

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

The Exchange 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**

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>15</sup> and paragraph (f) of Rule 19b-4 thereunder,<sup>16</sup> because it establishes or changes a due, fee, or other charge imposed by the Phlx. 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.<sup>17</sup>

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2004-95 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-Phlx-2004-95. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at the principal office of the Phlx. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Phlx-2004-95 and should be submitted on or before March 9, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>18</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-51182; File No. SR-SCCP-2004-04]**

### **Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Adoption of a New Per Side Transaction Charge for Remote Specialist Units**

February 10, 2005.

Pursuant to Section 19(b)(1) of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 29, 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 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 will amend its schedule of fees by adding a new transaction fee applicable to remote specialists that deliver certain types of orders to the Philadelphia Stock Exchange ("Phlx") over PACE.<sup>2</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, 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>3</sup>

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

Under the proposed rule change, SCCP will add a \$0.15 per Program Trading Side transaction fee. Program Trading Sides are defined as market orders that are sent by an order flow provider to a remote specialist through PACE pursuant to the order flow provider's computerized trading methodology that is based on a predetermined algorithm.<sup>4</sup> In order for the Program Trading Sides to qualify for the \$0.15 fee, the order flow provider sending the Program Trading Sides must be affiliated with the remote specialist to whom the Program Trading Sides are directed.

The purpose of this new fee is to provide an incentive for remote specialists to generate additional volume by attracting additional Program Trading Sides. Pursuant to the rule change, remote specialists will be charged a fee of \$0.15 per trade side for Program Trading Sides (both odd-lots and round-lots) instead of the current fee of \$0.30 per round-lot trade side and \$0.10 per odd-lot trade side. For a given month, the fee for each remote specialist will be capped at \$10 per day per

<sup>2</sup> PACE is Phlx's automated order routing, delivery, execution, and reporting system for equities. Phlx Rule 229.

<sup>3</sup> The Commission has modified the text of the summaries prepared by SCCP.

<sup>4</sup> Phlx Rules 229 and 229A govern the handling of orders received through PACE.

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

<sup>16</sup> 17 CFR 240.19b-4(f)(2).

<sup>17</sup> For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on January 24, 2005 when Amendment No. 1 was filed.

<sup>18</sup> 17 CFR 200.30-3(a)(12).

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

security provided the total number of Program Trading Sides settled by the remote specialist in all specialty securities exceeds 50,000 sides for that calendar month. SCCP proposed that the fee become effective beginning with trades settling on January 3, 2005.

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 did not solicit or receive written comments on the proposed rule change.

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

The foregoing rule change took effect upon filing with the Commission 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 the proposed rule change changes a due, fee, or other charge imposed by SCCP. At any time within sixty days of the filing of such 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. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-SCCP-2004-04 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-SCCP-2004-04. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at SCCP's principal office and on SCCP's Web site at [http://www.phlx.com/SCCP/memindex\\_sccpproposals.html](http://www.phlx.com/SCCP/memindex_sccpproposals.html). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-SCCP-2004-04 and should be submitted on or before March 9, 2005.

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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### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51186; File No. SR-SCCP-2004-05]

#### **Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Limitation of the Net Inbound ITS Credit to Certain SCCP and Phlx Fees and Transaction-Related Charges**

February 10, 2005.

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, 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 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 will amend SCCP's fee schedule to indicate that the Net Inbound ITS Credit ("ITS Credit")<sup>2</sup> established in the Philadelphia Stock Exchange's ("Phlx") Summary of Equity Charges is limited to certain SCCP and Phlx transaction-related charges.

#### **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>3</sup>

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

<sup>2</sup> The ITS Credit is a credit that is calculated on a monthly basis consisting of: \$0.30 per 100 shares on the excess, if any, of the number of inbound ITS shares executed compared to the number of outbound ITS shares sent and executed. Securities Exchange Act Release No. 45388 (Feb. 2, 2002), 67 FR 6310 (Feb. 11, 2002) [SR-Phlx-2001-121].

<sup>3</sup> The Commission has modified the text of the summaries prepared by SCCP.

<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).