

accuracy of the Commission's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. The Commission will consider comments and suggestions submitted in writing within 60 days after this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: January 6, 2004.

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49029; File No. SR-NASD-2003-145]

### Self-Regulatory Organizations; Order Granting Accelerated Approval to a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the National Association of Securities Dealers, Inc. To Give Authority to a 3-Member Subcommittee of NASD's Market Regulation Committee To Review Alternative Display Facility System Outage and Denial of Excused Withdrawal Determinations

January 6, 2004.

On September 25, 2003, the National Association of Securities Dealers, Inc. ("NASD") submitted the proposed rule change to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> On November 24, 2003 and December 2, 2003, NASD filed Amendment Nos. 1<sup>3</sup> and 2<sup>4</sup> to the

proposed rule change, respectively. The proposed rule change amends NASD Rules 4300A and 4619A(g) to give jurisdiction to a 3-member subcommittee of NASD's Market Regulation Committee ("MRC") to review system outage determinations under Rule 4300A(f) and excused withdrawal denials under Rule 4619A. The **Federal Register** published the proposed rule change, as amended, for comment on December 15, 2003.<sup>5</sup> The Commission received no comments on the proposal.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange<sup>6</sup> and, in particular, the requirements of Section 6 of the Act<sup>7</sup> and the rules and regulations thereunder. The Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>8</sup> and believes that the proposed rules should enable the NASD to take advantage of the MRC committee's expertise, and at the same time continue to provide market participants a sufficient process by which to appeal system outage and excused withdraw determinations.

The Commission finds good cause for accelerating approval of the proposed rule change and Amendment Nos. 1 and 2 prior to the thirtieth day after publication in the **Federal Register**. The Commission believes that accelerated approval will permit, without undue delay, the 3-member subcommittee of NASD's MRC to review system outage determinations and excused withdrawal denials. Accordingly, the Commission finds good cause, consistent with Section 19(b)(2) of the Act,<sup>9</sup> to approve the proposed rule change, as amended, prior to the thirtieth day after publication of the notice of filing.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-NASD-2003-145), as amended, is hereby approved, on an accelerated basis.

effective upon receipt of this filing by the Commission."

<sup>5</sup> Securities Exchange Act Release No. 48880 (December 4, 2003), 68 FR 69734.

<sup>6</sup> In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78f.

<sup>8</sup> 15 U.S.C. 78f(b)(5).

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

<sup>10</sup> *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. 04-803 Filed 1-13-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49046; File No. SR-SCCP-2002-07]

### Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing of a Proposed Rule Change Relating to Ex-Clearing Account Transactions

January 8, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 26, 2002, 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 persons.

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

The proposed rule change would amend SCCP Rule 11 (Ex-Clearing Accounts) to include a transaction in an ex-clearing account whereby both sides have agreed not to transmit the transaction from SCCP to the National Securities Clearing Corporation ("NSCC") for clearance and settlement.

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

In its filing with the Commission, SCCP 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. SCCP has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.<sup>2</sup>

<sup>11</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> The Commission has modified parts of these 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 facilitate the efficient clearance and settlement of securities transactions by SCCP participants that have made their own arrangements to transmit such transactions directly to NSCC. SCCP anticipates that certain members of the Philadelphia Stock Exchange ("Phlx") that participate in Phlx's program to trade Nasdaq securities will make arrangements for the clearing and settlement of their Nasdaq securities trading at Phlx directly with NSCC. SCCP intends to offer such Phlx members the use of an ex-clearing account for this purpose. Currently, SCCP uses ex-clearing accounts in situations where both sides have agreed to settle a transaction outside any registered clearing agency mechanism such as NSCC. This is in addition to other accounts offered by SCCP, such as a RIO account<sup>3</sup> and a margin account.<sup>4</sup>

SCCP now proposes to amend SCCP Rule 11 to add transactions whereby both sides have agreed not to transmit the transaction to NSCC for clearing and settlement via SCCP. Accordingly, both sides could agree to submit a transaction directly to NSCC instead of SCCP doing so. A SCCP ex-clearing account would then be available for the following two scenarios, where both sides have agreed to settle a transaction: (1) Outside of NSCC and (2) at NSCC but without SCCP submitting the transaction there.<sup>5</sup>

SCCP believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>6</sup> which requires that the rules of a clearing agency be designed to promote the prompt and accurate settlement of securities transactions, to remove impediments to

<sup>3</sup> RIO means regional interface organization, which is the system through which SCCP transmits to and receives trade data from NSCC. In a RIO account, SCCP records, confirms, and transmits transactions to the RIO participant's NSCC account or its correspondent account that ultimately settles directly with NSCC. SCCP makes no trade guarantees respecting RIO account transactions. SCCP is solely a trade recording, confirmation, and transmission agent of RIO account participants' transaction activity.

<sup>4</sup> Phlx specialists, alternate specialists, and other Phlx floor members may be specifically approved by NSCC to effect trading in a margin account. SCCP will provide margin accounts for margin members that clear and settle their transactions through SCCP's omnibus clearance and settlement account at NSCC.

<sup>5</sup> The use of ex-clearing accounts as proposed in this proposed rule change is not limited to trading in Nasdaq securities and may be used in any situation that otherwise meets the criteria for the use of ex-clearing accounts in this manner.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

and perfect the mechanism of a national system, and to protect SCCP, its members, investors, and the public interest.

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

SCCP does not believe that the proposed rule 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*

SCCP has not solicited or received written comments on the proposed rule change.

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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SCCP consents, the Commission will:

- (a) By order approve the 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, 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-SCCP-2002-07. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 also will be available for inspection and copying at SCCP's principal office and on SCCP's Website at [http://www.phlx.com/exchange/memindex\\_sccpproposals.html](http://www.phlx.com/exchange/memindex_sccpproposals.html). All submissions should refer to File No. SR-SCCP-2002-07 and should be submitted by February 4, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-49036; File No. SR-SCCP-2003-06]

**Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Stock Clearing Corporation of Philadelphia Relating to Fees for Philadelphia Stock Exchange Remote Specialists**

January 7, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on November 21, 2003, 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 persons.

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

SCCP proposes to amend its schedule of dues, fees, and charges to provide that the fees, credits and discounts that apply to Philadelphia Stock Exchange ("Phlx") remote competing specialists will also be applicable to Phlx primary remote specialists.<sup>2</sup> The amendments to

<sup>7</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Phlx has filed a proposed rule change regarding fees to be charged in connection with the proposed expansion of the remote specialist program to