securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] which requires that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and issuers and other persons using its facilities, and with Section 6(b)(5) of the Act,[8] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, 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, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed co-location fees are equitably allocated insofar as they are applied on the same terms to similarly-situated market participants. In addition, the Commission believes that the co-location services described in the proposed rule change are not unfairly discriminatory because: (1) Co-location services are offered to all members who request them and pay the appropriate fees; (2) as represented by CBOE, the Exchange has architected its systems so as to, as much as possible, reduce or eliminate differences among users of its systems, whether co-located or not; and (3) the Exchange has stated that for the foreseeable future, it has sufficient space to accommodate all members who may request the co-location service.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–CBOE–2010–008) be, and hereby is, approved.

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

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–6184 Filed 3–19–10; 8:45 am]

BILLING CODE 8011–01–P

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

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61715; File No. SR–CBOE–2010–028]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Market-Maker Joint Accounts

March 16, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 8, 2010, the Chicago Board Options Exchange, Incorporated ("Exchange" or "CBOE") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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 is proposing to amend CBOE Rule 6.55, *Multiple Representation Prohibited,* and to eliminate related Regulatory Circulars pertaining to joint account activity. The Exchange is also proposing related amendments to CBOE Rule 8.9, *Securities Accounts and Orders of Market-Makers.* The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.org/Legal*), at the Exchange's Office of the Secretary, and at 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 self-regulatory organization 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 those 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 parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

CBOE Rule 6.55 pertains to multiple representation by an individual Market-Maker in open outcry. Currently, the rule provides in relevant part that, except in accordance with procedures established by the Exchange or with respect the Exchange's permission in individual cases, no Market-Maker shall enter or be present in a trading crowd while a Floor Broker present in the trading crowd is holding an order on behalf of the Market-Maker's individual account or an order initiated by the Market-Maker for an account in which the Market-Maker has an interest.

In addition, Interpretation and Policy .02 to CBOE Rule 6.55 advises members to consult CBOE's Regulatory Circulars for procedures governing the simultaneous presence in a trading crowd of participants in and orders for the same joint account. The relevant circulars, RG01–60 and RG01–128, set forth Exchange procedures and requirements for trading in joint accounts that vary depending upon whether the particular trading occurs in equity options or in index options and options on exchange-traded funds ("ETFs").[5] While certain restrictions apply to joint account activity in equity options,[6] there are generally no

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(6).

[5] The Regulatory Circular governing joint account trading in equity products, RG01–60, was last amended through Securities Exchange Act Release No. 44152 (April 5, 2001), 66 FR 19262 (April 13, 2001) (SR–CBOE–00–13). The Regulatory Circular governing joint account trading in certain index options and options on ETFs was last amended through Securities Exchange Act Release No. 44433 (June 15, 2001), 66 FR 33589 (June 22, 2001) (SR–CBOE–2001–30).

[6] For equity option classes, RG01–60 currently provides in part that: (i) A joint account may be simultaneously represented in a trading crowd only by participants trading in-person; orders for a joint account may not be entered in a crowd where a participant of the joint account is trading in-person for the joint account; however, if no participant is trading in-person for the joint account, orders may be entered via Floor Broker so long as the same option series in not represented by more than one Floor Broker; (ii) members may alternate trading in-person between their individual and joint accounts while in the crowd; members who alternate trading between accounts must ensure that while trading the joint account another participant does not enter orders through a Floor Broker for the joint account in the same crowd or that an order is not being continuously represented for the joint account in

restrictions on the joint account activity of an individual Market-Maker vis-à-vis other joint account participants in certain index and ETF options except that the members ensure that they do not trade in-person or by orders such that (i) a trade occurs between a joint account participant's individual Market-Maker account and the joint account of which he is a participant, or (ii) a trade occurs in which the buyer and seller are representing the same joint account and are on opposite sides of a transaction.[7] These limitations on trading between a Market-Maker's individual account or a joint account in which he is a participant and another member acting on behalf of the joint account are provided in RG01–60 and RG01–128, as well as in Interpretation and Policy .06 to CBOE Rule 8.9. Interpretation and Policy .03 to CBOE Rule 6.55 also sets forth in relevant part an exception procedure that applies to *any* options class and allows a Market-Maker to enter or be present in the trading crowd when a Floor Broker holds a solicited order on behalf of a Market-Maker's joint account.[8] This procedure is in addition to, and not a limitation of, the joint account exception procedures identified in Interpretation and Policy .02.

