transactions in equity options.[8] Finally, the current amount of the execution fee and comparison fee for all non-ISE Market Maker transactions is $0.37 and $0.03 per contract, respectively.[9]

Pursuant to a license agreement between the Exchange and the Nasdaq Stock Market, Inc., (''Nasdaq''), the Exchange currently charges a surcharge fee of $0.15 per contract for trading in options on NDX and MNX. The Exchange recently renewed its license agreement with Nasdaq pursuant to which the Exchange is now being charged a higher license fee. Accordingly, to defray the increased licensing costs, the Exchange proposes to increase the surcharge fee by $0.01 per contract to $0.16 per contract for trading in options on NDX and MNX. The Exchange believes charging the participants that trade these instruments is the most equitable means of recovering the costs of the license. However, because of competitive pressures in the industry, the Exchange proposes to continue excluding Public Customer Orders [10] from this surcharge fee.

Accordingly, this surcharge fee will only be charged to Exchange members with respect to non-Public Customer Orders (*i.e.*, Market Maker, Non-ISE Market Maker and Firm Proprietary orders).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of section 6 of the Act,[11] in general, and furthers the objectives of section 6(b)(4),[12] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is 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 has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(2) [14] thereunder. 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
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2008–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–02. 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 inspection and copying 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 ISE. 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–ISE–2008–02 and should be submitted on or before February 6, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–648 Filed 1–15–08; 8:45 am]

BILLING CODE 8011–01–P

[8] The execution fee is currently between $0.21 and $0.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently $0.03 per contract side.

[9] The amount of the execution and comparison fee for non-ISE Market Maker transactions executed in the Exchange's Facilitation and Solicitation Mechanisms is $0.16 and $0.03 per contract, respectively.

[10] Public Customer Order is defined in Exchange Rule 100(a)(39) as an order for the account of a Public Customer. Public Customer is defined in Exchange Rule 100(a)(38) as a person that is not a broker or dealer in securities.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 19b–4(f)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57118; File No. SR–OCC–2007–19]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Cross-Margining With ICE Clear U.S., Inc.

January 9, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 12, 2007, The Options Clearing Corporation (''OCC'') 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 primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposal.

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

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would facilitate the establishment of a program with ICE Clear U.S., Inc. (''ICE Clear'') for the cross-margining of certain securities options contracts cleared by OCC in its capacity as a clearing agency registered with the Commission with certain futures and options on such futures cleared by ICE Clear in its capacity as a derivatives clearing organization registered with the Commodities Futures Trading Commission (''CFTC'').

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

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

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

The principal purpose of the proposed rule change is to facilitate the establishment of a program with ICE Clear for the cross-margining of certain securities options contracts cleared by OCC in its capacity as an Commission-registered clearing agency with certain futures and options on such futures cleared by ICE Clear in its capacity as a CFTC-registered derivatives clearing organization.

To establish the program, OCC and ICE Clear have entered into a Cross-Margining Agreement (''XM Agreement''), a copy of which is set forth as Exhibit 5A to SR–OCC–2007–19. The XM Agreement is based on and is substantially similar to the XM Agreement between OCC and the Chicago Mercantile Exchange Inc. (''CME'') as it relates to bilateral cross-margining.[3] The following highlights the principal differences between the OCC–ICE Clear XM Agreement and the OCC–CME XM Agreement for bilateral cross-margining.

