12. Reports.
13. Pending Major Projects.

Written summaries of the projects to be presented will be posted on OPIC's Web site on or about May 25, 2012.

CONTACT PERSON FOR INFORMATION: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

May 24, 2012.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 2012–13058 Filed 5–24–12; 4:15 pm]

BILLING CODE 3210–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Request for Public Comment on Interagency Arctic Research Policy Committee (IARPC) Arctic Research Plan: FY2013–2017

May 22, 2012.

ACTION: Request for public comment.

SUMMARY: The Arctic Research and Policy Act of 1984 (ARPA), Public Law 98–373, established the Interagency Arctic Research Policy Committee (IARPC) to develop national Arctic research policy five-year Federal research plans to implement ARPA. Chaired by the Director of the National Science Foundation (NSF), IARPC is composed of representatives from ten agencies. More information on IARPC can be found at: *http://www.nsf.gov/od/opp/arctic/iarpc/start.jsp.*

The IARPC's Arctic Research Plan: FY2013–2017 (Five-Year Plan) describes research priorities for the next five years that are expected to benefit from interagency collaboration; not all research conducted by Federal agencies is included in the Five-Year Plan. The Five-Year Plan focuses on seven priority areas designed to enhance the goals and objectives of Federal agencies in Arctic research:

(1) Sea ice and marine ecosystem studies.
(2) Terrestrial ecosystem studies.
(3) Atmospheric studies effecting energy flux.
(4) Observing systems.
(5) Regional climate models.
(6) Adaptation tools for sustaining communities.
(7) Human health.

DATES: This request will be active through June 22, 2012, 11:59 EST.

ADDRESSES: The Five-Year Plan and additional information, including any updates to this **Federal Register** notice, will be available at *http://www.nsf.gov/od/opp/arctic/iarpc/arc_res_plan_index.jsp.* Comments may be submitted by any of the following methods:

Email: agraefe@arctic.gov. Include ''IARPC FIVE-YEAR PLAN COMMENT'' in the subject line of the message.

Mail: IARPC, c/o Arctic Sciences Division, National Science Foundation, Suite 755S, 4201 Wilson Blvd., Arlington, VA 22230. Attention: ''Linda Izzard, IARPC FIVE-YEAR PLAN COMMENT.''

Fax: 703–292–9082 Attention: ''Linda Izzard, IARPC FIVE-YEAR PLAN COMMENT.''

All submissions must be in English and must include your name, return address and email address, if applicable. Please clearly label submissions as ''IARPC FIVE-YEAR PLAN COMMENT.''

Please do not include classified, personally identifying information (such as social security numbers), copyrighted material, or business confidential information. Please note that your submission may be subject to public release ''as is'' under applicable law.

FOR FURTHER INFORMATION CONTACT: Any questions about the content of this notice should be sent to A. Graefe, *agraefe@arctic.gov.* Include ''IARPC FIVE-YEAR PLAN COMMENT'' in the subject line of the message. Questions may also be sent by mail (please allow additional time for processing) to: IARPC, c/o Arctic Sciences Division, National Science Foundation, Suite 755S, 4201 Wilson Blvd., Arlington, VA 22230. Attention: ''Lind Izzard, IARPC FIVE-YEAR PLAN COMMENT.''

SUPPLEMENTARY INFORMATION: For the purposes of research planning, we follow Section 112 of the ARPA in defining the Arctic as ''all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers [in Alaska]; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas; and the Aleutian chain.''

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2012–12790 Filed 5–25–12; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [77 FR 30338, May 22, 2012].

STATUS: Closed Meeting.

PLACE: 100 F Street NE., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: May 24, 2012 at 2:00 p.m.

CHANGE IN THE MEETING: Additional Item.

The following matter will also be considered during the 2:00 p.m. Closed Meeting scheduled for Thursday, May 24, 2012:

A personnel matter.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions as set forth in 5 U.S.C. 552b(c)(2) and (6) and 17 CFR 200.402(a)(2) and (6), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Walter, as duty officer, voted to consider the item listed for the Closed Meeting in closed session, and determined that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: May 24, 2012.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–13069 Filed 5–24–12; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67040; File No. SR–FINRA–2012–011]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change Amending FINRA Rule 14107 of the Code of Mediation Procedure To Provide the Director of Mediation With Discretion to Determine Whether Parties to a FINRA Mediation May Select a Mediator Who Is Not on FINRA's Mediator Roster

May 22, 2012.

