

Exchange retains ultimate responsibility for enforcing its rules with respect to NES.

- Second, FINRA will monitor NES for compliance with NASDAQ's trading rules, and will collect and maintain certain related information.<sup>17</sup>

- 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 NASDAQ rules.

- Fourth, the Exchange has in place NASDAQ Rule 2160(c), 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.<sup>18</sup> 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.<sup>19</sup> 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 and PHLX, to route orders inbound to the Exchange on a permanent basis instead of a pilot basis, subject to the limitations and conditions described above.<sup>20</sup>

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,<sup>21</sup> 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 2160 is designed to ensure that NES cannot use any information advantage it may have because of its affiliation with the Exchange.

(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.).

<sup>20</sup> 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).

<sup>21</sup> 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 10670 n.10 and accompanying text.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>22</sup> that the proposed rule change (SR-NASDAQ-2013-028) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2013-07298 Filed 3-28-13; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF STATE

[Public Notice 8262]

### Biodiversity Beyond National Jurisdiction; Notice of Public Meeting

**ACTION:** Notice of public meeting.

**SUMMARY:** The Department of State will hold an information session regarding issues related to marine biodiversity in areas beyond national jurisdiction.

**DATES:** The public meeting will be held on April 23, 2013, 10:30am-12:00pm in Main State, Room 1105, Washington, DC. For the agenda, see **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The meeting will be held at the Harry S. Truman Main State Building, Room 1105, 2201 C Street NW., Washington, DC 20520.

*For Further Information & To Participate In The Meeting, Contact:* If you would like to participate in this meeting, please send your (1) name, (2) organization/affiliation, and (3) email address and phone number, as well as any requests for reasonable accommodation, to [BBNJ-Information-Session@state.gov](mailto:BBNJ-Information-Session@state.gov).

**SUPPLEMENTARY INFORMATION:** In May 2013, the United States will participate in two workshops of the United Nations General Assembly Working Group on conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. The first workshop will focus on marine genetic resources; the second will focus on conservation and management tools. These workshops are intended to inform the discussion of delegates at the August meeting of the Working Group, in which the United States will also participate. Additional information on the Working Group can be found at this United Nations Web site: <http://www.un.org/Depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm>

We would like to invite interested stakeholders to share comments,

<sup>22</sup> 15 U.S.C. 78s(b)(2).

<sup>23</sup> 17 CFR 200.30-3(a)(12).

<sup>17</sup> 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 and PHLX 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 10670 n.11.

<sup>18</sup> See Notice, *supra* note 3, at 10671.

<sup>19</sup> 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

concerns, and questions about these issues. We, in turn, will provide an overview of past discussions in the Working Group and our approach to the May workshops.

The information obtained from this session and any subsequent related meetings will be used to help us prepare for U.S. participation in international meetings and negotiations on marine biodiversity beyond national jurisdiction, such as the meeting of the UN BBNJ working group August 19–23, 2013.

#### Reasonable Accommodation

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other reasonable accommodation should be directed to (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date. Requests received after that date will be considered, but might not be possible to fulfill.

Personal data for entry into the Harry S. Truman building are requested pursuant to Pub.L. 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State–36) at <http://www.state.gov/documents/organization/103419.pdf> for additional information.

Dated: March 22, 2013.

**Evan Bloom,**

*Office Director, Office of Ocean and Polar Affairs, Department of State.*

[FR Doc. 2013–07398 Filed 3–28–13; 8:45 am]

**BILLING CODE 4710–09–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending March 16, 2013. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural

Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–2013–0049.

*Date Filed:* March 11, 2013.

*Due Date for Answers, Conforming Applications, or Motion To Modify Scope:* April 1, 2013.

*Description:* Application of Air China Limited d/b/a Air China requesting an amendment of its foreign air carrier permit to include Houston, Texas as a coterminal point in the United States, together with the existing coterminal points authorized in its foreign air carrier permit.

*Docket Number:* DOT–OST–2013–0053.

*Date Filed:* March 14, 2013.

*Due Date for Answers, Conforming Applications, or Motion To Modify Scope:* April 4, 2013.

*Description:* Joint application of Delta Air Lines, Inc. (“Delta”) and Pinnacle Airlines, Inc. (“Pinnacle”) requesting a disclaimer of jurisdiction or, in the alternative, approval of the de facto transfer of certain international certificate and other authorities held by Pinnacle to Delta.

**Barbara J. Hairston,**

*Acting Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. 2013–07363 Filed 3–28–13; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) during the Week Ending March 9, 2013. The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for

each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* DOT–OST–2007–28233.

*Date Filed:* March 5, 2013.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* March 26, 2013.

*Description:* Application of AirBridgeCargo Airlines, LLC (“ABC”) requesting an amendment of its foreign air carrier permit to engage in scheduled foreign air transportation of property and mail between a point or points in the Russian Federation, on the one hand, via intermediate points, and Houston, Texas; New York, New York; Atlanta, Georgia; Chicago, Illinois; Miami, Florida; Dallas/Fort Worth, Texas; and Los Angeles, California, on the other hand, and beyond. ABC also requests an exemption to engage in scheduled foreign air transportation of property and mail between a point or points in the Russian Federation, on the one hand, via intermediate points, and Miami, Florida; Dallas/Fort Worth, Texas; and Los Angeles, California, on the other hand, and beyond.

**Barbara J. Hairston,**

*Acting Program Manager, Docket Operations, Federal Register Liaison.*

[FR Doc. 2013–07372 Filed 3–28–13; 8:45 am]

**BILLING CODE 4910–9X–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Aviation Proceedings, Agreements Filed the Week Ending March 16, 2013

The following Agreements were filed with the Department of Transportation under the Sections 412 and 414 of the Federal Aviation Act, as amended (49 U.S.C. 1382 and 1384) and procedures governing proceedings to enforce these provisions. Answers may be filed within 21 days after the filing of the application.

*Docket Number:* DOT–OST–2013–0048.

*Date Filed:* March 11, 2013.

*Parties:* Members of the International Air Transport Association.

*Subject:* Resolution 787.

PSC Minutes 29 through 43–34th.

PSC held in Abu Dhabi on 18–19 October 2012.

Memorandum.

PSC/RESO/154 dated 4 January 2013.