds and no more than one second.[19] An Initiating Member may not modify or cancel an

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 86621 (August 9, 2019), 84 FR 41779 (''Notice'').

[4] Amendment No. 1 revises the proposal to correct a citation signal and to add an explanatory sentence regarding the requirements of Rule 11a2–2(T) under the Act. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboeedgx-2019-047/srcboeedgx2019047-6090026-191882.pdf.*

[5] *See* Notice, *supra* note 3.

[6] For purposes of proposed Rule 21.21, the term ''NBBO'' means the national best bid or national best offer at the particular point in time applicable to the reference, and the term ''Initial NBBO'' means the national best bid or national best offer at the time a SAM auction is initiated.

[7] The solicited order(s) cannot be for the same EFID as the Agency Order or for the account of any Options Market Maker with an appointment in the applicable class on the Exchange. The Agency Order and Solicited Order cannot both be for the accounts of a customer.

[8] *See* proposed Rule 21.21(a)(1).

[9] *See* proposed Rule 21.21(a)(3).

[10] *See id.*

[11] *See* proposed Rule 21.21(a)(4).

[12] *See* proposed Rule 21.21(a)(5). *See also* Exchange Rule 21.19(a)(5).

[13] *See* proposed Rule 21.21(b)(1).

[14] *See* proposed Rule 21.21(b)(2). The Exchange notes that these conditions regarding orders on the same side as the Agency Order are the same as those applicable to AIM for orders of 50 contracts or more. *See* Exchange Rule 21.19(b).

[15] *See* proposed Rule 21.21(b)(3).

[16] *See* proposed Rule 21.21(b)(4). The Exchange notes that ISOs are similarly permitted for AIM auctions, and the proposed definition of a SAM ISO is consistent with linkage rules. *See* Exchange Rules 21.19(b)(3)(A) and 27.1.

[17] *See* proposed Rule 21.21(c)(2).

[18] *See id.*

[19] *See* proposed Rule 21.21(c)(3). Pursuant to Exchange Rule 16.3, the Exchange will announce the length of the SAM auction period via specification, Exchange Notice, or Regulatory Circular.

Agency Order or Solicited Order after submission to a SAM auction.[20]

Any User other than the Initiating Member (determined by EFID) may submit responses to a SAM auction that are properly marked specifying size, side of the market, and the Auction ID for the SAM auction to which the User is submitting the response.[21] A SAM response may specify a limit price or be treated as market. SAM responses must be on the opposite side of the market as the Agency Order, [22] and the minimum price increment for SAM responses is $0.01.[23] SAM buy (sell) responses are capped at the Exchange best offer (bid), or $0.01 better than the Exchange best offer (bid) if it is represented by a Priority Customer order resting on the EDGX Options Book (unless the Agency Order is a SAM ISO), that exists at the conclusion of the SAM auction. For purposes of the SAM auction, the system will aggregate all of a User's orders and quotes resting on the EDGX Book and SAM responses for the same EFID at the same price.[24] The System will cap the size of a SAM response, or the aggregate size of a User's orders and quotes resting on the EDGX Book and SAM responses for the same EFID at the same price, at the size of the Agency Order (*i.e.,* the System will ignore size in excess of the size of the Agency Order when processing a SAM auction).[25] SAM responses will not be visible to SAM auction participants or disseminated to OPRA.[26] A User may modify or cancel its SAM responses during the SAM auction.

One or more SAM auctions in the same series may occur at the same time. To the extent there is more than one SAM in a series underway at a time, the SAM auctions will conclude sequentially based on the exact time each SAM commenced, unless terminated early pursuant to proposed Rule 21.21(d). At the time each SAM concludes, the system will allocate the Agency Order pursuant to proposed Rule 21.21(e) and will take into account all SAM responses and unrelated orders in place at the exact time of conclusion. In the event there are multiple SAM auctions underway that are each terminated early pursuant to proposed Rule 21.21(d), the system will process the SAM auctions sequentially based on the exact time each SAM commenced.[27]

B. Conclusion of the SAM Auction

The SAM will conclude at the sooner of the following: (i) The end of the SAM auction period; (ii) upon receipt by the system of a Priority Customer order on the same side of the market with a price the same as or better than the stop price that would post to the EDGX Book; (iii) upon receipt by the system of an unrelated order or quote that is not a Priority Customer order on the same side of the market as the Agency Order that would cause the stop price to be outside of the EDGX BBO; (iv) the market close; and (v) any time the Exchange halts trading in the affected series, provided, however, that in such instance the SAM auction will conclude without execution.[28]