I. Introduction

On February 9, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and

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

Rule 19b–4 thereunder,[2] a proposed rule change to amend FINRA Rule 14107 of the Code of Mediation Procedure (''Mediation Code'') to provide the Director of Mediation (''Mediation Director'') with discretion to determine whether parties to a FINRA mediation may select a mediator who is not on FINRA's mediator roster, subject to certain conditions. The proposed rule change was published for comment in the **Federal Register** on February 28, 2011.[3] The Commission received five comment letters on the proposed rule change,[4] and a response to comments from FINRA.[5] This order approves the proposed rule change.

II. Description of the Proposal

As stated in the Notice, FINRA's Mediation Code currently permits parties to mediation to select a mediator either from a list of FINRA mediators supplied by the Mediation Director, or from a list or other source of their own choosing. Although parties usually select a FINRA mediator, parties may select a mediator who is not on FINRA's roster.

FINRA has administered its mediation program for over 15 years. FINRA stated in the Notice that during this time it has developed a deep roster of seasoned securities mediators. Specifically, FINRA represented that its staff carefully screens every mediator applicant, and that the National Arbitration and Mediation Committee (''NAMC'')[6] (through its Mediation Subcommittee) reviews and approves each application. FINRA stated that its staff then conducts a background check of approved applicants before placing them on the mediator roster. FINRA also stated that its staff engages in ongoing evaluation of the mediators on its roster by eliciting evaluations of its mediators from parties and counsel who have participated in mediation and conducting periodic quality control reviews of their mediators.

Non-FINRA mediators are not subject to FINRA's screening process, background check, and periodic evaluation. Accordingly, FINRA stated that the selection of a non-FINRA mediator raises concerns for the forum. FINRA stated, however, that if a mediator expresses an interest in applying to be a FINRA mediator, and FINRA's program would benefit by adding the mediator, FINRA staff believes it would be prudent to permit a non-FINRA mediator chosen by the parties to serve on a case. But FINRA stated that if a mediator does not apply for FINRA's roster or FINRA believes the mediator is not appropriate for its forum, the Mediation Director should have the discretion to deny the parties' mediator selection.

For these reasons, in part, FINRA proposed to amend Rule 14107(a) to state that a mediator may be selected, with the Mediation Director's approval upon receipt of the parties' joint request, from a list or other source the parties choose. Under the proposed rule, if the Mediation Director rejects the mediator selected, the parties would still be able to select a FINRA approved mediator or a different non-FINRA mediator subject to the same conditions as the rejected mediator, or to mediate their dispute elsewhere.

FINRA Rule 14107(c) provides that a mediator selected or assigned to mediate a matter must comply with FINRA rules relating to disclosures required of arbitrators unless, with respect to a mediator selected from a source other than a list provided by FINRA, the parties elect to waive such disclosure. The proposed rule change would amend Rule 14107(c) to state that the paragraph would apply to a non-FINRA mediator who is approved to serve on a FINRA mediation.[7]

The proposed rule change also would make two technical amendments to Rule 14107. It would amend Rule 14107(a) to change the bullet points to numbers to facilitate citation to particular provisions of Rule 14107(a). It would also amend Rule 14107(c) to replace the citation to Rule 12408 of the Customer Code of Arbitration Procedure to Rule 12405 to reflect that former Rule 12408 was re-numbered as part of a prior FINRA rule change.[8]

In the Notice, FINRA represented that giving the Mediation Director discretion to determine whether parties may select a mediator who is not on FINRA's mediator roster would protect the quality and integrity of the process for users of FINRA's mediation program.

III. Discussion of Comment Letters

The Commission received five comment letters on the proposed rule change in response to the Notice.[9] Two commenters supported the proposal,[10] one supported the proposal with a suggested modification,[11] and two opposed the proposal.[12]

The PIABA Letter stated that the proposed rule change would assist forum participants in resolving their disputes. The St. John's Letter stated that giving the Mediation Director discretion in approving mediators not on FINRA's roster would help to ensure quality and efficiency in mediation.

