

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71032; File No. SR-ICC-2013-08]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Withdrawal of Proposed Rule Change To Add Rules Related to the Clearing of MCDX Index CDS Contracts and Make Conforming Changes to Existing Rules

December 11, 2013.

On October 25, 2013, ICE Clear Credit LLC ("ICC") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934¹ and Rule 19b-4 thereunder,² a proposed rule change relating to the clearing of MCDX Index CDS Contracts and making conforming changes to existing rules. Notice of the proposed rule change was published in the *Federal Register* on November 14, 2013.³ The Commission did not receive comments on the proposed rule change.

On December 2, 2013, ICC withdrew the proposed rule change (SR-ICC-2013-08).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁴

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-71040; File No. SR-Phlx-2013-118]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees

December 11, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 2, 2013, NASDAQ OMX PHLX LLC ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, 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 Exchange proposes to amend Section V of the Pricing Schedule entitled "Routing Fees."

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxphlx.cchwallstreet.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 Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The purpose of this filing is to amend the Routing Fees in Section V of the Pricing Schedule in order to recoup costs the Exchange incurs for routing and executing certain orders in equity options to away markets. Today, the Exchange assesses a Non-Customer a \$0.95 per contract Routing Fee to any options exchange. The Customer Routing Fee for option orders routed to The NASDAQ Options Exchange LLC ("NOM") is a \$0.05 per contract Fixed Fee in addition to the actual transaction fee assessed. The Customer Routing Fee for option orders routed to NASDAQ OMX BX, Inc. ("BX Options") is \$0.00. The Customer Routing Fee for option orders routed to all other options exchanges³ (excluding NOM and BX

Options) is a fixed fee of \$0.15 per contract ("Fixed Fee") in addition to the actual transaction fee assessed. If the away market pays a rebate, the Routing Fee is \$0.00 per contract.⁴

The Exchange proposes to increase the Customer Routing Fixed Fee of \$0.15 per contract when an option order is routed to all other exchanges to \$0.20 per contract. With respect to the fixed costs, the Exchange incurs a fee when it utilizes Nasdaq Options Services LLC ("NOS"), a member of the Exchange and the Exchange's exclusive order router.⁵ Each time NOS routes an order to an away market, NOS is charged a clearing fee⁶ and, in the case of certain exchanges, a transaction fee is also charged in certain symbols, which fees are passed through to the Exchange. The Exchange currently recoups clearing and transaction charges incurred by the Exchange as well as certain other costs incurred by the Exchange when routing to away markets, such as administrative and technical costs associated with operating NOS, membership fees at away markets, Options Regulatory Fees ("ORFs") and technical costs associated with routing options. The Exchange assesses the actual away market fee at the time that the order was entered into the Exchange's trading system. This transaction fee would be calculated on an order-by-order basis since different away markets charge different amounts.

A new market entrant recently adopted an ORF.⁷ The Exchange proposes to increase its Fixed Fee from \$0.15 to \$0.20 per contract to recoup costs associated with increased costs.

The Exchange also proposes to correct a reference in the Routing Fees to the Customer Rebate Program which was relocated from Section A to Section B.

⁴ For all Routing Fees, the transaction fee will continue to be based on the away market's actual transaction fee or rebate for particular market participants and in the case that there is no transaction fee or rebate assessed by the away market, the Fixed Fee. A member organization qualifying for a Tier 2, 3 or 4 rebate in the Customer Rebate Program in Section B of the Pricing Schedule is entitled to receive a credit equal to the applicable Fixed Fee plus \$0.05 per contract, unless the away market transaction fee is \$0.00 or the away market pays a rebate, in which case the member organization is entitled to receive a credit equal to the applicable Fixed Fee.

⁵ In May 2009, the Exchange adopted Rule 1080(m)(iii)(A) to establish Nasdaq Options Services LLC ("NOS"), a member of the Exchange, as the Exchange's exclusive order router. See Securities Exchange Act Release No. 59995 (May 28, 2009), 74 FR 26750 (June 3, 2009) (SR-Phlx-2009-32). NOS is utilized by the Exchange's fully automated options trading system, PHLX XL[®].

⁶ The Options Clearing Corporation ("OCC") assesses \$0.01 per contract side.

⁷ Gemini adopted an ORF of \$0.0010 per contract. See Securities Exchange Act Release No. 70200 (August 14, 2013), 78 FR 51242 (August 20, 2013) (SR-Topaz-2013-01).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 70826 (Nov. 7, 2013), 78 FR 68480 (Nov. 14, 2013).

⁴ 17 CFR 200.30-3(a)(12).

⁵ 15 U.S.C. 78s(b)(1).

⁶ 17 CFR 240.19b-4.

³ Including BATS Exchange, Inc. ("BATS"), BOX Options Exchange LLC ("BOX"), the Chicago Board Options Exchange, Incorporated ("CBOE"), C2 Options Exchange, Incorporated ("C2"), International Securities Exchange, LLC ("ISE"), the Miami International Securities Exchange, LLC ("MIAX"), NYSE Arca, Inc. ("NYSE Arca"), NYSE MKT LLC ("NYSE Amex") and Topaz Exchange, LLC ("Gemini").