

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Sections 6(b)(5) and 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR-CHX-95-27, SR-MSTC-95-10, SR-MCC-95-04, SR-DTC-95-22, and SR-NSCC-95-15) be, and hereby are, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>26</sup>

Margaret H. McFarland,  
Deputy Secretary.

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[Release No. 34-36686; File No. SR-DTC-95-25]

### Self-Regulatory Organizations; the Depository Trust Company; Notice of Filing of a Proposed Rule Change To Allow Participants To Make Intraday Withdrawals of Principal and Income Payments

January 5, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on November 15, 1995, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-DTC-95-25) as described in Items I, II, and III below, which items have been prepared primarily by DTC. 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 purpose of the proposed rule change is to allow DTC participants to make intraday withdrawals of certain principal and income payments ("P&I payments")<sup>2</sup> that have been credited to

prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, or (B) as the appropriate regulatory agency for such clearing agency \* \* \* may prescribe as necessary or appropriate for the safeguarding of securities and funds." 15 U.S.C. 78q-1(d)(1) (1988).

<sup>26</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> These payments include dividend, interest, reorganization and redemption payments, and other periodic payments.

the participants' money settlement accounts at DTC.

#### 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 that 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 such statements.<sup>3</sup>

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

In a memorandum dated July 29, 1994, which was issued jointly with the National Securities Clearing Corporation ("NSCC") and which described the planned conversion of DTC's money settlement system to an entirely same-day funds settlement ("SDFS") system, DTC announced plans to offer a service for intraday withdrawal of P&I payments. The service was developed in response to participants' requests to have the funds resulting from P&I payments available for participants' use prior to the time of DTC money settlement at the end of the day. DTC plans to begin the new service in the first quarter of 1996.

In the current next-day funds settlement ("NDFS") environment, P&I payment allocations are credited to participants' accounts on a regular basis at a specific time during the day. Under the proposed rule change, P&I payment allocations for SDFS issues will be credited to participants' money settlement accounts throughout each processing day as funds are received by DTC from issuers and their paying agents. A participant only may withdraw P&I payments that have been credited to its account. Withdrawal requests for P&I payments will be subject to the risk management controls of the SDFS system (*i.e.*, collateral monitor and net debit caps). Any withdrawal request that is blocked due to insufficient collateral or a net debit cap will recycle until enough collateral or settlement credits have been generated to satisfy the collateral or net debit cap deficiency or until the end of the recycle period on that day. Any

<sup>3</sup> The Commission has modified the text of the summaries submitted by DTC.

early withdrawal requests still recycling at the end of the recycle period will be dropped from the system, and the P&I payment allocation will be included in the end-of-day settlement.

DTC believes the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because the proposed rule change will facilitate the processing of P&I payments through DTC's facilities. DTC also believes 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 the intraday withdrawals of P&I payments will be subject to DTC's existing SDFS system risk management controls.

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

DTC does not believe that the proposed rule change will impact or impose a burden on competition.

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

All participants were informed of the proposed rule change by a DTC Important Notice dated October 12, 1995, as well as by the 1994 memorandum referred to above. Written comments from DTC participants or others have not been solicited or received on the proposed rule change. DTC will notify the Commission of any written comments received by DTC.

#### 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 DTC consents, the Commission will:

(a) By order approve such 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 the principal office of DTC. All submissions should refer to the file number SR-DTC-95-25 and should be submitted by February 7, 1996.

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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[Release No. 34-36682; File No. SR-Phlx-95-89]

**Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Amending the PHLX's Schedule of Fees and Charges**

January 4, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 11, 1995, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") 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 by the self-regulatory organization. On December 21, 1995, the Phlx submitted to the Commission Amendment No. 1 to the proposal,<sup>1</sup> and on January 4, 1996 the Phlx submitted Amendment No. 2 to the proposal.<sup>2</sup> 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 Exchange, pursuant to Rule 19b-4 under the Act, is proposing to amend the PHLX's Schedule of Fees and Charges respecting the charges for non-exchange sponsored stock execution machines<sup>3</sup> operated by PHLX members on the PHLX equity floor. The proposed amendment would provide a \$125 credit on the fees charged on each stock execution machine operated by any member firm for each 2,500 trades such member executes on the PHLX equity floor in a non-specialist account.

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

In its filing with the Commission, the self-regulatory organization 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. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

**1. Purpose**

Since 1990, the Exchange has imposed a monthly proprietary stock execution machine charge of \$250.00.<sup>4</sup> Since April 1994, the PHLX has provided a monthly credit of 50% of the fees charged for each stock execution machine operated by a member per each 2,500 trades executed by such member on the PHLX.<sup>5</sup> This credit has not been authorized to exceed 50% of the total stock execution machine billing charges per member operating such machine.

Effective for the January 1996 billing cycle, the proposed amendment would provide a \$125 credit on the fees charged on each stock execution machine operated by any member firm

for each 2,500 trades such member executed on the PHLX equity floor in a non-specialist account. The one material change to the existing credit is that credits may now be utilized by the member firm on an unrestricted basis to potentially offset its entire monthly equity floor stock execution machine charges.<sup>6</sup>

The purpose of the proposed rule change is to amend the PHLX's current schedule of fees and charges and to further underscore the Exchange's equity floor as a highly attractive floor of execution for a member firm's business.

**2. Statutory Basis**

The proposed rule change is consistent with Section 6(b)(4) of the Act<sup>7</sup> in that it provides for equitable allocation of reasonable dues, fees and other charges among its members and other persons using the facilities.

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

The PHLX 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 rule change establishes or changes a due, fee or other charge by the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>8</sup> and subparagraph (e) of Rule 19b-4 thereunder.<sup>9</sup> At any time within 60 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.

<sup>6</sup> The Exchange stated that the monthly credit provided to any member shall never exceed 100% of the total monthly stock execution machine charges imposed upon such member. Telephone conversation between Lydia Gavalis, Asst. General Counsel, Phlx, and Jon E. Kroeper, Attorney, SEC, on December 22, 1995.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>9</sup> 17 CFR 240.19b-4(e).

<sup>4</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> See Letter from William W. Ochimoto, Vice President and General Counsel, Phlx, to Jon E. Kroeper, Attorney, SEC, dated December 21, 1995. Amendment No. 1 deleted text requiring member firms to clear trades through the Stock Clearing Corporation of Philadelphia in order to receive the credit provided by the proposed rule change.

<sup>2</sup> See Letter from Murray L. Ross, Vice President and Secretary, Phlx, to Jon E. Kroeper, Attorney, SEC, dated January 4, 1996. Amendment No. 2 added a note describing the stock execution machine charge credit to the Phlx's Schedule of Fees and Charges.

<sup>3</sup> Stock execution machines are terminals that route order flow to other marketplaces. Currently, the only stock execution machines at the Phlx are Designated Order Terminals that route orders to the New York Stock Exchange.

<sup>4</sup> See Securities Exchange Act Release No. 28212 (July 17, 1990), 55 FR 30065 (July 24, 1990).

<sup>5</sup> See Securities Exchange Act Release No. 33954 (April 21, 1994), 59 FR 22191 (April 29, 1994).