

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44278; File No. SR-SCCP-2001-05]

### Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Eliminating Certain Specialist Fees, Discounts, and Credits

May 8, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 2, 2001, the Stock Clearing Corporation of Philadelphia ("SCCP") 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 SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

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

The proposed rule change amends SCCP's fee schedule by eliminating certain equity floor specialist fees, discounts, and credits for transactions with orders entered before the opening of trading on PACE.<sup>2</sup> Under the proposed rule change, certain trade recording and value fees are eliminated. The proposed amendment also eliminates volume related discounts given to specialists for trades cleared through a SCCP margin account as well as a \$.20 credit per specialist trade on PACE.

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

In its filing with the Commission, SCCP included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

#### (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 eliminate certain specialist fees, discounts, and credits which pertain to trades that a specialist executes on PACE on the opening.

Presently, orders entered in the PACE system prior to the opening which are executed on the opening are subject to the following SCCP fees and credits: (1) Trade recording fees; (2) value fees; (3) specialist discounts for trades cleared through a SCCP margin account; and (4) a PACE specialist credit of \$.20. The proposed rule change eliminates the above charges and credits in relation to orders entered on PACE before the opening which were executed by the specialist and not matched automatically by PACE.<sup>4</sup>

In some instances, where PACE cannot match a buy and sell order, the specialist is responsible for their independent execution and fees. The proposed rule change eliminates the transaction fees imposed by the Philadelphia Stock Exchange in the above circumstances which affect specialists with orders on the opening that are not executed automatically through PACE. SCCP believes that the proposed rule change will enable the specialist to continue to provide the market with prompt execution of orders that require his intervention without the additional burden of a transaction fee. SCCP states that a more affordable, fair, and competitive market for specialists should encourage the specialists' efforts in attracting more order flow which in turn should promote a more liquid market. SCCP intends to implement the proposed rule change effective May 1, 2001.

For these reasons, SCCP believes that the proposed rule change is consistent with section 17A(b)(3)(D) of the Act<sup>5</sup> which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants.

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

SCCP 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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2) thereunder.<sup>7</sup> At any time within sixty days of the filing of the 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at SCCP. All submissions should refer to the File No. SR-SCCP-2001-05 and should be submitted by June 6, 2001.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> PACE is the Philadelphia Stock Exchange's Automated Communication and Execution System. It is the Exchange's order routing, delivery, execution, and reporting system for its equity trading floor.

<sup>3</sup> The Commission has modified parts of these statements.

<sup>4</sup> For a detailed listing of the above fees, please see *Exhibit B* of this proposed rule change in the Commission's Public Reference Section.

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>6</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>7</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> 17 CFR 200.30-3(s)(12).