

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change SR-NYSE-96-31 is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37886; File No. SR-PSE-96-26]

Self-Regulatory Organizations; Pacific Stock Exchange Incorporated; Order Approving Proposed Rule Change Relating to Its Minor Rule Plan

October 29, 1996.

I. Introduction

On August 7, 1996, the Pacific Stock Exchange Incorporated ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, a proposed rule change to amend the PSE's Minor Rule Plan.

The proposed rule change was published for comment in the Federal Register on August 21, 1996.³ No comments were received on the proposal.

II. Description of Proposal

As discussed in the Notice, the proposal would amend the PSE's disciplinary rules to provide Exchange staff with the authority to make findings of rule violations and to impose fines pursuant to the Exchange's Minor Rule Plan ("MRP").

III. Discussion

The Commission finds that the proposed rule change is consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade. The proposal also is consistent with Section 6(b)(7) in that it is designed to provide a fair procedure for the disciplining of members and persons associated with members.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the

proposed rule change (SR-PSE-96-26) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37882; File No. SR-PHILADEP-96-10]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Regarding Use of the Institutional Delivery System for Prime Brokers Transactions

October 28, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on June 28, 1996 the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-PHILADEP-96-10) as described in Items I and II below, which Items have been prepared primarily by Philadep. On September 16, 1996, Philadep filed an amendment to the proposed rule change.² The Commission is publishing this notice and order to solicit comments from interested persons 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

Philadep proposes to allow its participants to utilize its links with the Depository Trust Company's ("DTC") Institutional Delivery ("ID") system for the confirmation and affirmation of securities transactions that are to be settled by prime brokers.³

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

In its filing with the Commission, Philadep 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. Philadep has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.⁴

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

Philadep proposes to allow its participants to utilize the ID system for the confirmation and affirmation of trades that are to be settled by prime brokers.⁵ Under the proposed rule, Philadep participants may elect to use a prime broker option on the ID system to accommodate requests from their customers to send certain orders to another broker for execution. Although these orders will be executed by another broker, all such orders subsequently will settle at the prime broker.

Prime broker arrangements typically are designed by full service firms to facilitate the clearance and settlement of securities trades for retail and institutional investors that are active market participants. The prime broker arrangement involves the prime broker, the executing broker, and the institutional customer. The prime broker must be a registered broker-dealer that clears and finances customer trades executed by one or more other broker-dealers ("executing brokers") on behalf of the customer. Customers place orders with an executing broker. The executing broker maintains an account in the name of the prime broker for the benefit of the customer to accommodate such customer orders. The customer maintains its funds and securities in an account with the prime broker.

When a customer places a trade order, the executing broker buys or sells securities. On the same day (*i.e.*, trade date), the customer will notify the prime broker of the trade made by the executing broker. The prime broker records the customer's order in its books and records and issues a confirmation to the customer. The executing broker will utilize the ID system to confirm the transaction with the prime broker. The prime broker will affirm the trade through the ID system if the trade information submitted by the customer matches the information received from

¹ 15 U.S.C. 78s(b)(1) (1988).

² Letter from J. Keith Kessel, Compliance Officer, Philadep, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (September 13, 1996).

³ For a complete description of DTC's ID system, refer to Securities Exchange Act Release No. 34779 (October 3, 1994), 59 FR 51465 [File No. SR-DTC-94-13] (notice of filing and order granting accelerated approval on a temporary basis of the ID system).

⁴ The Commission has modified the text of the summaries submitted by Philadep.

⁵ Prime brokers are ID participating broker-dealers that settle, clear, and finance trades and provide custodial facilities for institutional customers.

¹⁸ 15 U.S.C. 78s(b)(2) (1988).

¹⁹ 17 CFR 200.30-3(a)(12) (1994).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 37592 (August 21, 1996), 61 FR 45468.

the executing broker. Subsequently, the prime broker settles with the executing broker and the customer according to normal settlement procedures.