The Cornell Letter stated that it supported the proposed rule change because FINRA should be able to control the quality of its mediation program. The letter also noted that, in the Notice, FINRA stated that if the Mediation Director rejects the parties' selected mediator, the parties would still be able to select a FINRA approved mediator or a different non-FINRA mediator subject to the same conditions as the rejected mediator, or to mediate their dispute elsewhere. The letter recommended that FINRA include this language in the proposed rule text or, alternatively, that the Commission acknowledge the language in an order approving the proposed rule change. In

---

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 66441 (Feb. 22, 2012), 77 FR 12098 (Feb. 28, 2012) (''Notice''). The comment period closed on March 20, 2012.

[4] *See* Letter from Ryan K. Bakhtiari, President, Public Investors Arbitration Bar Association, dated February 28, 2012 (''PIABA Letter''); letter from William A. Jacobson, Associate Clinical Professor of Law, Cornell Law School, and Director, Cornell Securities Law Clinic, and Patricia Peralta, Cornell Law School '13, dated March 15, 2012 (''Cornell Letter''); letter from Lisa Catalano, Director, Christine Lazaro, Supervising Attorney, and Ben Kralstein, Andrew Mundo, and Daniel Porco, Legal Interns, St. John's University School of Law Securities Arbitration Clinic, dated March 20, 2012 (''St. John's Letter''); letter from Jill I. Gross, Director; Edward Pekarek, Assistant Director, and Genavieve Shingle, Student Intern, Investor Rights Clinic at Pace Law School, dated March 20, 2012 (''PIRC Letter''); and letter from Thomas K. Potter, III, Burr & Forman LLP, dated March 23, 2012 (''Potter Letter''). Comment letters are available at *http://www.sec.gov.*

[5] *See* Letter from Margo A. Hassan, Assistant Chief Counsel, FINRA Dispute Resolution, to Elizabeth M. Murphy, Secretary, Commission, dated April 30, 2012 (''Response Letter''). The text of the proposed rule change and FINRA's Response Letter are available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room. The text of the Response Letter is also available on the Commission's Web site at *http://www.sec.gov.*

[6] The NAMC makes recommendations to FINRA staff regarding recruitment, qualification, training, and evaluation of arbitrators and mediators. The NAMC also makes recommendations on rules, regulations, and procedures that govern the conduct of arbitration, mediation, and other dispute resolution matters before FINRA.

[7] FINRA mediators pay an annual $200 fee to remain active on the roster. Additionally, FINRA deducts $150 from the mediator's compensation for each meditation in which the mediator participates (FINRA stated that mediators typically receive $250 to $500 per hour). The Notice stated that under the proposed rule FINRA would require the non-FINRA mediator to complete the application process for inclusion on the mediator roster. The Notice also stated that, if the Commission approves the proposed rule change, FINRA would require any non-FINRA mediator who serves on a case to pay the $200 annual fee charged to FINRA mediators who are active on the roster prior to serving on the case, as well as the $150 mediation case fee.

[8] *See* Exchange Act Release No. 63799 (Jan. 31, 2011), 76 FR 6500 (Feb. 4, 2011).

[9] *Supra* note 4.

[10] *See* PIABA Letter and St. John's Letter.

[11] *See* Cornell Letter.

[12] *See* PIRC Letter and Potter Letter.

its Response Letter, FINRA stated that it included the language in the Notice to call attention to the alternatives that would be available to forum users if the Mediation Director rejects the parties' chosen mediator. FINRA stated that it was unnecessary to include the suggested language in the rule text, and declined to amend the proposal. FINRA also represented that, if the Commission approves the proposed rule change, FINRA would include the suggested language in a Regulatory Notice announcing approval of the proposed rule change to ensure that parties are cognizant of their options under FINRA's program. In addition, FINRA stated that if the Mediation Director rejects the parties' chosen mediator, FINRA would notify the parties of the alternatives available to them.