Proposed Changes

In order to simplify the rule and create uniform requirements in all options classes for joint account activity of an individual Market-Maker vis-à-vis other joint account participants, the Exchange is proposing to apply the terms of the circular currently applicable to trading in certain index and ETF options (RG01–128) to trading in all options classes. To accomplish this change, the provisions of the index and ETF options circular (RG01–128) will be incorporated into the rule text, replacing existing Interpretation and Policy .02. CBOE does not propose to modify any of the existing joint account trading policies or procedures set forth in RG01–128, except as noted below. The equity option circular (RG01–60) will no longer be applicable and will be superseded by revised Interpretation and Policy .02.

The joint account trading policies and procedures applicable to all options classes will be the same as is set forth in RG01–128,[9] except as follows. First, references to CBOE's Retail Automatic Execution System ("RAES") will not be incorporated into the rule text. CBOE no longer utilizes RAES and, therefore, the references in RG01–128 are outdated. Second, RG01–128 includes a description of a manual process for identifying joint account transactions on trade tickets that is outdated and no longer applicable, and thus will not be incorporated into the rule text.[10] Proposed Rule 6.55.02(j) and amended Rule 8.9.03 will set forth the updated process. In particular, proposed Rule 6.55.02(j) will provide that, when completing a trade ticket for a joint account, it must contain such information as may be required by the Exchange under Rule 6.51(d). Rule 8.9.03, as proposed to be amended, would provide that, for purposes of evaluating Market-Maker performance in accordance with Rule 8.7.03, trading activity in the joint account shall be credited to the Market-Maker either individually or collectively with the Market-Makers of the same member organization.[11] Third, with respect to the prohibitions on Market-Makers trading with their joint account and on trades in which the buyer and seller represent the same joint account and are on opposite sides of the transaction, the rule text will provide that it is the responsibility of a joint account participant to ascertain whether joint account orders have been entered in a crowd prior to trading the joint account in-person.

Lastly, CBOE is proposing to delete Interpretation and Policy .03 to Rule 6.55.[12] The provisions in Interpretation and Policy .03 pertaining to simultaneous joint account activity are no longer necessary given the above-described proposed changes to Interpretation and Policy .02. The

the same crowd; (iii) it is the responsibility of a joint account participant to ascertain whether joint account orders have been entered in a crowd prior to trading the joint account in-person; (iv) joint account participants may not act as a Floor Broker for the joint account of which they are a participant; (v) when a joint account participant is trading in a crowd for his individual account or actively as a Floor Broker for accounts unrelated to his joint account, another participant of the joint account may either trade in-person for the joint account or enter orders for the joint account with other Floor Brokers; (vi) members are prohibited from entering orders in a particular crowd with Floor Brokers for their individual or joint account whenever they are trading in-person in that crowd; this applies even though the orders are for an account they are not then actively trading. Other exceptions to these procedures and requirements may apply. For example, exceptions to item (vi) above are currently outlined in Interpretations and Policies .01, .03 and .04 of CBOE Rule 6.55.