Section 1 of the XM Agreement contains definitional provisions. Certain definitions have been amended, and others have been deleted as unnecessary. The definition of ''Business Day'' (section 1(b)) has been revised to delete the specific reference to Good Friday as a Business Day leaving it up to OCC and ICE Clear to mutually agree on days that may be deemed to be Business Days for purposes of the Agreement. The definition of ''Eligible Contract'' (section 1(k)) has been revised to permit the removal of a Contract as an Eligible Contract within 30 days of the written request of the Clearing Organization, which is defined as either OCC or ICE Clear, that clears such contract. The 30 day period may be extended if necessary to provide appropriate protection for the market place, existing open positions, and the holders thereof. The definition of ''Market Professional'' (section 1(p)) has been revised to reflect that a market professional includes any member of ICE Futures US, Inc. to the extent such member is trading Eligible Contracts for his or its own account. The terms ''Pair of Non-Proprietary X–M Accounts'' and ''Pair of Proprietary X–M Accounts'' have replaced the terms ''Sets of Non-Proprietary X–M Accounts'' and ''Sets of Non-Proprietary X–M Accounts'' (sections 1(r) and (v)) in order to reflect the bilateral nature of the OCC–ICE Clear XM program. This change has been made throughout the XM Agreement, as applicable. The terms ''Carrying Clearing Organization'' ''X–M Pledge Account'' have been deleted throughout the XM Agreement as unnecessary given the deletion of section 3 as described below.

Section 2 of the OCC–ICE Clear XM Agreement governs establishment of X–M Accounts and contains no substantive changes from the OCC–CME XM Agreement other than referencing pairs of cross-margined accounts instead of sets of cross-margined accounts.

Section 3 of the OCC/CME XM Agreement concerns the establishment of X–M Pledge Accounts. The terms of section 3, however, have been deleted from the OCC–ICE Clear XM Agreement. No X–M Pledge Accounts have been established in cross-margining programs operated by OCC and other commodity clearing organizations, and OCC and ICE Clear do not expect such accounts to be established in connection with their cross-margining program.

No changes have been made to section 4 of the OCC–ICE Clear XM Agreement.

Section 5 relates to the calculation of margin. OCC and ICE Clear have agreed not to apply Super Margins to pairs of cross-margined accounts established under the OCC–ICE Clear XM Agreement. Accordingly, provisions of the OCC–CME XM Agreement relating to Super Margins, including Exhibit B to that agreement, the Super Margins Schedule, have been eliminated. References to Base Margin have been eliminated as it is no longer necessary to identify Base Margin and Super Margin as being the components of the total Margin Requirement. Other provisions, including the fact that OCC will calculate the Margin Requirement with respect to each pair of cross-margined accounts, have been reordered and clarified. Nevertheless, ICE Clear will have the right to elect to calculate margin requirements with prior notice to OCC. Finally, the requirement that oral agreements be made on a recorded telephone line has been deleted as OCC understands that ICE Clear does not utilize such lines.

Section 6 relates to the forms and method of holding initial margin. As revised, section 6 permits the Clearing Organizations to agree to value collateral as provided under the rules of one Clearing Organization, but if no such agreement is reached, collateral would be valued at the lowest value given under the rules of both Clearing Organizations. This change accommodates OCC's and ICE Clear's current agreement to use OCC's valuations for deposits of Government securities, which valuations are substantially similar to but not exactly the same as those specified by ICE Clear.[4] Further, OCC and ICE Clear have agreed that the Clearing Organizations shall be joint beneficiaries. To the extent that a letter of credit permits draws by only one of the beneficiaries, one Clearing Organization may make such draws by providing notice to but without obtaining consent of the other beneficiary. However, as in other cross-margining programs, the proceeds of any demand for payment under a letter of credit must be deposited by the issuer of the letter of credit directly into the applicable joint bank account of the Clearing Organizations. Section 6 also has been modified to refer explicitly to the standard practice of equal sharing of

[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act No. 38584 (May 8, 1997), 62 FR 26602 (May 14, 1997) (File No. SR–OCC–97–04). From 1997 to 2004, ICE Clear U.S. participated in a trilateral cross-margining program with OCC and CME under its prior names, ''Commodity Clearing Corporation'' and ''New York Clearing Corporation.'' The agreement governing the trilateral cross-margining program also sets forth the terms and conditions governing the current bilateral cross-margining program between OCC and CME.

[4] OCC implemented a comparable change in its cross-margining program with The Clearing Corporation. Securities Exchange Act Release No. 34–51291 (March 2, 2005), 70 FR 11295 (March 8, 2005) (File No. SR–OCC–2005–01).

interest income earned from overnight investments by the Clearing Organizations. In addition, investments of customer segregated funds may be made only in ''permitted investments'' as defined in CFTC Regulation 1.25.

