

*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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>10</sup> and subparagraph (f)(6) of Rule 19b-4 thereunder,<sup>11</sup> because the proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change. At any time within 60 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.

Under Rule 19b-4(f)(6)(iii) of the Act,<sup>12</sup> the proposed rule change does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission accelerate the thirty-day operative date of the proposal and also waive the requirement that the Exchange submit written notice of its intent to file the proposed rule change at least five business days prior to the filing date, in order to facilitate member organization compliance with new Phlx Rule 972 and to avoid disruption of their status as member organizations. The Commission, consistent with the protection of investors and the public interest, has determined to accelerate the 30-day operative date to February 3, 2004,<sup>13</sup> the date of filing of the proposed rule change. Such waiver would facilitate member organization compliance with new Phlx Rule 972 and thus would avoid disruption of their

status as member organizations. In addition, the Commission has determined to waive the five-day pre-filing requirement.

**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*. All comment letters should refer to File No. SR-Phlx-2004-12. This file number should be included on the subject line if e-mail is used. To help the Commission process and review 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-2004-12 and should be submitted by March 3, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>14</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-2948 Filed 2-10-04; 8:45 am]

**BILLING CODE 8010-01-U**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-49190; File No. SR-SCCP-2003-07]

**Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Equity Charges for Specialists**

February 4, 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 30, 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 SSCP. 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 by eliminating the \$.20 credit for Philadelphia Stock Exchange ("Phlx") equity specialists' trades against Phlx Automated Communication and Execution System ("PACE") executions<sup>2</sup> for trades settling on or after January 2, 2004.<sup>3</sup>

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

In its filing with the Commission, SSCP 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. SSCP has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.<sup>4</sup>

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

<sup>2</sup> PACE is Phlx's automated order entry, routing, and executing system. Phlx Rules 229 and 229A.

<sup>3</sup> SSCP previously implemented the \$.20 PACE specialist credit effective June 1, 2000. Securities Exchange Act Release No. 42804 (May 19, 2000), 65 FR 34244 (May 26, 2000) (SR-Phlx-00-42). A copy of SSCP's schedule of dues, fees, and charges is attached as Exhibit 2 to its proposed rule filing.

<sup>4</sup> The Commission has modified the text of the summaries prepared by SSCP.

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>13</sup> For purposes only of accelerating the 30-day operative period for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>14</sup> 17 CFR 200.30-3(a)(12).

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

The PACE specialist credit currently applies to Phlx specialists for their trades against PACE executions. The purpose of the proposed rule change is to eliminate the PACE specialist credit, which should generate additional revenue for SCCC and simplify SCCC's billing structure. SCCC intends to eliminate the PACE specialist credit for trades settling on or after January 2, 2004.

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 the equitable allocation of reasonable dues, fees, and other charges among 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*

SCCP has not solicited or received any written comments relating to the proposed rule change.

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

The foregoing proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>6</sup> and Rule 19b-4(f)(2)<sup>7</sup> thereunder because it changes a due, fee, or other charge. 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 5th Street NW,

Washington, DC 20549-0069. 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-2003-07. 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 rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at SCCC's principal office and on SCCC's Web site at [http://www.phlx.com/exchange/memos/SCCP/sccp\\_rules/122903.pdf](http://www.phlx.com/exchange/memos/SCCP/sccp_rules/122903.pdf). All submissions should refer to File No. SR-SCCP-2003-07 and should be submitted by March 3, 2004.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-2908 Filed 2-10-04; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-49189; File No. SR-SCCP-2004-01]

**Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of Fee Waivers for Electronic Communications Networks**

February 4, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> notice is hereby given that on January 20, 2004, 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 SCCC. 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 extend its one-year pilot program of waiving fees for electronic communications networks ("ECNs") for trades executed on the Philadelphia Stock Exchange, Inc. ("Phlx") for an additional year (through January 23, 2005)<sup>2</sup> and to change the definition of ECN. The pilot program was scheduled to expire on January 23, 2004.<sup>3</sup>

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

In its filing with the Commission, SCCC 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. SCCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.<sup>4</sup>

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

SCCP has waived fees (including trade recording fees, value fees, treasury transaction charges, and Nasdaq 100 Trust, Series 1 ("QQQ") charges for ECN trades<sup>5</sup> but not account fees, research fees, computer transmission/tape charges, or other charges on its fee schedule) since early 2001.<sup>6</sup> SCCC proposes to continue this fee waiver through January 23, 2005.

This proposal affects ECN trades that are not related to ECNs acting as Phlx specialists or floor brokers on Phlx. Currently, no ECN operates from Phlx's equity trading floor as a floor broker or specialist unit. If, however, an ECN

<sup>2</sup> A copy of SCCC's schedule of fees, which includes the fees proposed to be waived for ECNs, is attached as Exhibit 2 to SCCC's rule filing.

<sup>3</sup> Securities Exchange Act Release No. 47924 (May 23, 2003), 68 FR 33558 (June 4, 2003) (SR-SCCP-2002-06).

<sup>4</sup> The Commission has modified the text of the summaries prepared by SCCC.

<sup>5</sup> Certain provisions of the SCCC fee schedule do not apply to ECNs because they apply to specialists and/or relate to margin financing, such as specialist discount, margin account interest, P&L statement charges, buy-ins, specialist QQQ charges, and SCCC transaction charge (remote specialists only).

<sup>6</sup> Securities Exchange Act Release No. 45145 (Dec. 10, 2001), 66 FR 65017 (Dec. 17, 2001) (SR-SCCP-2001-01).

<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(a)(12).

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