

Pursuant to Rule 3 of Article VI of PTC's rules, the proposed rule change establishes a daily penalty fee for a participant's failure to fund a shortfall in its mandatory deposit to the participants fund by the required date. The daily penalty fee is the greater of (i) \$200 or (ii) an amount calculated at an annual rate equal to the daily average Fed Funds rate plus 250 basis points (2.5%) on the outstanding balance of the shortfall in the mandatory deposit to the participants fund.

II. Discussion

The Commission believes that the proposed rule change is consistent with Section 17A of the Act⁵ and in particular with Section 17A(b)(3)(G) of the Act.⁶ Section 17A(b)(3)(G) requires, among other things, that the rules of a clearing agency provide that its participants be appropriately disciplined for violation of any provision of the clearing agency's rules by fine or any other fitting sanction. The Commission believes that PTC's proposal to establish a daily penalty fee applicable to a participant's failure to fund on a timely basis a shortfall in its mandatory deposit to the participants fund is consistent with this obligation.

Because PTC maintains the participants fund to secret the obligations of participants and limited purpose participants to PTC, and other participants, late funding of a deficiency in a participant's mandatory deposit to the participants fund increases the risk of loss of PTC and its participants. In addition, late funding of a deficiency in a participant's mandatory deposit to the participants fund reduces an additional source of cash collateral which is available to PTC to meet temporary financing needs such as the payment of principal and interest. For these reasons, the Commission believes it is important that participants make timely funding of shortfalls and that the proposed penalty fee will encourage such funding.

In the event that a participant is assessed a penalty, PTC's rules, consistent with Section 17A(b)(3)(H),⁷ provide participants with an opportunity to appeal the assessment of the penalty and to explain any mitigating circumstances. The penalty will not become effective until the period for filing an appeal has lapsed and will be automatically stayed during the pendency of any appeal. The Board

of Directors also may reduce or remit a fine imposed by the President or a Vice President regardless of whether an appeal is made.⁸ The Commission believes that PTC's appeal process will provide participants with a fair opportunity to be heard.

PTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. In order to assure that PTC can implement the penalty fee beginning February 1, 1995, it is necessary that PTC receive the appropriate approval in advance of that date. The Commission, therefore, finds sufficient cause to accelerate approval of this proposal.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the Act, in particular with Section 17A of the Act, and with the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁹ that the proposed rule change (File No. SR-PTC-94-07) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35308; File No. SR-PHLX-94-69]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to a One Year Pilot Program for the Trading, Comparison, Clearing, Settling, Listing, and Delisting of Municipal Securities

January 31, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 20, 1994, the Philadelphia Stock Exchange, Inc. ("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 self-regulatory organization. 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 PHLX proposes to amend its rules to establish a one year pilot program allowing the Exchange to list and trade municipal securities. Specifically, the PHLX proposes to (1) amend PHLX Rules 132, "Dealings Outside the Exchange in Securities Dealt in on the Exchange," 501, "Specialist Appointment," 803, "Criteria for Listing—Tier I," and 810, "Suspension and Delisting Policies Based on Exchange Findings;" and (2) add PHLX Rule 309, "Municipal Securities," to provide requirements for trading, comparison, settlement, clearing and listing and delisting of municipal securities.

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 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

The purpose of the proposed rule change is to amend PHLX Rules 132, 501, 803 and 810 and to add PHLX Rule 309 to initiate a one year pilot program for trading, comparison, clearance, settlement and listing and delisting of municipal securities. Under proposed PHLX Rule 803(c)(5), a municipal issuer may list municipal securities having an aggregate market value and principal amount of at least twenty million dollars (\$20,000,000) provided there are at least one hundred (100) public beneficial holders and the issue is rated as investment grade by at least one nationally recognized rating service.

Proposed PHLX Rule 810(d) requires the delisting of the debt securities of a non-listed issuer when the issue no longer has at least a market value or principal amount outstanding of at least half a million dollars (\$500,000), fails to be held by at least fifty (50) public

⁵ 15 U.S.C. 79q-1 (1988).

⁶ 15 U.S.C. 78q-1(b)(3)(G) (1988).

⁷ Section 17A(b)(3)(H) of the Act requires, among other things, that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants.

⁸ See PTC Rules, Article VI, Rules 3 and 7.

⁹ 15 U.S.C. 78s(b)(2) (1988).

