

Section II above, the NASD has requested comment on several issues relating to proposed NASD Rule 2711.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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 offices of the SROs. All submissions should refer to File Nos. SR-NASD-2002-21 and SR-NYSE-2002-09 and should be submitted by April 4, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45525; File No. SR-SCCP-2002-01]

### Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Fees Applicable to Philadelphia Stock Exchange Competing Specialists

March 8, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 9, 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 parties.

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

The proposed rule change amends SCCP's fee schedule to establish clearly that SCCP's fees, credits, discounts, and other charges which are based upon Philadelphia Stock Exchange ("Phlx") equity specialists' specialist activities also apply to competing specialists' specialist activities.

#### 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 statutory basis for 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>

##### (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 clearly establish that any fees and charges (as well as any credits and discounts) included in SCCP's fee schedule which are based upon Phlx equity specialists' specialist activities also apply to competing specialists' specialist activities. On December 21, 2001, the Commission approved a Phlx proposed rule change to adopt rules designed to facilitate the establishment of a competing specialist program on Phlx.<sup>3</sup> The new rules provide for the approval by Phlx's Equity Allocation, Evaluation and Securities Committee of applications by qualified specialist units to act as competing specialists in one or more equity securities. Phlx contemplates commencing a competing specialist program in the near future. Under that program, equity securities traded on Phlx may have both a primary specialist (contemplated to be Phlx's current sole specialist in the security) and one or more competing specialists. At this time, SCCP is proposing to apply all specialist fees and charges (as well as any applicable credits or discounts) to

Phlx specialists whether primary or competing.

For these reasons, SCCP believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act<sup>4</sup> which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants because SCCP will charge the same for primary and competing specialists.

##### (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

No written comments were either solicited or received.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>5</sup> and Rule 19b-4(f)(2) thereunder.<sup>6</sup> 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 Fifth Street, NW., Washington, DC 20549-0609. 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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> Securities Exchange Act Release No. 34-45183 (December 21, 2001), 67 FR 118 (January 2, 2002) (order approving SR-Phlx-2001-97).

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>6</sup> 17 CFR 240.19b-4(f)(2).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

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 SCCP. All submissions should refer to the File No. SR-SCCP-2002-01 and should be submitted by April 4, 2002.

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

**Margaret H. McFarland,**

*Deputy Secretary.*

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## OFFICE OF SPECIAL COUNSEL

### Agency Information Collection Activities; Request for Comment

**AGENCY:** Office of Special Counsel.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and implementing regulations at 5 CFR part 1320, the U.S. Office of Special Counsel (OSC), plans to request approval from the Office of Management and Budget (OMB) for use of three previously approved information collections consisting of customer survey forms.

OSC is required by law to conduct an annual survey of those who seek its assistance. The information collections are used to carry out that mandate. The current OMB approval for these collections of information expires on March 31, 2002; OSC does not plan to use the forms again until the next round of annual surveys beginning on October 1, 2002.

Current and former Federal employees, employee representatives, other Federal agencies, state and local government employees, and the general public are invited to comment on these information collections. Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of OSC functions, including whether the information will have practical utility; (b) the accuracy of OSC's estimate of the burden of the proposed collections of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use

of automated collection techniques or other forms of information technology.

**DATES:** Comments should be received by May 13, 2002.

**ADDRESSES:** Kathryn Stackhouse, Attorney, Planning and Advice Division, U.S. Office of Special Counsel, 1730 M Street, N.W., Suite 201, Washington, DC 20036-4505.

#### FOR FURTHER INFORMATION CONTACT:

Kathryn Stackhouse, Attorney, Planning and Advice Division, at the address shown above; by facsimile at (202) 653-5151; or by telephone at (202) 653-8971. The survey forms for collection of information are available for review on OSC's Web site, at [www.osc.gov/reading.htm](http://www.osc.gov/reading.htm).

**SUPPLEMENTARY INFORMATION:** OSC is an independent agency responsible for: (1) investigation of allegations of prohibited personnel practices defined by law at 5 U.S.C. 2302(b), and certain other illegal employment practices under titles 5 and 38 of the U.S. Code, affecting current or former Federal employees or applicants for employment, and covered state and local government employees; (2) the interpretation and enforcement of Hatch Act provisions on political activity in chapters 15 and 73 of title 5 of the U.S. Code; and (3) the provision of a secure channel through which Federal employees may make disclosures of information evidencing violations of law, rule or regulation; gross waste of funds; gross mismanagement; abuse of authority; or a substantial and specific danger to public health or safety.

OSC is required to conduct an annual survey of all individuals who seek its assistance. Section 13 of Public Law 103-424 (1994), codified at 5 U.S.C. 1212 note, states, in part: "[T]he survey shall—(1) determine if the individual seeking assistance was fully apprised of their rights; (2) determine whether the individual was successful either at the Office of Special Counsel or the Merit Systems Protection Board; and (3) determine if the individual, whether successful or not, was satisfied with the treatment received from the Office of Special Counsel." The same section also provides that survey results are to be published in OSC's annual report to Congress. Copies of prior years' annual reports are available on OSC's Web site, at [www.osc.gov/forms.htm#annual](http://www.osc.gov/forms.htm#annual), or by calling OSC at (202) 653-2253.

OSC uses three forms to survey potential respondents in three types of matters closed during the previous fiscal year: Form OSC-48a is sent to complainants who alleged prohibited personnel practices, or other prohibited activities (including violations of the Hatch Act); Form OSC-48b is sent to

persons who received a written advisory opinion on the application of the Hatch Act; and Form OSC-48c is sent to covered persons who made whistleblower disclosures to OSC. Each of these forms for information collection is described below. The forms to be submitted to OMB contain some minor modifications to existing forms, including increased use of "plain English" and minor format changes. In addition, the estimated number of annual respondents for each survey has been reduced to reflect estimated actual survey response rates, rather than surveys sent.

**1. Title of Collection:** OSC Survey—Prohibited Personnel Practice or Other Prohibited Activity (Agency Form Number OSC-48a; OMB Control Number 3255-0003)

**Type of Information Collection Request:** Approval of a previously approved collection of information that expires on March 31, 2002, with some revisions.

**Affected public:** Current and former Federal employees, applicants for Federal employment, state and local government employees, and their representatives.

**Respondent's Obligation:** Voluntary.  
**Estimated Annual Number of Respondents:** 682.

**Frequency:** Annual.  
**Estimated Average Amount of Time for a Person to Respond:** 20 minutes.  
**Estimated Annual Burden:** 227 hours.

**Abstract:** This form is used to survey current and former Federal employees and applicants for Federal employment who have submitted allegations of possible prohibited personnel practices or other prohibited activity for investigation and possible prosecution by OSC, and whose matter has been closed during the prior fiscal year (FY), on their experience at OSC. Specifically, the survey asks questions relating to whether the respondent was: (1) apprised of his or her rights; (2) successful at the OSC or at the Merit Systems Protection Board; and (3) satisfied with the treatment received at the OSC.

**2. Title of Collection:** OSC Survey—Hatch Act Advisory Opinion (Agency Form Number OSC-48b; OMB Control Number 3255-0003)

**Type of Information Collection Request:** Approval of a previously approved collection of information that expires on March 31, 2002, with some revisions.

**Affected public:** Current and former Federal employees, applicants for Federal employment, state and local government employees, and their representatives.

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