Prime broker participants also will have the option to disaffirm trades. Disaffirmation involves the reversal of an affirmed confirmation back to an unaffirmed confirmation status. A disaffirming prime broker will notify both Philadep and the executing broker through Philadep's terminal system, Philanet, that a previously affirmed ID prime broker trade is being disaffirmed. Philadep will verify that each disaffirmation instruction matches an existing ID trade, and on a "best efforts" basis, Philadep will attempt to contact the executing broker by telephone to inform it of the disaffirmation. Philadep then will determine the settlement mode of the disaffirmed trade (e.g., trade-for-trade or continuous net settlement ["CNS"]). If a disaffirmed trade is scheduled to settle trade-for-trade or outside Philadep, Philadep will not take any further action.⁶

If a disaffirmed trade is scheduled to settle in CNS, Philadep will provide information to the appropriate clearing corporation so that the clearing corporation can effect journal entries to reverse the settlement obligations of the prime brokers. This reversal will reestablish the settlement obligations of the executing brokers. On a best efforts basis, the clearing corporation will telephone the executing brokers to advise them of the disaffirmation.

Philadep believes that it will need to make minimal changes to its current system to accommodate this business. Most notably, Philadep will establish two account numbers that will serve to segregate the prime broker activity of its ID participants from other types of activity.

Philadep believes that the proposed change is consistent with Section 17A of Act⁷ because it promotes the prompt and accurate clearance and settlement of securities transactions and safeguards securities and funds in Philadep's custody or control.

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

Philadep 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 relating to the proposed rule change have been received. Philadep will notify the Commission of any written comments received by Philadep.

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

Section 17A(b)(3)(F) of the Act⁸ requires the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. Additionally, Section 17A(a)(2)(ii) of the Act⁹ directs the Commission to facilitate the linked or coordinated facilities for the clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with Philadep's obligations under the Act because the proposal permits Philadep participants to utilize DTC's ID system to settle prime broker trades which should promote the prompt and accurate clearance and settlement of securities transactions whether such trades settle through CNS (i.e., thereby netting prime brokers' and executing brokers' other positions in the same security) or trade for trade through the existing ID system. Furthermore, the Commission believes that the proposed rule change enhances the ID linkage between DTC and Philadep through which Philadep participants will be able to settle prime broker trades.

Philadep has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will permit Philadep participants to immediately utilize the ID system for prime broker securities transactions. Furthermore, approval of the proposed rule change will allow Philadep to enhance its existing ID linkage with DTC, whose prime brokerage service has already been subject to notice and comment.¹⁰ Although the Commission has received one comment letter supporting the rule proposal, the Commission does not expect to receive additional comment letters on the proposal.¹¹

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, D.C. 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 Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to the file number SR-PHILADEP-96-10 and should be submitted by November 26, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (File No. SR-PHILADEP-96-10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-37887; File No. SR-Phlx-96-39]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Selective Quoting Facility for Foreign Currency Options

October 29, 1996.

I. Introduction

On August 20, 1996, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section

unable to offer prime broker services to its participants. Letter from Robert B. Kaplan, Vice President, BHC Securities, Inc., to Larry E. Bergmann, Senior Associate Director, Division, Commission (July 30, 1996).

¹² 15 U.S.C. 78s(b) (2)(1988).

¹³ 17 CFR 200.30-3(a)(12) (1996).

⁶ For trade-for-trade settlement, prime brokers will not deliver on the sell side or will reclaim the transaction on the buy side. For trades settling outside Philadep, prime brokers will block settlement through their agents or correspondents.

⁷ 15 U.S.C. 78q-1 (1988).

⁸ 15 U.S.C. 78q-1(b)(3)(F) (1988).

⁹ 15 U.S.C. 78q-1(a)(2)(ii) (1988).

¹⁰ *Supra* note 3.

¹¹ In that letter, the commenter asserted that it will be competitively disadvantaged if Philadep is