Section 7 describes daily settlement procedures, which are subject to joint coordination and authorization of the Clearing Organizations. For initial morning settlements, the initiating Clearing Organization will send settlement instructions to the other Clearing Organization by 6 a.m. (for clearing member debits) and by 9 a.m. (for clearing member credits). If approved, the non-initiating Clearing Organization will then send such instruction to the applicable XM clearing bank by the designated time frames. Final settlement for clearing member debits is to occur at or before 8 a.m. (ICE Clear's standard settlement time) and for clearing member credits at or before 10 a.m. (OCC's standard settlement time for such credits). Section 7 further has been modified to update the times at which certain files (*e.g.*, prices, positions, and settlement amounts) are to be transmitted and collateral transactions may be effected by clearing members to reflect current processing cycles. In addition, section 7 has been amended to clarify that instructions to transfer funds to or from the bank accounts of a cross-margining clearing members or to or from the joint settlement accounts of the clearing organizations are subject to the provisions of section 7(a). Other changes to section 7 include additional references to the term ''Business Day'' and provisions clarifying that requests to the Designated Clearing Organization (''DCO'') to generate settlement instructions are to be made during normal business hours except as the DCO may otherwise agree. Finally, section 7 has been amended to eliminate the requirement that oral agreements to alter the time frames specified in section 7 be made over a recorded telephone line. Rather, such agreements will be confirmed by e-mail and in a subsequent written document.

Section 8 concerns the suspension and liquidation of a cross-margining clearing member. Section 8 has been modified to generally provide that the Clearing Organizations will use good faith efforts to transfer or liquidate contracts to minimize risk rather than to more specifically require best efforts to close out legs of hedged positions simultaneously. This change is principally intended to provide a small measure of additional flexibility and is not reflective of any substantive difference in the level of coordination expected to occur between OCC and ICE Clear with respect to the liquidation of cross-margining accounts. Section 8 also has been modified to provide that the Clearing Organizations will issue a demand for immediate payment under any letter of credit deposited as margin unless they agree not to take such action. Provisions that permitted the Clearing Organizations to defer drawing on a letter of credit on receipt of satisfactory written assurances from the issuing bank extending its irrevocable commitment under the letter have been deleted in favor of the formulation described in the preceding sentence. Provisions relating to X–M Pledge Accounts have been deleted for the reasons described above.

No substantive changes have been made to sections 9 through 12.

Section 13 concerns termination of the OCC–ICE Clear XM agreement. Section 13 has been modified to provide that on termination of the OCC–ICE Clear XM agreement any common stock deposited as margin would be transferred from the applicable joint custody account to the custody account of either of the Clearing Organizations at the direction of the depositing clearing member. This change has been made for clarity.

No change has been made to Section 14.

Section 15 concerns information sharing between the Clearing Organizations. No substantive change has been made to section 15 other than to reflect that ICE Clear will notify OCC if ICE Futures has applied any special surveillance procedures to any Clearing Member participating in OCC–ICE Clear cross-margining program. For the reason previously identified, section 15 has been further amended to eliminate the requirement that a recorded line be used for purposes of providing notices issued pursuant to section 15.

Section 16 contains general provisions relating to the OCC–ICE Clear XM Agreement. A new paragraph (m) has been added to section 16, which sets forth the acknowledgment of each Clearing Organization that it does not have any intellectual property rights with respect to Eligible Contracts, including with respect to contract prices, settlement prices, open interest, trading volume, or any other data related to the Eligible Contracts cleared by the other Clearing Organization. However, paragraph (m) permits the use of such data by a Clearing Organization as necessary to carry out its functions under the OCC–ICE Clear XM Agreement. Remedies for any alleged violation of the paragraph are limited to equitable relief. Furthermore, the terms of paragraph (m) make it clear that the paragraph is in no way intended to limit or adversely affect the security interest of either Clearing Organization in Eligible Contracts or margin collateral.