The PIRC Letter opposed the proposed rule change on the basis that it might inhibit investor choice and control over the mediation process. The letter stated that, under the current rule, an investor has the ability to select a mediator best suited to represent him or her in his or her specific claim. The letter further stated that this level of choice provides an investor a level of control over the process and increases the perception of its fairness. In particular, the letter stated that under the current rule, an investor could choose lower-cost options that suit the investor's financial status, such as a non-FINRA pro bono mediator, or a mediator who is willing to accept a reduced fee. The letter expressed concern that the proposed rule would increase the overall cost of mediation to investors because it would inhibit their ability to choose affordable non-FINRA mediators. In its Response Letter, FINRA stated that it has a duty to ensure the quality of its program and believes that maintaining control of its mediator roster is necessary to meet this duty. Moreover, the letter reiterated that parties would still have options for mediating their dispute if the Mediation Director rejected their selected mediator: The parties would be able to select a mediator on FINRA's roster, select a different non-FINRA mediator subject to the same conditions as the rejected mediator, or choose to mediate their dispute in another forum.

In its Response Letter, FINRA also stated that it believes its mediation program is cost-effective for investors of all means. FINRA stated it believes that its filing fees (of up to $300) are modest and that the Mediation Director has discretion to waive them. FINRA also stated that it offers many opportunities for parties using its mediators to reduce the cost of mediation, including: (1) When FINRA adds mediators to its roster, it asks them to reduce their rates for smaller claims; (2) FINRA's Mediation Administrators provide, upon request, parties with a list of mediators who have agreed to conduct mediations for $50 per hour in appropriate cases; (3) some mediators on FINRA's roster have agreed to conduct mediations on a pro bono basis for parties of limited means; and (4) every October, FINRA hosts Mediation Settlement Month during which both FINRA and the mediators on its roster lower their fees in order to encourage participation.[13]

The Potter Letter stated, among other things, that FINRA has not established a need for the proposed rule change. The letter also stated that the proposed rule change would prevent parties from selecting a mediator of their choice and would restrict their freedom to contract. Moreover, the letter stated that the commenter believes the proposed rule would be difficult to enforce because FINRA would be unable to monitor a prohibition against private parties entering into private contracts.

In its Response Letter, FINRA stated that it does not believe the proposed rule change was unnecessary and reiterated that FINRA has a duty to ensure the quality of its mediation program, and that maintaining control of its mediator roster is a necessary to meet this duty. With respect to the letter's other objections, FINRA stated that it believes the commenter misinterpreted the proposal. Specifically, FINRA stated that mediation is voluntary, and that the proposed rule change would not prohibit parties from choosing their own mediators, or from choosing their own forum for mediation. In addition, FINRA reiterated that if the Mediation Director rejects a mediator selected by the parties, they would still be free to mediate their dispute elsewhere. Moreover, FINRA stated that it does not intend to police mediation between parties that occurs outside of FINRA's mediation forum.

For the aforementioned reasons, FINRA declined to amend the proposed rule change as suggested by commenters.

IV. Commission's Findings

The Commission has carefully reviewed the proposed rule change, the comments received, and FINRA's Response Letter. Based on its review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association. In particular, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Act,[14] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

More specifically, the Commission finds that the proposed rule change to provide the Mediation Director with discretion to determine whether parties to a FINRA mediation may select a mediator who is not on FINRA's mediator roster would benefit investors and other participants in the forum by helping to protect the quality and integrity of FINRA's mediation program for parties using FINRA's forum. While the Commission appreciates the commenters' concerns, particularly regarding whether parties using the forum would understand the options available to them if the Mediation Director rejects a mediator selected by the parties, we believe that FINRA has responded adequately to the commenters' concerns and note that FINRA has stated that it will include in a Regulatory Notice announcing approval of the proposed rule change language designed to ensure that parties are cognizant of their options under FINRA's program, and that if the Mediation Director rejects the parties' chosen mediator, FINRA will notify the parties of the alternatives available to them.

The Commission has reviewed the record for the proposed rule change and believes that the record does not contain any information to indicate that the proposed rule would have a significant effect on efficiency, competition, or capital formation. In light of the record, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation and has concluded that the proposed rule is unlikely to have any significant effect.[15]

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.

