

appropriate clarifications of the proposed rule change and are consistent with section 6(b)(5) of the Act. In addition, because these amendments clarify the intent of the proposed rule change and thereby strengthen the proposal, the Commission finds good cause for approving their provisions prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**.

### III. Solicitation of Comment

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2, including whether these amendments are 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-CBOE-00-43 and should be submitted by July 3, 2001.

### IV. Conclusion

For the reasons discussed above, the Commission finds that the proposal, as amended, is consistent with the Act and the rules and regulations thereunder.

*It Is Therefore Ordered*, pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-CBOE-00-43), as amended, be, and hereby it is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-44393; File No. SR-DTC-2001-08]

### Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by The Depository Trust Company Relating to DTC Settling Trades Executed on Nasdaq Europe

June 6, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on, May 25, 2001, The Depository Trust Company ("DTC") 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 DTC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested parties and to grant accelerated approval of the proposed rule change.

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

The proposed rule change provides that participants who settle trades executed on Nasdaq Europe through book-entry deliveries at DTC (i) are required to effect the settlement of such trades in the manner prescribed by DTC so that such trades can be separately identified and (ii) authorize DTC to provide to Nasdaq Europe information relating to the settlement of such trades.

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

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

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

It is expected that on or about June 8, 2001, Nasdaq Europe, an exchange established under Belgian law, will begin listing securities on its European

Trading System. In order to facilitate the settlement of these securities, Nasdaq Europe plans to approve DTC as a settlement location for Nasdaq Europe trades in DTC-eligible securities. To allow Nasdaq Europe to designate DTC as an approved settlement location under Belgian law, DTC must agree to provide Nasdaq Europe upon request with information that DTC has pertaining to the settlement of Nasdaq Europe trades at DTC. In order for DTC to be able to provide this information, DTC must require its participants (1) to effect the settlement of such transactions in a manner that separately identifies them from the participants' other settlement activities<sup>2</sup> and (2) to authorize DTC to provide information related to such trades to Nasdaq Europe.

Under the proposed rule change, DTC will require that the settlement of Nasdaq Europe trades be effected in a separate subaccount that will be established by the participant solely for the settlement of Nasdaq Europe trades. If it is determined that a more automated solution should be developed in the future, DTC will make the necessary systems changes to allow participants to designate settlement activity relating to Nasdaq Europe trades by entering a special activity code in their deliver order instructions. If such systems changes are made, participants will be required to use the activity code to identify Nasdaq Europe trades. Participants will be kept informed by Important Notices if DTC determines that it will further automate the identification of settlement activity related to Nasdaq Europe trades.

The proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder because the proposed rule change will increase operational efficiencies for participants by allowing for the settlement at DTC of Nasdaq Europe trades in DTC-eligible securities. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because all of DTC's risk management controls will continue in effect.

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

DTC perceives no impact on competition by reason of the proposed rule change.

<sup>2</sup> Nasdaq Europe plans to issue a compliance notice requiring its members to ensure that settlement at DTC of Nasdaq Europe trades are done in accordance with the procedures prescribed by DTC.

<sup>9</sup> 15 U.S.C. 78s(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

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

Written comments from participants or others have not been solicited or received on the proposed rule change. All participants will be informed of the proposed rule change by an Important Notice.

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

The Commission finds that allowing DTC to require participants to set up separate subaccounts solely for the settlement of Nasdaq Europe trades and to authorize DTC to provide settlement information to Nasdaq Europe is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to clearing agencies. Specifically, the Commission believes that the proposal is consistent with section 17A(b)(3)(F) because it will facilitate the prompt and accurate clearance and settlement of securities transactions by allowing for the settlement at DTC of Nasdaq Europe trades in DTC-eligible securities.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because approval prior to the thirtieth day of the publication will allow DTC to settle trades in DTC-eligible securities executed on the Nasdaq Europe when Nasdaq Europe begins trading such securities, which it is scheduled to do on Friday, June 8, 2001.

**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

Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-2001-08 and should be submitted by July 3, 2001.

*It Is Therefore Ordered*, pursuant to Section 19(b)(2) of the Act,<sup>3</sup> that the proposed rule change is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-44395; File No. SR-Phlx-2001-46]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. ("Phlx"), Relating to a Reduction of the Minimum size of PACE<sup>1</sup> Orders that Must Be Automatically Guaranteed by Equity Specialists Pursuant to Phlx Rule 229**

June 6, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> notice is hereby given that on April 23, 2001, 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 Exchange. The Phlx filed the proposed rule change pursuant to section 19(b)(3)(A) of the Act,<sup>3</sup> and Rule 19b-4(f)(5) thereunder.<sup>4</sup> Pursuant to Rule 19b-4(f)(5), the Phlx has designated this proposal as one effecting a change in an existing order-entry or trading system of the Phlx that does not: (1) Significantly affect the protection of investors or the public interest, (2) impose any significant burden on competition, or (3) significantly have the effect of limiting

<sup>3</sup> 15 U.S.C. 78s(b)(2).

<sup>4</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> PACE is the Philadelphia Stock Exchange's Automatic Communication and Execution System. It is the Exchange's order routing, delivery, execution and reporting system for its equity trading floor. See Rule 229, Philadelphia Stock Exchange Guide.

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> 17 CFR 240.19b-4(f)(5).

the access to or availability of the system. As such, the proposed rule change is immediately 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**

The Phlx, pursuant to Rule 19b-4 under the Act,<sup>5</sup> proposes to amend Phlx Rule 229 to reduce the minimum automatic execution size of PACE orders for equity specialists from 599 shares to 299 shares.

The text of the proposed rule change is as follows.

*(Proposed new language is italicized; proposed deletions are in brackets)*

**Rule 229, Philadelphia Stock Exchange Automated Communication and Execution System (PACE)**

**Execution of Market Orders**

.05 Public Order Exposure System— Subject to Supplementary Material Section .07, all round-lot market orders up to 200 [500] shares and PRL market orders up to 299 [599] shares will be stopped at the PACE Quote at the time of entry into the system ("Stop Price") and be subject to a delay of up to 30 seconds from being executed in order to receive an opportunity for price improvement. If such market order is not executed within the 30 second window, the order will be automatically executed at the Stop Price. If the PACE Quote at the time of order entry into the system reflects a 1/8 point spread or less (the difference between the best bid and offer) for equities trading in fractions, or .05 or less for equities trading in decimals, pursuant to Rule 134 or 125, that order will be executed immediately without the 30 second delay.

Subject to these procedures, the specialist may voluntarily agree to execute round-lot market orders of a size greater than 200 [500] shares and PRL market orders of a size greater than 299 [599] shares upon entry into the system. Where the specialist has voluntarily agreed to execute market orders greater than 299 [599] shares and the market order size is greater than 299 [599] shares, but less than or equal to the size of the PACE Quote, the order is automatically executable at the PACE Quote; if such order is greater than the size of the PACE Quote, the order shall [manually] receive an execution at the PACE Quote up to the size of the PACE Quote, *either manually or automatically (once this feature is implemented)* with the balance of the order receiving a professional execution, in accordance with Supplementary material .10(b) below; provided that the specialist may guarantee an automatic execution at the PACE quote up to the entire size of such specialist's automatic execution guarantee (*regardless of the size of the PACE Quote*).

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<sup>5</sup> 15 U.S.C. 78s(b)(4).