Section 17, which provides for arbitration of disputes, has been amended to provide an additional office where an arbitration proceeding may be held.

Any other differences between the OCC–ICE Clear XM Agreement and the OCC–CME XM Agreement not specifically described above are not material in nature.

Exhibit A to the OCC–ICE Clear XM Agreement contains the list of Eligible Contracts initially to be included in the OCC–ICE Clear cross-margining program. Previously when approving cross-margining programs, the Commission required OCC to provide notice to the Commission when proposing to add new options classes to a cross-margining program. OCC now requests that the Commission terminate this notice requirement for all OCC cross-margining programs. OCC believes that such notification should no longer be required because of its substantial experience in safely operating various cross-margining programs since 1988 and because the addition of new options classes to cross-margining programs will be expedited by eliminating the notice requirement. Except for changes to the list of Eligible Contracts, OCC would continue to submit other modifications to the various XM agreements pursuant to the section 19(b) rule filing process.

In addition to the OCC–ICE Clear XM Agreement, attached as Exhibit 5A, the following are attached as exhibits to SR–OCC–2007–19:

Exhibit	Name
Exhibit 5B ...	Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member).
Exhibit 5C ...	Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members).
Exhibit 5D ...	Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member).
Exhibit 5E ...	Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members).
Exhibit 5F ...	Market Professional's Agreement for Cross-Margining (Joint Clearing Member).
Exhibit 5G ...	Market Professional's Agreement for Cross-Margining (Affiliated Clearing Members).

These agreements are also based on the comparable agreements used in OCC–CME cross-margining program with slight modifications as appropriate. Those modifications include: (i) Identifying the cross-margining program as being a bilateral program between OCC and ICE Clear; (ii) making other non-substantive, technical changes (*e.g.*, eliminating the term ''Carrying Clearing Organization,'' which was a concept needed only in the trilateral program); (iii) reflecting the revised definition of ''Market Professional'' as used in the OCC–ICE Clear XM Agreement; and (iv) eliminating the requirement that clearing members and market professionals furnish the Clearing Organizations with financing statements relating to positions, collateral, and property maintained with respect to accounts subject to the OCC–ICE Clear cross-margining program. The adoption by all fifty states of revisions to Articles 8 and 9 of the Uniform Commercial Code (''UCC'') has eliminated the need to obtain financing statements that were required to perfect security interests in futures and options under earlier versions of those Articles.

The Commission has previously found that cross-margining programs are consistent with clearing agency responsibilities under section 17A of the Act.[5] In so finding, the Commission noted that cross-margining enhances clearing member liquidity and systemic liquidity both in times of normal trading and in times of market stress.[6] Accordingly, the proposed rule change is consistent with section 17A of the Act in that it implements another cross-margining program which will facilitate the removal of impediments to and help perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody and control of the clearing agency or for which it is responsible.[7] The proposed rule change to establish a cross margining program between OCC and ICE Clear is substantially similar to other cross-margining programs to which OCC is a party that have been previously approved by the Commission. The Commission views cross-margining programs as a significant risk reduction method because they provide a means whereby individual clearing organizations do not have to independently manage the risk associated with some components (*i.e.*, the futures or options component) of a clearing member's total portfolio. Accordingly, the Commission finds that the proposed rule change is designed to assure the safeguarding of securities and funds which are in OCC's custody or control or for which it is responsible.

OCC also requested that the Commission eliminate its requirement that OCC provide the Commission notice when proposing to add new options classes to a cross-margining program. Given OCC's long experience with operating cross-margining programs as well as its demonstrated ability to evaluate and manage any risks associated with adding new options classes, we find that the requirement to provide the Commission notice of the addition of new options classes is no longer either necessary or required.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of the filing because the proposed OCC–ICE Clear cross-margining program is based on and is substantially similar to the existing OCC–CME cross-margining program, which was previously approved by the Commission and because such approval will allow OCC to implement the OCC–ICE Clear cross-margining program in early January pursuant to its implementation schedule.