An unrelated market or marketable limit order (against the EDGX BBO), including a Post Only Order,[29] on the opposite side of the Agency Order received during the SAM will not cause the SAM auction to end early and will execute against interest outside of the SAM auction. If contracts remain from such unrelated order at the time the SAM ends, they may be allocated for execution against the Agency Order pursuant to proposed Rule 21.21(e).[30]

C. Priority and Allocation

At the conclusion of the SAM auction, the system will execute the Agency Order against the Solicited Order or contra-side interest (which includes orders and quotes resting in the EDGX Book and SAM responses) at the best price(s) as follows (provided that any execution price(s) must be at or between the EDGX BBO existing at the conclusion of the SAM auction and at or between the Initial NBBO): [31]

- The system will execute the Agency Order against the Solicited Order at the stop price if there are no Priority Customer orders (including Priority Customer AON orders) on the opposite side of the Agency Order resting in the EDGX Book at the stop price and the aggregate size of contra-side interest at an improved price(s) is insufficient to satisfy the Agency Order.[32]
- The system will execute the Agency Order against contra-side interest (and cancel the Solicited Order) if (A) there is a Priority Customer order (including a Priority Customer AON order) on the opposite side of the Agency Order resting on the EDGX Book at the stop price and the aggregate size of the Priority Customer order and other contra-side interest at the stop price or an improved price(s) is sufficient to satisfy the Agency Order; or (B) the aggregate size of contra-side interest at an improved price(s) is sufficient to satisfy the Agency Order. The Agency Order execution against such contra-side interest will occur at each price level, to the price at which the balance of the Agency Order can be fully executed, in the following order:
    - Priority Customer orders (including Priority Customer AON orders) on the EDGX Book (non-AON orders before AON orders, each in time priority);
    - remaining contra-side trading interest (including non-Priority Customer orders and quotes on the EDGX Book and SAM responses) pursuant to Exchange Rule 21.8(c);
    - any nondisplayed Reserve Quantity (Priority Customer before non-Priority Customer, each in time priority); and
    - any non-Priority Customer AON orders, if there is sufficient size to satisfy the AON order.[33]
- The system will cancel the Agency Order and Solicited Order with no execution if (i) execution of the Agency Order against the Solicited Order at the stop price would not be at or between the EDGX BBO at the conclusion of the SAM auction or at or between the Initial NBBO; or (ii) there is a Priority

[20] *See* proposed Rule 21.21(c)(4).

[21] The Exchange notes that the system will disregard any Post Only instruction applied to a SAM response, as that instruction is inconsistent with the purpose of a SAM response, which is to execute against the Agency Order at the conclusion of a SAM auction (and thus not post to the EDGX Book). *See* Notice, *supra* note 3, at 41781 n.25. As a result, the system will handle a SAM response with a Post Only instruction in the same manner as all other SAM responses, which is as a provider of liquidity (*i.e.,* maker). *See id.*

[22] *See* proposed Rule 21.21(c)(5)(E). The Exchange notes that this is the same as the corresponding provision for the Exchange's AIM auction. *See* Exchange Rule 21.19(c)(5)(E).

[23] *See* proposed Rule 21.21(c)(5)(A).

[24] *See* proposed Rule 21.21(c)(5)(C). The Exchange notes that this is the same as the corresponding provision for the Exchange's AIM auction. *See* Exchange Rule 21.19(c)(5)(C). The Exchange also notes that this (combined with the proposed size cap) is intended to prevent an Options Member from submitting multiple orders, quotes, or responses at the same price to obtain a larger pro-rata share of the Agency Order. *See* Notice, *supra* note 3, at 41781.

[25] *See* proposed Rule 21.21(c)(5)(D). The Exchange notes that this is the same as the corresponding provision for the Exchange's AIM auction. *See* Exchange Rule 21.19(c)(5)(D). The Exchange notes that this is intended to prevent an Options Member from submitting an order, quote, or response with an extremely large size in order to obtain a larger pro-rata share of the Agency Order. *See* Notice, *supra* note 3, at 41781.

[26] *See* proposed Rule 21.21(c)(5)(F).

[27] *See* proposed Rule 21.21(c)(1). *See also* Notice, *supra* note 3, at 41780.

