must be submitted to OMB within 30 days of this notice.

Dated: March 25, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07320 Filed 3–28–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Wednesday, March 27, 2013 at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), and (10) and 17 CFR 200.402(a)(3), (5), (7), and (10), permit consideration of the scheduled matter at the Closed Meeting.

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

The subject matter of the Closed Meeting will be:

A matter relating to an enforcement proceeding.

At times, changes in Commission priorities require alterations in the scheduling of meeting item.

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: March 26, 2013.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07447 Filed 3–27–13; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69229; File No. SR–Phlx–2013–15]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Approving a Proposed Rule Change for the Permanent Approval of a Pilot Program To Permit PSX To Accept Inbound Orders Routed by NASDAQ Execution Services LLC From the BX Equities Market

March 25, 2013.

I. Introduction

On February 6, 2013, NASDAQ OMX PHLX LLC (''Exchange'' or ''PHLX'') 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 requesting permanent approval of the Exchange's pilot program that permits the NASDAQ OMX PSX facility of PHLX (''PSX'' or the ''System'') to accept inbound orders routed by NASDAQ Execution Services LLC (''NES'') from the NASDAQ OMX BX Equities Market of NASDAQ OMX BX, Inc. (''BX''). The proposed rule change was published for comment in the **Federal Register** on February 14, 2013.[3] The Commission received no comment letters regarding the proposed rule change. This order approves the proposed rule change.

II. Background

PHLX Rule 985(b) prohibits the Exchange or any entity with which it is affiliated from, directly or indirectly, acquiring or maintaining an ownership interest in, or engaging in a business venture with, an Exchange member or an affiliate of an Exchange member in the absence of an effective filing under Section 19(b) of the Act.[4] NES is a registered broker-dealer that is a member of the Exchange, and currently provides to members of the Exchange optional routing services to other markets.[5] NES is owned by NASDAQ OMX Group, Inc. (''NASDAQ OMX''), which also owns three registered securities exchanges—the Exchange, BX, and the NASDAQ Stock Market LLC (''NASDAQ'').[6] Thus, NES is an affiliate of these exchanges.[7] Absent an effective filing, PHLX Rule 985(b) would prohibit NES from being a member of the Exchange. The Commission initially approved NES's affiliation with PHLX in connection with NASDAQ OMX's acquisition of PHLX,[8] and NES currently performs certain limited activities for the Exchange.[9]

On October 6, 2011, PHLX filed a proposed rule change for the System to accept inbound orders routed from the NASDAQ OMX BX Equities Market of BX on a pilot basis subject to certain limitations and conditions.[10] On February 6, 2013, the Exchange filed the instant proposal to allow the Exchange to accept such orders routed inbound by NES from BX on a permanent basis subject to certain limitations and conditions.[11]

III. Discussion and Commission Findings

After careful 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 exchange.[12] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(1) of the Act,[13] which requires, among other things, that a national securities exchange be so organized and have the capacity to carry out the purposes of the Act, and to comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act, the rules and regulation thereunder, and the rules of the Exchange. Further, the

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

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 68889 (February 8, 2013), 78 FR 10666 (''Notice'').

[4] 15 U.S.C. 78s(b). PHLX Rule 985 also prohibits a PHLX member from being or becoming an affiliate of PHLX, or an affiliate of an entity affiliated with PHLX, in the absence of an effective filing under Section 19(b). *See* PHLX Rule 958(b)(1)(B).

[5] *See* PHLX Rule 3315. *See also* Notice, *supra* note 3, at10667.

[6] *See* Securities Exchange Act Release No. 58179 (July 17, 2008), 73 FR 42874 (July 23, 2008) (SR–Phlx–2008–31) (order approving NASDAQ OMX's acquisition of PHLX) (''PHLX Acquisition Order'').

[7] *See id. See also* Notice, *supra* note 3, at 10667. *See also,* Securities Exchange Act Release No. 62877 (September 9, 2010), 75 FR 56633 (September 16, 2010) (SR–Phlx–2010–79).

[8] *See* PHLX Acquisition Order, *supra* note 6, at 42887.