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
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–OCC–2007–19 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OCC–2007–19. 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 inspection and copying 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 OCC. 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–OCC–2007–19 and should be submitted on or before February 6, 2008.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the

[5] *See, e.g.*, Securities Exchange Act Release No. 38584.

[6] *Id.*

[7] 15 U.S.C. 78q–1(b)(3)(F).

requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.[8]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2007–19) be and hereby is approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–630 Filed 1–15–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57116; File No. SR–Phlx–2007–95]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Securities With Restricted Trading Sessions on XLE

January 9, 2008.

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 31, 2007, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Phlx. 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] which renders it effective upon filing with the Commission. 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

Phlx proposes to update the list in Phlx Rule 101 of securities eligible to trade in one or more, but not all three, of the Exchange's trading sessions. The securities to be added are: (1) iShares® S&P Global 100 Index Fund; (2) iShares® S&P Global Consumer Discretionary Sector Index Fund; (3) iShares® S&P Global Consumer Staples Sector Index Fund; (4) iShares® S&P Global Energy Sector Index Fund; (5) iShares® S&P Global Financials Sector Index Fund; (6) iShares® S&P Global Healthcare Sector Index Fund; (7) iShares® S&P Global Industrials Sector Index Fund; (8) iShares® S&P Global Materials Sector Index Fund; (9) iShares® S&P Global Technology Sector Index Fund; (10) iShares® S&P Global Telecommunications Sector Index Fund; (11) iShares® S&P Global Utilities Sector Index Fund; (12) WisdomTree International Basic Materials Sector Fund; (13) WisdomTree International Communications Sector Fund; (14) WisdomTree International Consumer Cyclical Sector Fund; (15) WisdomTree International Consumer Non-Cyclical Sector Fund; (16) WisdomTree International Energy Sector Fund; (17) WisdomTree International Financial Sector Fund; (18) WisdomTree International Health Care Sector Fund; (19) WisdomTree International Industrial Sector Fund; (20) WisdomTree International Technology Sector Fund; and (21) WisdomTree International Utilities Sector Fund.[5] The text of the proposed rule change is available at Phlx's principal office, the Commission's Public Reference Room, and *http://www.phlx.com.*

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

In its filing with the Commission, Phlx 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

The purpose of the proposed rule change is to accommodate the trading of the securities listed above that may not trade during all three trading sessions on XLE. Phlx Rule 101 provides that XLE shall have three trading sessions each day: A Pre Market Session (8 a.m. Eastern Time (''ET'') to 9:30 a.m. ET), a Core Session (9:30 a.m. ET to 4 p.m. or 4:15 p.m. ET), and a Post Market Session (end of Core Session to 6 p.m. ET). Phlx Rule 101 includes a list of those securities that are eligible to trade in one or more, but not all three, of XLE's trading sessions. The Exchange maintains on its Web site (*www.phlx.com*) a list that identifies all securities traded on XLE that do not trade for the duration of each of the three sessions specified in Phlx Rule 101. The Exchange proposes to add the above-listed securities to this list. These securities are traded on the Exchange pursuant to unlisted trading privileges and are Index Fund Shares described in Phlx Rule 803(*l*).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is 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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is 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

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect

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

[9] 17 CFR 200.30–3(a)(12).

[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] NYSEArca, Inc. filed and received approval for a proposed rule change to expand the trading hours of the securities of certain exchange-traded funds (''ETFs'') traded on the NYSE Arca Marketplace to include all three trading sessions. *See* Securities Exchange Act Release No. 56627 (October 5, 2007), 72 FR 58145 (October 12, 2007) (SR–NYSEArca–2007–75). Phlx is not proposing to adopt a similar rule change at this time. Prior to this, NYSEArca restricted the trading of certain ETFs, including those referred to in this proposed rule change, to one or two, but not all three, of its trading sessions. In this proposed rule change, Phlx is proposing to adopt the same restricted sessions that NYSEArca had for the named ETFs prior to the approval of SR–NYSEArca–2007–75.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).