[28] *See* proposed Rule 21.21(d)(1).

[29] The Exchange notes that any Post Only order resting on the EDGX Book at the conclusion of a SAM auction that executes against the Agency Order pursuant to proposed Rule 21.21(e) will execute in the same manner as any other type of order resting on the EDGX Book, which is as a provider of liquidity (*i.e.,* maker). *See* Notice, *supra* note 3, at 41782 n.34.

[30] *See* proposed Rule 21.21(d)(2). The Exchange notes that the proposed reasons why a SAM auction may conclude early are the same as those that will cause an AIM auction to conclude early. *See* Exchange Rule 21.19(d).

[31] *See* proposed Rule 21.21(e).

[32] *See* proposed Rule 21.21(e)(1).

[33] *See* proposed Rule 21.21(e)(2).

Customer order (including a Priority Customer AON order) resting on the opposite side of the Agency Order at the stop price on the EDGX Book, and the aggregate size of the Priority Customer order and any other contra-side interest is insufficient to satisfy the Agency Order.[34]

The system will cancel or reject any unexecuted SAM responses (or unexecuted portions) at the conclusion of the SAM auction.[35]

D. Notification Requirement and Order Exposure Rule

Proposed Rule 21.21, Interpretation and Policy .01 provides that prior to entering Agency Orders into a SAM auction on behalf of customers, Initiating Members must deliver to the customer a written notification informing the customer that his order may be executed using the SAM auction. The written notification must disclose the terms and conditions contained in proposed Rule 21.21 and be in a form approved by the Exchange.[36]

Exchange Rule 22.12 prevents an Options Member from executing agency orders to increase its economic gain from trading against the order without first giving other trading interests on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the Options Member was already bidding or offering on the book. However, the Exchange notes that it may be possible for an Options Member to establish a relationship with a Priority Customer or other person to deny agency orders the opportunity to interact on the Exchange and to realize similar economic benefits as it would achieve by executing agency order as principal.[37] Accordingly, proposed Rule 21.21, Interpretation and Policy .02 provides that Options Members may not use the SAM auction to circumvent Exchange Rule 21.19 or 22.12 limiting principal transactions. This may include, but is not limited to, Options Members entering contra-side orders that are solicited from (a) affiliated broker-dealers or (b) broker-dealers with which the Options Member has an arrangement that allows the Options Member to realize similar economic benefits from the solicited transaction as it would achieve by executing the customer order in whole or in part as principal.[38]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[39] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[40] which requires, among other things, that the rules of a national securities exchange be 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.

The Commission believes that allowing Options Members to enter orders into the SAM could provide additional opportunities for such large-sized orders to receive price improvement over the NBBO. The Commission further believes that the proposal to establish the SAM may allow for greater flexibility in executing large-sized orders, is not novel, and does not otherwise raise any issues of first impression.[41] The Commission believes that the proposal includes appropriate terms and conditions to assure that the Agency Order is exposed to Options Members for the possibility of price improvement over the NBBO and that Priority Customer orders on the Exchange are protected. At the conclusion of a SAM, the Agency Order would either be executed in full (at a price at or between the Initial NBBO and at or between the EDGX BBO at the conclusion of the SAM auction) or cancelled. The Agency Order will be executed against the Solicited Order at the proposed stop price if (i) there is insufficient size among contra-side trading interest at a price better than the stop price to execute the Agency Order; and (ii) there are no Priority Customer orders (including Priority Customer AON orders) resting on the opposite side of the Agency Order at the stop price.[42] If there are Priority Customer orders (including Priority Customer AON orders) and there is sufficient size to execute the Agency Order (considering all eligible interest), then the Agency Order will be executed against these interests and the Solicited Order will be cancelled.[43] If, however, there are resting Priority Customer orders (including Priority Customer AON orders) at the stop price, but there is not sufficient size to execute the Agency Order in full, then both the Agency Order and the Solicited Order will be cancelled.[44] Finally, if there is sufficient size to execute the Agency Order in full at an improved price equal to or better than the Initial NBBO and the EDGX BBO at the conclusion of the SAM auction, the Agency Order will execute at the improved price and the Solicited Order will be cancelled. The Commission believes that the priority and allocation rules for the SAM, which are consistent with similar mechanisms on other exchanges, are reasonable and consistent with the Act.