[9] *See, e.g.,* PHLX Rule 3315 (governing order routing by PHLX). *See also* Securities Exchange Act Release No. 65469 (October 3, 2011), 76 FR 62486 (October 7, 2011) (SR–Phlx–2011–108).

[10] *See* Securities Exchange Act Release No. 65553 (October 13, 2011), 76 FR 64987

(October 19, 2011) (SR–Phlx–2011–138) (notice of proposed rule change to allow the System to accept inbound orders from the NASDAQ OMX BX Equities Market of BX on a one-year pilot basis). *See also,* Securities Exchange Act Release No. 67996 (October 5, 2012), 77 FR 62282 (October 12, 2012) (SR–Phlx–2012–118) (extending one-year pilot for an additional six-month period).

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

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

[13] 15 U.S.C. 78f(b)(1).

Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] 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, and 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. Section 6(b)(5) also requires that the rules of an exchange not be designed to permit unfair discrimination among customers, issuers, brokers, or dealers.

Recognizing that the Commission has previously expressed concern regarding the potential for conflicts of interest in instances where a member firm is affiliated with an exchange of which it is a member, the Exchange previously proposed, and the Commission approved, limitations and conditions on NES's affiliation with the Exchange.[15] Also recognizing that the Commission has expressed concern regarding the potential for conflicts of interest in instances where a member firm is affiliated with an exchange to which it is routing orders, the Exchange previously implemented limitations and conditions to NES's affiliation with the Exchange to permit the Exchange to accept inbound orders that NES routes in its capacity as a facility of BX on a pilot basis.[16] The Exchange has proposed to permit PHLX to accept inbound orders that NES routes in its capacity as a facility of BX on a permanent basis, subject to the same limitations and conditions of this pilot:

- First, the Exchange and the Financial Industry Regulatory Authority (''FINRA'') will maintain a Regulatory Contract, as well as an agreement pursuant to Rule 17d–2 under the Act (''17d–2 Agreement'').[17] Pursuant to the Regulatory Contract and the 17d–2 Agreement, FINRA will be allocated regulatory responsibilities to review NES's compliance with certain PHLX rules.[18] Pursuant to the Regulatory Contract, however, the Exchange retains ultimate responsibility for enforcing its rules with respect to NES.
- Second, FINRA will monitor NES for compliance with PHLX's trading rules, and will collect and maintain certain related information.[19]
- Third, FINRA will provide a report to the Exchange's chief regulatory officer (''CRO''), on a quarterly basis, that: (i) quantifies all alerts (of which the Exchange or FINRA is aware) that identify NES as a participant that has potentially violated Commission or Exchange rules, and (ii) lists all investigations that identify NES as a participant that has potentially violated Commission or PHLX rules.
- Fourth, the Exchange has in place PHLX Rule 985, which requires NASDAQ OMX, as the holding company owning both the Exchange and NES, to establish and maintain procedures and internal controls reasonably designed to ensure that NES does not develop or implement changes to its system, based on non-public information obtained regarding planned changes to the Exchange's systems as a result of its affiliation with the Exchange, until such information is available generally to similarly situated Exchange members, in connection with the provision of inbound order routing to the Exchange.

The Exchange stated that it has met all the above-listed conditions. By meeting such conditions, the Exchange believes that it has set up mechanisms that protect the independence of the Exchange's regulatory responsibility with respect to NES, and has demonstrated that NES cannot use any information advantage it may have because of its affiliation with the Exchange.[20]

In the past, the Commission has expressed concern that the affiliation of an exchange with one of its members raises potential conflicts of interest, and the potential for unfair competitive advantage.[21] Although the Commission continues to be concerned about potential unfair competition and conflicts of interest between an exchange's self-regulatory obligations and its commercial interest when the exchange is affiliated with one of its members, for the reasons discussed below, the Commission believes that it is consistent with the Act to permit NES, in its capacity as a facility of BX, to route orders inbound to the Exchange on a permanent basis instead of a pilot basis, subject to the limitations and conditions described above.[22]

The Exchange has proposed four ongoing conditions applicable to NES's routing activities, which are enumerated above. The Commission believes that these conditions will mitigate its concerns about potential conflicts of interest and unfair competitive advantage. In particular, the Commission believes that FINRA's oversight of NES,[23] combined with FINRA's monitoring of NES's compliance with the Exchange's rules and quarterly reporting to the Exchange, will help to protect the independence of the Exchange's regulatory responsibilities with respect to NES. The Commission also believes that the Exchange's Rule 985(b) is designed to ensure that NES cannot use any information advantage it may have

[14] 15 U.S.C. 78f(b)(5).

