

or other legal proceeding instituted by that person against the Exchange or other specified persons, and related to the business of the Exchange, to pay all reasonable expenses, including attorneys' fees; incurred by the PSE in its defense during such proceedings if such expenses exceed \$50,000, is consistent with Section 6(b)(4) of the Act.¹⁴ Section 6(b)(4) requires that the rules of the exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

The Commission believes that because the funds to pay the legal expenses incurred by the Exchange in defending legal suits are generated, in part, by membership fees, the rule change reflects a reasonable business decision by the membership to shift the financial burden of litigation to the responsible member under certain circumstances. Moreover, as the Exchange's legal expenses must be reasonable and must accrue to at least \$50,000 before a member would be obligated to compensate the Exchange, the Commission believes that the rule change should not provide an undue disincentive to litigation, in so far as it will permit the discovery needed to assess the merits of members' cases.

The Commission also notes that new Rule 13.4 specifically excludes disciplinary actions brought by the Exchange, administrative appeals of Exchange actions, as well as any other specific instance where the Board of Governors grants a waiver of this rule. The Commission believes that this provision will ensure that members will be able to freely pursue their right to appeal any action brought by the Exchange for violations of its rules.¹⁵

D. Liability of Exchange for Actions of Order Book Officials

The Commission believes that because the PSE's proposal regarding the Exchange's order book officials clarifies the application of the rules governing Exchange liability, it should be approved.

IV. Conclusion

For the foregoing reasons, the Commission finds that the PSE's proposal to limit the liability of the Exchange and its directors, officers,

employees, and agents, to preclude certain types of legal actions by members against such persons individually, and to require members to pay the Exchange's costs of litigation under specified circumstances is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-PSE-96-21) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-21234 Filed 8-20-96; 8:45 am]

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[Release No. 34-37570; File No. SR-PHILADEP-96-11]

Self-Regulatory Organizations; The Philadelphia Depository Trust Company; Notice of Filing of a Proposed Rule Change Regarding the Destruction of Certain Expired Securities Certificates

August 14, 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-96-11) as described in Items I, II, and III below, which Items have been prepared primarily by Philadep. 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

Philadep proposes to amend its rules to permit the destruction of expired securities certificates representing warrants or rights that have expired to be carried out under the supervision of Philadep's internal audit department.

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.²

(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 amend Rule 31 which governs the orderly destruction of securities certificates relating to expired warrants and rights.³ Currently, Section (c) of Rule 31 requires that all securities to be destroyed pursuant to the rule must be forwarded to the rule department for destruction.⁴ Under the proposed rule change, Philadep will be allowed to destroy the certificates in a designated area of Philadep under the supervision of the internal audit department instead of being required to destroy such certificates in the internal audit department itself.

Philadep believes the proposed rule change complies with Section 17A of the Act because it is contemplated to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by providing an efficient administrative mechanism to destroy expired securities that presently and unnecessarily occupy critical space in Philadep's vault.

² The Commission has modified the text of the summaries submitted by Philadep.

³ The procedures for the destruction of expired securities set forth in Rule 31 require Philadep to (i) contact the transfer agent or the issuer of the expired securities to verify that the respective warrants or rights have expired, (ii) obtain written confirmation from such transfer agent or issuer that the certificates representing such warrants or rights have expired (if there is no transfer agent, Philadep personnel must exercise all reasonable due diligence to confirm the expired nature of the respective certificates including consulting with the Philadep's legal department, internal audit department and senior management), (iii) notify its participants that in the judgment of the transfer agent, or other appropriate parties if a transfer agent does not exist, the securities certificates have expired, (iv) delete such securities positions from its participants' account on or after the thirtieth day following the date of such notice, and (v) appropriately mark the securities certificates and forward them to its internal audit department for destruction.

⁴ Securities Exchange Act Release No. 35426 (February 28, 1995) [File No. SR-PHILADEP-94-05] (order approving proposed rule change authorizing Philadep to implement a program for the destruction of securities certificates relating to expired warrants and rights).

¹⁴ 15 U.S.C. 78f(b)(4) (1988).

¹⁵ The Commission notes that if the minimum amount in the fee provision were substantially lower it might have a more difficult time concluding that the provision was consistent with Section 6(b)(4). This is because such a lower threshold amount could be found to represent an inequitable allocation of fees to the disadvantage of certain members.

¹⁶ 15 U.S.C. 78s(b)(2) (1988).

¹⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. § 78s(b)(1) (1988).

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

Philadep believes that the proposed rule change poses no appreciable threat or burden on competition and should foster competition because it provides for an administratively more effective vault protocol.

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

Written comments were neither solicited nor received with respect to the proposed rule change.

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 Philadep 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, N.W., 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, N.W., Washington, D.C. 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-96-11 and should be submitted by September 11, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-21324 Filed 8-20-96; 8:45 am]

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[Release No. 34-37571; File No. SR-PHILADEP-96-12]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Legal Deposit Processing

August 14, 1996.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 ("Act"), 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 as described in Items I, II, and III below, which Items have been prepared primarily by Philadep. The Commission is publishing this notice to solicit comments from interested persons on 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 access Philadep's legal deposit processing services through the participants' Philanet terminal system.

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 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.²

(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 permit Philadep

participants to access Philadep's legal processing services through the participants' Philanet terminal system.³ Currently, participants access Philadep's legal deposit processing services by forwarding to Philadep a security certificate with a manually-completed legal deposit ticket attached.⁴ Under the proposed rule change, participants will be able to initiate legal deposit processing by utilizing their Philanet terminals to input legal deposit information directly to Philadep. Once the information is entered by the participant, the Philanet system will print a deposit ticket at the participant's local printer for attachment to the securities to be deposited at Philadep. Participants then will forward the securities and deposit ticket to Philadep, and legal deposit processing will proceed in the regular manner according to Philadep's current rules and procedures.

The proposed rule change also includes one system enhancement to legal deposit processing. Because information regarding the securities to be deposited will be transmitted directly to Philadep through the Philanet terminals, legal deposit processing can begin before Philadep receives the physical certificates from its participants.⁵ This additional processing time will permit Philadep to compare its participants' deposit information against the Security Information Center ("S.I.C.")⁶ database to determine whether a certificate has been reported lost or stolen. The proposed rule change should permit Philadep to alert its participants by phone or facsimile if a certificate has been reported lost or stolen prior to the

³ Philanet is an electronic communication system that links Philadep to its participants. Philanet allows participants to access information affecting their accounts through a terminal located at participants' offices. For a more complete description of the Philanet system, refer to Securities Exchange Act Release No. 34250 (June 23, 1994), 59 FR 33808 [File No. SR-PHILADEP-93-02] (notice and order granting accelerated approval of the Philanet system on a permanent basis).

⁴ The legal deposit ticket contains information regarding the identity of the depositing participant, the number of shares deposited, and the CUSIP and certificate numbers relating to the deposited securities.

⁵ Although preliminary processing may begin prior to receipt of the certificates, Philadep will not credit any participant's account prior to the receipt of such certificates. Telephone Conversation between Joseph E. DiNunzio, Senior Vice President, Philadep, and Mark A. Steffensen, Senior Counsel, Division of Market Regulation, Commission (August 6, 1996).

⁶ S.I.C. is the Commission's current designee to receive, store, and disseminate information with regard to missing, lost, counterfeit, or stolen securities pursuant to Section 17(f) of the Act and Rule 17f-1 thereunder.

⁵ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² The Commission has modified the text of the summaries prepared by Philadep.