IV. Section 11(a) of the Act

Section 11(a)(1) of the Act[45] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[46] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the

[34] *See* proposed Rule 21.21(e)(3). The Exchange notes that the proposed provisions regarding the execution of the Agency Order at the conclusion of a SAM auction are similar to the corresponding provisions for a Cboe Options SAM, as well as current Exchange Rules regarding priority and allocation of resting orders and quotes. *See* Cboe Options Rule 6.74B(b)(2)(A); Exchange Rule 21.8.

[35] *See* proposed Rule 21.21(e)(4).

[36] *See* proposed Rule 21.21, Interpretation and Policy .01.

[37] *See* Notice, *supra* note 3, at 41783.

[38] *See* proposed Rule 21.21, Interpretation and Policy .02.

[39] 15 U.S.C. 78f(b). In approving this 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).

[40] 15 U.S.C. 78f(b)(5).

[41] The Commission also notes that the proposal is similar to requirements set forth in the Cboe Options Solicitation Auction Mechanism, Nasdaq ISE, LLC (''ISE'') Solicited Order Mechanism, and Miami International Securities Exchange LLC (''MIAX'') PRIME Solicitation Mechanism. *See* Cboe Options Rule 6.74B; ISE Rule 716(d); MIAX Rule 515A(b).

[42] *See* proposed Rule 21.21(e)(1).

[43] *See* proposed Rule 21.21(e)(2).

[44] *See* proposed Rule 21.21(e)(3).

[45] 15 U.S.C. 78k(a)(1).

[46] 17 CFR 240.11a2–2(T).

execution of the transaction once it has been transmitted to the member performing the execution;[47] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that Exchange Options Members entering orders into the SAM would satisfy the requirements of Rule 11a2–2(T).

The Rule's first condition is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[48] The Exchange represents that its trading system and the proposed SAM receive all orders electronically through remote terminals or computer-to-computer interfaces.[49] The Exchange also represents that orders for covered accounts from Options Members will be transmitted from a remote location directly to the proposed SAM by electronic means. Because no Exchange Options Member may submit orders into the SAM from on the floor of the Exchange, the Commission believes that the SAM satisfies the off-floor transmission requirement.

Second, the Rule requires that the member and any associated person not participate in the execution of its order after the order has been transmitted. The Exchange represents that at no time following the submission to the SAM of an order or SAM response is an Options Member able to acquire control or influence over the result or timing of the order's or response's execution.[50] According to the Exchange, the execution of an order (including the Agency and the Solicited Order) or a SAM response sent to the SAM is determined by what other orders and responses are present and the priority of those orders and responses.[51] Accordingly, the Commission believes that an Options Member does not participate in the execution of an order or response submitted to the SAM.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities, such as the SAM, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[52] The Exchange represents that the SAM is designed so that no Options Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the mechanism.[53] Based on the Exchange's representation, the Commission believes that the SAM satisfies this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[54] The Exchange represents that Options Members relying on Rule 11a2–2(T) for transactions effected through the SAM must comply with this condition of the Rule and that the Exchange will enforce this requirement pursuant to its obligations under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.[55]

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[56] that the proposed rule change (SR–CboeEDGX–2019–047), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[57]

Jill M. Peterson,

Assistant Secretary.

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[47] This prohibition also applies to associated persons. The member may, however, participate in clearing and settling the transaction.

[48] *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[49] *See* Notice, *supra* note 3, at 41787.

[50] *See id.* (also representing, among other things, that no Options Member, including the Initiating Member, will see a SAM response submitted into SAM and therefore will not be able to influence or guide the execution of their Agency Orders, Solicited Orders, or SAM responses, as applicable).

[51] *See id.* The Exchange notes that an Initiating Member may not cancel or modify an Agency Order or Solicited Order after it has been submitted into SAM, but that Options Members may modify or cancel their responses after being submitted to a SAM. *See id.* at 41787 n.68. As the Exchange notes, the Commission has stated that the non-participation requirement does not preclude members from cancelling or modifying orders, or from modifying instructions for executing orders, after they have been transmitted so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542, 11547 (the ''1978 Release''). *See also* Amendment No. 1, *supra* note 4.

[52] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 44.

[53] *See* Notice, *supra* note 3, at 41787.

[54] In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 47, at 11548 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[55] *See* Notice, *supra* note 3, at 41787.

[56] 15 U.S.C. 78s(b)(2).

[57] 17 CFR 200.30–3(a)(12).