¹⁰ 17 CFR 200.30-3(a)(12).

beneficial owners of record or is no longer investment grade rated by at least one nationally recognized rating service.¹

The Exchange proposes to assign any municipal security it lists to a specialist² and to trade municipal securities in accordance with all PHLX regulations otherwise applicable to the trading of securities on the equities trading floor of the Exchange, except that pursuant to proposed PHLX Rule 132(d)(17) municipal securities shall be exempt from the provisions of the Exchange's off-board trading rule. Under proposed PHLX Rule 309, municipal securities will be compared, settled and cleared in accordance with the applicable regulations of the MSRB. The PHLX believes that Exchange listing of municipal securities will allow public investors to have an alternative to the over-the-counter market to trade municipal debt securities.

The PHLX states that the proposed rule change is based on Section 6(b)(5) of the Act in that it is designed to further promote the mechanism of a free and open market and to protect investors and the public interest.

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

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

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

Within 35 days of the publication of this notice in the **Federal Register** or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer

¹ Although the PHLX believes that proposed PHLX Rule 810(d) will apply primarily to municipal securities, it may also apply to the debt of issuers whose equities are not listed on the Exchange. Telephone conversation between Murray L. Ross, Secretary, PHLX, and Yvonne Fraticelli, Staff Attorney, Options Branch, Division of Market Regulation, Commission, on January 20, 1995.

² In this regard, the Exchange intends to require specialist units applying for appointment and registration in municipal securities to be in compliance with the Municipal Securities Rulemaking Board ("MSRB") G-3 regulations regarding municipal securities principals and representatives. The National Association of Securities Dealers ("NASD") has authority to enforce MSRB rules for listed municipal securities. The PHLX enforcement in this regard will not preempt or limit in any manner the NASD's authority to act in this area.

period to be appropriate and publishes its reasons for so finding or (ii) as to which the PHLX consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing also will be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR-PHLX-94-69 and should be submitted by February 28, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-35305; File No. SR-PHLX-94-61]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Floor Procedure Advice F-8, Failure To Comply With an Exchange Inquiry

January 31, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 21, 1994, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission")

³ 17 CFR 200.30-3(a)(12) (1994).

the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.¹ 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

Currently, Advice F-8 requires Exchange members to comply promptly with any request for information made by the Exchange's Market Surveillance Department in connection with any investigation within the Exchange's disciplinary jurisdiction. The Exchange proposes to amend Advice F-8 to require members to comply with Exchange requests for information in connection with any regulatory inquiry, investigation, or examination relating to the Exchange's disciplinary jurisdiction or regulatory obligations. The PHLX also proposes to amend the Advice to require that information requested by the Exchange's Examinations Department be received within two business days from the date of the original request in order to satisfy the prompt compliance requirement of Advice F-8. Finally, the PHLX proposes to amend Advice F-8 to reduce the fine for a first violation of the Advice from \$500 to \$200, and to provide that each additional request for information not furnished within the allotted time period may be considered as a separate occurrence for purposes of the Advice's fine schedule.² The text of

¹ On November 30, 1994, the PHLX amended its proposal to clarify that the proposed two-day period for compliance with Exchange Examinations Department requests would apply, for example, to requests for books and records, rather than to requests for financial information, which are governed by PHLX Rule 703(e). See Letter from Edith Hallahan, Special Counsel, PHLX, to Michael Walinskas, Branch Chief, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, dated November 30, 1994 ("November 30 Letter"). On January 31, 1995, the PHLX amended its proposal to delete references to foreign currency option ("FCO") participants and participant organizations in Floor Procedure Advice ("Advice") F-8, "Failure to Comply with an Exchange Inquiry." See Letter from Edith Hallahan, Special Counsel, Regulatory Services, PHLX, to Michael Walinskas, Branch Chief, OMS, Division, Commission, dated January 30, 1995 ("January 30 Letter"). However, Advice F-8 continues to apply to FCO participants and participant organizations. Specifically, the PHLX notes in its January 30 Letter that PHLX Rule 13, "Foreign Currency Options Participant" provides that FCO participants are subject to the provisions of the Exchange's rules that are applicable to a member of the Exchange and each reference to a member of the Exchange in the PHLX's rules is deemed to pertain also to FCO participants.

² Under the Advice F-8's fine schedule, as amended, the Exchange will impose a fine of \$200 for the first occurrence, \$1,000 for the second occurrence, \$2,500 for the third occurrence, and a