[15] *See supra,* note 7, at 56637. *See also* Notice, *supra* note 3, at 10667 n.8 and accompanying text. In addition, the Exchange has authority to accept inbound orders that NES routes in its capacity as a facility of NASDAQ, subject to certain limitations and conditions. *See supra* note 7, at 56637.

[16] *See* Notice, *supra* note 3, at 10667.

[17] 17 CFR 240.17d–2.

[18] NES is also subject to independent oversight by FINRA, its designated examining authority, for compliance with financial responsibility requirements.

[19] Pursuant to the Regulatory Contract, both FINRA and the Exchange will collect and maintain all alerts, complaints, investigations and enforcement actions in which NES (in its capacity as a facility of BX routing orders to the Exchange) is identified as a participant that has potentially violated applicable Commission or Exchange rules. The Exchange and FINRA will retain these records in an easily accessible manner in order to facilitate any potential review conducted by the Commission's Office of Compliance Inspections and Examinations. *See* Notice, *supra* note 3, at 10667 n.12.

[20] *See* Notice, *supra* note 3, at 10667.

[21] *See, e.g.,* Securities Exchange Act Release Nos. 54170 (July 18, 2006), 71 FR 42149 (July 25, 2006) (SR–NASDAQ–2006–006) (order approving NASDAQ's proposal to adopt NASDAQ Rule 2140, restricting affiliations between NASDAQ and its members); 53382 (February 27, 2006), 71 FR 11251 (March 6, 2006) (SR–NYSE–2005–77) (order approving the combination of the New York Stock Exchange, Inc. and Archipelago Holdings, Inc.); 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–Amex–2008–62 and SR–NYSE–2008–60) (order approving the combination of NYSE Euronext and the American Stock Exchange LLC); 59135 (December 22, 2008), 73 FR 79954 (December 30, 2008) (SR–ISE–2009–85) (order approving the purchase by ISE Holdings of an ownership interest in Direct Edge Holdings LLC); 59281 (January 22, 2009), 74 FR 5014 (January 28, 2009) (SR–NYSE–2008–120) (order approving a joint venture between NYSE and BIDS Holdings L.P.); 58375 (August 18, 2008), 73 FR 49498 (August 21, 2008) (File No. 10–182) (order granting the exchange registration of BATS Exchange, Inc.); 61698 (March 12, 2010), 75 FR 13151 (March 18, 2010) (File Nos. 10–194 and 10–196) (order granting the exchange registration of EDGX Exchange, Inc. and EDGA Exchange, Inc.); and 62716 (August 13, 2010), 75 FR 51295 (August 19, 2010) (File No. 10–198) (order granting the exchange registration of BATS–Y Exchange, Inc.).

[22] The Commission notes that these limitations and conditions are consistent with those previously approved by the Commission for other exchanges. *See, e.g.,* Securities Exchange Act Release Nos. 67256 (June 26, 2012) 77 FR 39277 (July 2, 2012) (SR–BX–2012–030); and 64090 (March 17, 2011), 76 FR 16462 (March 23, 2011) (SR–BX–2011–007).

[23] This oversight will be accomplished through the 17d–2 Agreement between FINRA and the Exchange and the Regulatory Contract. *See* Notice, *supra* note 3, at 10667 n.10 and accompanying text.

because of its affiliation with the Exchange.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change (SR–Phlx–2013–15) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–07316 Filed 3–28–13; 8:45 am]

BILLING CODE 8011–01–P

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–69205; File No. SR–ICC–2013–02]

Self-Regulatory Organizations; ICE Clear Credit LLC; Notice of Filing and Immediate Effectiveness of Proposed Publishing of ICC Circular Related to Swap Data Repository Reporting

March 21, 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 March 4, 2013, ICE Clear Credit LLC (''ICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by ICC. ICC filed the proposal pursuant to Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1)[4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

ICC proposes to publish ICC Circular 2013/005,[5] titled *Parts 45 and 43 SDR Reporting Requirements for Off-Facility CDS-Clearing Related Swaps (Firm Trades),* related to the Commodity Futures Trading Commission's (''CFTC'') Part 43 and Part 45 regulations (Swap Data Repository Reporting) (''ICC Circular 2013/005'').