[7] For certain index and ETF option classes, RG01–128 currently provides in part that: (i) Joint accounts may be simultaneously represented in a trading crowd by participants trading in-person for the joint account; (ii) joint account participants who are not trading in-person in a trading crowd, may enter orders for the joint account with Floor Brokers even if other participants are trading the same joint account in-person; (iii) when series are simultaneously opened during rotation, joint account participants trading the joint account in-person may enter orders for the joint account with Floor Brokers in series where they are unable to trade the joint account in-person; (iv) there is no restriction on the number of joint account participants that may participate on behalf of the joint account on the same trade in the option; (v) when joint account participants are trading in a trading crowd for their individual account or as a Floor Broker, another participant of the joint account may trade for the joint account in-person or enter orders for the joint account with Floor Brokers; (vi) except for the exemption described in (vii) below, members are prohibited from entering orders for their individual or joint accounts while they are trading in-person in a trading crowd even if the orders are for an account they are not then actively trading; (vii) managers of Exchange approved RAES joint accounts may enter orders with Floor Brokers for the RAES joint account if the manager is trading in-person for his individual account in the trading crowd; if the manager is trading in-person for the joint account the manager may not enter an order for the joint account with a Floor Broker; (viii) joint account participants may not act as a Floor Broker for the joint account of which they are a participant; and (ix) members may alternate trading in-person for their individual account and their joint account while in a trading crowd. Other exceptions to these procedures and requirements may apply. For example, exceptions to item (vi) above are currently outlined in Interpretations and Policies .01, .03 and .04 of CBOE Rule 6.55.

[8] CBOE Rule 6.55.03 currently provides that, subject to the requirements of CBOE Rule 6.9, *Solicited Transactions,* or 6.74, *Crossing Orders,* as applicable, a Market-Maker may permissibly enter or be present in a trading crowd in which a Floor Broker is present who holds (a) a solicited order on behalf of the Market-Maker's individual or joint account or (b) a solicited order initiated by the Market-Maker for an account in which the Market-Maker has an interest, provided that the Market-Maker makes the Floor Broker aware of the Market-Maker's intention to enter or to be present in the trading crowd and the Market-Maker refrains from trading in-person on the same trade as the original order. It is the responsibility of the Market-Maker utilizing these procedures to ascertain whether solicited orders for the Market-Maker's joint account have been entered in a trading crowd prior to the Market-Maker trading the joint account in-person.

[9] *See* note 7, *supra,* and related discussion.

[10] Specifically, RG01–128 provides that the proper procedure for completing a trade ticket for joint account transactions is that both the member's and joint account acronym must be included. The circular also indicates that this information is required to ensure that the initiating joint account member receives credit for such transactions as they relate to reporting and market performance obligations set forth in Exchange Rules 6.51(d) and 8.7.03. Rule 6.51(d) provides that each member shall file with the Exchange trade information showing for each transaction certain trade information specified in the Rule as well as such other information as may be required by the Exchange. Rule 8.7.03 provides for certain percentage requirements that apply to Market-Maker trading activity in appointed classes and in-person requirements for Market-Makers in Hybrid 3.0 classes.

[11] This change is intended to update Rule 8.9.03 to be consistent with the provisions of Rule 8.7.03. In accordance with Rule 6.51(d)(m), the Exchange may require that other information beyond that specified in Rule 6.51(d) shall be reported for Exchange transactions. In this regard, the Exchange intends to specify that transactions for Market-Maker joint accounts be identified with the joint account acronym. This trade information reporting requirement for joint account transactions, and any changes thereto, will be announced to the membership via circular.

[12] *See* note 8, *supra.*

remaining provisions in Interpretation and Policy .03 pertaining to multiple representation by an individual Market-Maker (for solicited orders entered on behalf of the Market-Maker's individual account or solicited orders initiated by the Market-Maker himself for an account in which the Market-Maker has an interest) are no longer necessary since they are duplicative of Interpretation and Policy .04.[13]