[13] FINRA lowers its filing fees by 50 percent and its mediators (who typically charge between $250 and $500 per hour for services rendered) reduce their rates to $200 per hour for a four-hour mediation session for claims up to $25,000, and $400 per hour for claims up to $100,000.

[14] 15 U.S.C. 78*o*–3(b)(6).

[15] *See* 15 U.S.C. 78c(f).

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–FINRA–2012–011) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–12850 Filed 5–25–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67039; File No. SR–ISE–2012–39]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Qualification Standards for Market Makers To Receive a Rebate

May 22, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 15, 2012, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been 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 ISE is proposing to amend the qualification standards for market makers to receive a rebate under the Exchange's modified maker/taker pricing structure. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, 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 these statements may be examined at the places specified in Item IV below. The self-regulatory organization 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

The purpose of this proposed rule change is to amend the qualification standards for market makers to receive a rebate under the Exchange's maker/taker pricing structure. The Exchange currently assesses per contract transaction fees and provides rebates to market participants that add or remove liquidity from the Exchange (''maker/taker fees and rebates'') in a number of options classes (the ''Select Symbols'').[3] The maker/taker fees and rebates apply to the following categories of market participants: (i) Market Maker;[4] (ii) Market Maker Plus; (iii) Non-ISE Market Maker;[5] (iv) Firm Proprietary; (v) Customer (Professional);[6] (vi) Priority Customer,[7] 100 or more contracts; and (vii) Priority Customer, less than 100 contracts.

In order to promote and encourage liquidity in the Select Symbols, the Exchange currently offers a $0.10 per contract rebate to Market Makers if the quotes they sent to the Exchange qualify the Market Maker to become a Market Maker Plus.[8] A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer (NBBO) 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months and 80% of the time for series trading between $0.03 and $5.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $5.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium for all expiration months in that symbol during the current trading month.[9]

The Exchange now proposes to amend the Market Maker Plus qualification standards in order for a Market Maker to qualify for the $0.10 per contract rebate when providing liquidity (making) in the Select Symbols. Specifically, ISE proposes to exclude from the NBBO calculation a Market Maker's single best and single worst overall quoting days in a symbol if doing so qualifies the Market Maker for the rebate. In effect, this variation to the current qualification standards will give a Market Maker the better of the NBBO average of all days in a month or the NBBO average of the month excluding the best and worst days, on a per symbol basis. The Exchange believes this proposed change will further encourage Market Makers to continue to quote aggressively in a class throughout the entire month despite an individual poor-performing day.

The Exchange currently determines whether a Market Maker qualifies as a Market Maker Plus at the end of each month by looking back at each Market Maker's quoting statistics per symbol during that month. If at the end of the month, a Market Maker meets the Exchange's stated criteria, the Exchange rebates $0.10 per contract for transactions in that symbol executed by

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

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

[2] 17 CFR 240.19b–4.

[3] Options classes subject to maker/taker fees are identified by their ticker symbol on the Exchange's Schedule of Fees.

[4] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. *See* ISE Rule 100(a)(25).

[5] A Non-ISE Market Maker, or Far Away Market Maker (''FARMM''), is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended (''Exchange Act''), registered in the same options class on another options exchange.

[6] A Customer (Professional) is a person who is not a broker/dealer and is not a Priority Customer.

[7] A Priority Customer is defined in ISE Rule 100(a)(37A) as a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).

[8] The concept of incenting market makers with a rebate is not novel. In 2008, the CBOE established a program for its Hybrid Agency Liaison whereby it provides a $0.20 per contact rebate to its market makers provided that at least 80% of the market maker's quotes in a class during a month are on one side of the national best bid or offer. Market makers not meeting CBOE's criteria are not eligible to receive a rebate. *See* Securities Exchange Act Release No. 57231 (January 30, 2008), 73 FR 6752 (February 5, 2008). The CBOE has since lowered the criteria from 80% to 60%. *See* Securities Exchange Act Release No. 57470 (March 11, 2008), 73 FR 14514 (March 18, 2008).

[9] *See* Securities Exchange Act Release No. 62507 (July 15, 2010), 75 FR 42802 (July 22, 2010) (SR–ISE–2010–68).