On December 19, 2012, CFTC staff granted conditional No-Action Relief (12–59) for Swap Dealers and Major Swap Participants that are clearing members from reporting certain off-facility swaps (the ''No-Action Relief''). Specifically, the No-Action Relief states that, subject to certain conditions, the CFTC Division of Market Oversight will not recommend that the CFTC take enforcement action against a reporting counterparty (clearing member) for failure to comply with its obligations to report swap data arising from swaps that have been entered into pursuant to a Derivatives Clearing Organization's CDS Settlement Price Process (''CDS Clearing-Related Swaps'').

ICC's CDS settlement price process requires that clearing members enter into ''firm trades'' in order to ensure that prices submitted by clearing members are reliable and accurate. Clearing members face ICC as their counterparty with respect to firm trades and firm trades are automatically cleared. As a result, firm trades constitute CDS Clearing-Related Swaps (''ICC CDS Clearing-Related Swaps''). ICC currently reports all of its cleared swaps, including ICC CDS Clearing-Related Swaps, to ICE Trade Vault LLC (''ICE Trade Vault''), a duly registered SDR.

As a condition to the No-Action Relief, clearing members and ICC must agree, as evidenced by private agreement or pursuant to ICC's Rules, that ICC shall fulfill all of the clearing member's obligations with respect to reporting ICC CDS Clearing-Related Swaps pursuant to Part 45. To satisfy this condition, ICC plans to issue ICC Circular 2013/005 establishing that ICC will continue to report ICC CDS Clearing-Related Swaps to ICE Trade Vault thereby satisfying any related reporting obligation of its clearing members pursuant to Part 45 until the expiration of the No-Action relief on June 30, 2013.

In addition, ICC Circular 2013/005 is intended to satisfy any Part 43 reporting obligations of ICC's clearing members related to ICC CDS Clearing-Related Swaps to the extent that any such reporting obligations might exist. ICC will be responsible, in the capacity of a third-party provider, for reporting required swap transaction and pricing data in real-time to ICE Trade Vault on behalf of a clearing member that is a Swap Dealer or Major Swap Participant. In the event that any clearing member would like to ''opt out'' of this ICC Part 43 reporting service, the clearing member should notify ICC Client Services at *css@theice.com.*

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICC 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. ICC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.[6]

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed change is to publish ICC Circular 2013/005 in order to satisfy a condition of the No-Action Relief. ICC plans to publish ICC Circular 2013/005 establishing that ICC will continue to report ICC CDS Clearing-Related Swaps to ICE Trade Vault thereby satisfying any related reporting obligation of its clearing members pursuant to Part 45 until the expiration of the No-Action relief on June 30, 2013. In addition, ICC Circular 2013/005 is intended to satisfy any Part 43 reporting obligations of ICC's clearing members related to ICC CDS Clearing-Related Swaps to the extent that any such reporting obligations might exist. Publishing ICC Circular 2013/005 does not require any changes to the ICC risk management framework. The only change being submitted is publishing ICC Circular 2013/005.

Section 17A(b)(3)(F) of the Act[7] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions. ICC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to ICC, in particular with Section 17A(b)(3)(F),[8] because facilitating clearing members' reporting obligations promotes the prompt and accurate settlement of securities transactions and the safeguarding of securities and funds.

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

[2] 17 CFR 240.19b–4.

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

[4] 17 CFR 240.19b–4(f)(1).

[5] Circular number may change based on any other sequentially numbered ICC Circulars issued prior to the March 18, 2013 Circular date.

[6] The Commission has modified the text of the summaries prepared by ICC.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).