The proposed changes will make the policy governing joint account trading in equity options the same as the current policy governing index option trading (subject to the changes described above), where multiple representation of orders for the same joint account is permitted by participants in the joint account trading in-person at the trading post and/or by Floor Brokers representing orders at the post. (The current equity option policy is more restrictive in that it only permits joint representation by participants trading in-person and does not permit multiple representation of orders for the same joint account if one or more of the orders is represented by a Floor Broker.) In this regard, the Exchange believes the proposed changes to the equity option policy reflect changes that have occurred in the trading environment since that policy was enacted over 13 years ago, including the Exchange's migration from a floor-based market to a hybrid environment where Market-Makers can trade in-person on the floor or remotely in a larger number of option classes (which may present more need for the services of Floor Brokers), and the increasing prevalence of CBOE Market-Maker member organizations utilizing joint accounts (as compared to individual accounts). The proposed changes ensure that member organizations that choose to employ a joint account for their Exchange trading are not disadvantaged in participating in trades vis-à-vis those member organizations that choose to employ individual Market-Maker accounts.[14] The Exchange also believes the proposed changes will reduce unnecessary complexity and confusion, and delineate an unambiguous standard for multiple representation across all option classes.[15]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act[16] and the rules and regulations thereunder and, in particular, the requirements of Section 6(b) of the Act.[17] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[18] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes the proposed changes will eliminate a distinction that currently exists between member organizations that manage their equity option positions differently and, overall, will reduce unnecessary complexity and confusion, and delineate an unambiguous standard for multiple representation across all option classes.

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

Because the foregoing rule 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 if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[19] and Rule 19b–4(f)(6) thereunder.[20] At any time within 60 days of the filing of such 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

[13] CBOE Rule 6.55.04, which is proposed to be renumbered to CBOE Rule 6.55.01(b), applies to a Market-Maker's orders generally, including solicited orders. In [sic] provides that a Market-Maker may permissibly enter or be present in a trading crowd in which a Floor Broker is present who holds an order on behalf of the Market-Maker's individual account or an order initiated by the Market-Maker for an account in which the Market-Maker has an interest, provided that (i) the Market-Maker makes the Floor Broker aware of the Market-Maker's intention to enter or to be present in the trading crowd and (ii) the Market-Maker refrains from trading in-person on the same trade as the order being represented by the Floor Broker. In addition to renumbering Rule 6.55.04 to 6.55.01(b), the Exchange is proposing to clarify that, with respect to the condition in (ii) above, the Market-Maker does not need to refrain from trading in-person on the same order if other in-crowd market participants choose not to trade the remaining portion of the order. This allowance to trade when other in-crowd market participants choose not to trade is similar to language in other CBOE rules. *See, e.g.,* subparagraph (d)(viii) of Rule 6.74, *Crossing Orders,* which provides that nothing prohibits a Floor Broker, On-Floor DPM or On-Floor LMM, as applicable, from trading more than his percentage entitlement if the other in-crowd market participants do not choose to trade the remaining portion of an order.

[14] Some member organizations choose to have their various Market-Makers trade in a joint account so that the member organization's positions can be more easily monitored and managed. Under the current equity options policy regarding joint accounts, however, a joint account may be simultaneously represented in a trading crowd only by participants trading in-person. Orders for a joint account may not be entered with a Floor Broker in a crowd where a participant of the joint account is trading in-person for the joint account (unless the in-crowd participant and Floor Broker refrain from participating on the same trade). However, if no participant is trading in-person for the joint account, orders may be entered via Floor Broker so long as the same option series is not represented by more than one Floor Broker. On the other hand, under the current equity options policy, a member organization using individual Market-Maker accounts is able to be simultaneously represented by each Market-Maker's individual account, whether the accounts are being traded in-person and/or by order. The proposed change would eliminate the disadvantage currently suffered by member organizations using joint account structures.

[15] For example, the Exchange notes that many trading crowds no longer exclusively trade equity options or index options. In that regard, the proposed rule change will reduce unnecessary complexity and confusion over which policy applies.

[16] 15 U.S.C. 78s(b)(1).

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

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(6).

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2010–028 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–2010–028. 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 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, 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 available publicly. All submissions should refer to File Number SR–CBOE–2010–028 and should be submitted on or before April 12, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 2010–6183 Filed 3–19–10; 8:45 am]

BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–61713; File No. SR–NASDAQ–2010–006)

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of Proposed Rule Change To Modify the Press Release Requirements for Listed Companies

March 15, 2010.

I. Introduction

On January 13, 2010, The NASDAQ Stock Market LLC ("Nasdaq" or the "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 modify certain of Nasdaq's rules pertaining to its press release requirements for listed companies. The proposed rule change was published for comment in the **Federal Register** on February 8, 2010.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of Proposed Rule Change

Nasdaq is proposing to modify certain of its rules related to the issuer compliance process that currently require a company to disclose information in a press release or through the news media. Nasdaq notes that these rules were generally adopted to address inconsistent issuer disclosure practices and reflected the view that issuing a press release was the only way to assure wide dissemination of an important event. However, in 2002, the Commission adopted Regulation FD,[4] and Nasdaq amended its rules to allow listed companies to provide disclosure of material news via any Regulation FD compliant means.[5] Nasdaq asserts that there is now broad acceptance of Regulation FD compliant methods of disclosure, such as through the use of a Form 8–K. Additionally, Nasdaq argues that its requirements in some instances are duplicative of the Form 8–K requirements, and notes that Form 8–K disclosures are readily available to investors and the information contained in them is widely reported on by the news media. As such, Nasdaq is proposing to modify certain of its rules, as described below, to permit disclosure either through a press release or by filing a Form 8–K where required by Commission rules.[6]

First, Nasdaq proposes to amend Rules 5250(b)(3), 5810(b), 5840(k) and IM–5810–1, which require disclosure of notifications from Nasdaq staff or an Adjudicatory Body[7] regarding a company's compliance with the listing standards. Rules 5250(b)(3) and 5810(b) require a company to "make a public announcement through the news media"[8] disclosing the receipt of a notice that the company does not meet a listing standard, that staff has determined to delist the company, or that the company has received a Public Reprimand Letter. IM–5810–1 provides the time frame for companies to make these disclosures and describes the consequences of failing to do so. Rule 5840(k) requires that a company that receives a Public Reprimand Letter from an Adjudicatory Body must make "a public announcement through the news media" disclosing receipt of that letter. Nasdaq proposes to modify these rules to allow the company, in each case, to make a public announcement by "filing a Form 8–K, where required by SEC rules, or by issuing a press release."[9] However, Nasdaq proposes that a company that is late in filing a required periodic report with the Commission would still be required to issue a press release announcing that it has received notice that it does not meet that requirement, and would not be permitted to fulfill this requirement by only filing a Form 8–K. Nasdaq also proposes to clarify in each of these rules that notification of these disclosures should be made to the Nasdaq MarketWatch Department through

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 61461 (February 1, 2010), 75 FR 6241 ("Notice").

[4] 17 CFR 243.100–103.

[5] *See* Securities Exchange Act Release No. 46901 (November 25, 2002), 67 FR 72011 (December 3, 2002).

[6] The Commission notes that Nasdaq is not proposing any change to Rule 5840(j), regarding the voluntary delisting of a company, because the press release requirement in that rule is required by Exchange Act Rule 12d2–2(c); 17 CFR 240.12d2–2(c). Nasdaq is also maintaining the requirements in Rule 5635(c)(4) and IM–5365–1, which require that a company relying on the inducement exception to the requirement to obtain shareholder approval for equity compensation awards must "disclose in a press release" specific information about the equity award. Finally, as noted above, late filers will still be required to issue a press release. *See* Rule 5250(b)(2) and Rule 5810(b).

[7] Rule 5805(a) defines an "Adjudicatory Body" as the Hearings Panel, the Nasdaq Listing and Hearing Review Council, or the Nasdaq Board, or a member thereof.

[8] Nasdaq interprets the requirement to disclose information through the news media to be satisfied by the issuance of a press release.

[9] The Commission notes that under Item 3.01 of Form 8–K, a company is required to file a Form 8–K when it receives notice from Nasdaq that the company does not satisfy a listing standard or when Nasdaq issues a Public Reprimand Letter to the company.