

comment letters, and the NASD's response to the comments, and finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association<sup>17</sup> and, in particular, the requirements of section 15A(b)(6) of the Act,<sup>18</sup> which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

Specifically, the Commission believes the proposed rule change should assist the NASD in maintaining accurate information about its members' executive representative designation and contact information. Balancing the important role of an executive representative, the NASD's need for accurate information, and the NASD's efforts to minimize the burden of reporting on a quarterly basis the information described in this proposed rule change, the Commission believes the proposed rule change is reasonable and consistent with the purposes of the Act. The Commission also is satisfied that NASD has adequately addressed the commenters' concerns.

#### IV. Conclusion

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,<sup>19</sup> that the proposed rule change (SR-NASD-2003-184) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>20</sup>

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

[FR Doc. 04-7600 Filed 4-2-04; 8:45 am]

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49492; File No. SR-SCCP-2002-07]

#### Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Order Approving a Proposed Rule Change Relating to Ex-Clearing Account Transactions

March 29, 2004.

On December 26, 2002, the Stock Clearing Corporation of Philadelphia

("SCCP") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-SCCP-2002-07 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on January 14, 2004.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

The proposed rule change will add a provision to SCCP Rule 11 (Ex-Clearing Accounts) to enable SCCP participants to use an ex-clearing account when both sides of a securities transaction facilitated by the Philadelphia Stock Exchange ("Phlx") agree to transmit the transaction data to the National Securities Clearing Corporation ("NSCC") for clearance and settlement themselves, instead of transmitting the transaction data to NSCC through SCCP. Currently, SCCP participants that have agreed to settle a transaction outside any registered clearing agency may do so through an "ex-clearing account." With this rule amendment, the ex-clearing account may be used not only for transactions to be settled outside a registered clearing agency but also for transaction being sent to NSCC but not through SCCP. SCCP anticipates that certain Phlx members that participate in Phlx's program to trade Nasdaq securities will arrange for the clearance and settlement of their Nasdaq securities trading at Phlx directly with NSCC.<sup>3</sup> As before the amendment, SCCP makes no trade guarantee respecting any ex-clearing transaction.

#### II. Discussion

Section 17A(b)(3)(F) of the Act<sup>4</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission finds that the proposed rule change is consistent with this requirement because it will provide an additional mechanism for SCCP participants to have their securities transactions cleared and settled at NSCC, a registered clearing agency, which should promote the prompt and accurate clearance and settlement of securities transactions.

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

<sup>2</sup> Securities Exchange Act Release No. 49046 (Jan. 8, 2004), 69 FR 2167.

<sup>3</sup> The use of ex-clearing accounts is not limited to trading in Nasdaq securities and may be used in any situation that otherwise meets the criteria for the use of ex-clearing accounts.

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

#### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act<sup>5</sup> and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-SCCP-2002-07) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

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

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49491; File No. SR-SCCP-2001-09]

#### Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Order Approving a Proposed Rule Change Relating to Establishing Risk Management Procedures for Short Settlement Transactions

March 29, 2004.

On August 30, 2001, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission") proposed rule change File No. SR-SCCP-2001-09 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and on October 9, 2001,<sup>2</sup> and September 20, 2002,<sup>3</sup> amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on January 27, 2004.<sup>4</sup> No comment letters were

<sup>5</sup> 15 U.S.C. 78q-1.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> In October 2001, SCCP filed Amendment No. 1 to its original filing in order to replace its request for immediate effectiveness under Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(1) with a request for approval pursuant to Section 19(b)(2). Amendment No. 1 also revised SCCP Rule 9 to reflect the addition of the schedule for late margin call payments which had previously been approved by the Commission in another SCCP rule filing. Securities Exchange Act Release No. 44722 (Aug. 20, 2001), 66 FR 44661 (Aug. 24, 2001) [SR-SCCP-2001-04].

<sup>3</sup> In September 2002, SCCP filed Amendment No. 2 to its original filing whereby SCCP added the requirement that the SCCP Operations Committee or Board of Directors shall determine whether additional margin will be required prior to the settlement date for short settlement transactions.

<sup>4</sup> Securities Exchange Act Release No. 49079 (Jan. 14, 2004), 69 FR 3988.

<sup>17</sup> In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>18</sup> 15 U.S.C. 78o-3(b)(6).

<sup>19</sup> 15 U.S.C. 78s(b)(2).

<sup>20</sup> 17 CFR 200.30-3(a)(12).

received. For the reasons discussed below, the Commission is approving the proposed rule change.

### I. Description

The proposed rule change will require SCCP specialists and alternate specialists ("SCCP margin members") to comply with certain new procedures when they engage in short settlement transactions.<sup>5</sup> Specifically, SCCP will add supplementary material to Rule 9 to require a SCCP margin member to notify SCCP on trade date ("T") whenever the SCCP margin member executes a short settlement transaction. This will enable SCCP to verify the SCCP margin member's net capital and net settlement cap, and to allow SCCP to calculate any net settlement obligations to the National Securities Clearing Corporation ("NSCC"). The new rule establishes a cap on net settlement obligations undertaken by any SCCP margin member of two times net capital. On the day after the trade date ("T+1"), SCCP will notify the SCCP margin member of any settlement obligations to NSCC exceeding the net settlement cap or whether the SCCP Board of Directors or Operations Committee has decided, in its sole discretion, that SCCP will finance the increased settlement obligations on behalf of the SCCP margin member.

Under the rule change, a SCCP margin member must obtain approval from the SCCP Board of Directors or Operations Committee to continue carrying any transactions having an aggregate value above the net settlement cap. A SCCP margin member may only carry a short settlement transaction with an aggregate value above the net settlement cap until the clearance and settlement of such transaction with NSCC. The SCCP Board of Directors or Operations Committee shall determine, in its sole discretion, whether SCCP will finance the short settlement transaction in excess of the margin member's net settlement cap. If the SCCP Board of Directors or Operations Committee, as the case may be, determines that SCCP will not finance such short settlement transaction, the SCCP margin member shall be required to pay 100 percent of its settlement obligations to SCCP above the net settlement cap. In this manner, SCCP will satisfy its obligations to NSCC for the additional clearing funds caused by a net settlement transaction.

The SCCP margin member shall have until 3 p.m. eastern time on the date following the initial notification (T+2) to provide sufficient funds to cover 100 percent of the settlement obligations above its net settlement cap. The net settlement cap related provisions are intended to require any SCCP margin member who executes a short settlement transaction to bear the credit risk from such transaction and to decrease associated risks to SCCP. Finally, the rule change reminds SCCP margin members that SCCP has the authority to initiate a disciplinary proceeding or to cease to act on behalf of such SCCP margin member if sufficient funds are not provided by the T+2 deadline. These provisions currently appear in SCCP Rules 9 and 15.

### II. Discussion

Section 17A(b)(3)(F) of the Act<sup>6</sup> requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are in the custody or control of the clearing agency or for which it is responsible. The Commission finds that the proposed rule change is consistent with this requirement because the new procedures should help protect SCCP from the credit risk and settlement risk associated with SCCP margin members' short settlement transactions. In the absence of explicit risk management procedures, SCCP would otherwise potentially face unlimited credit risk with its lending institutions and settlement risk in connection with its clearance and settlement of transactions with NSCC.

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>7</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-SCCP-2001-09) be, and hereby is, approved.

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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<sup>5</sup> As defined in SCCP's proposed rule, "a short settlement transaction occurs when, for example, the buy (or sell) side of the trade ("opening transaction") settles on T+1 or T+2 and the sell (or buy) side of the trade ("covering transaction") settles on T+2 or T+3."

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> 17 CFR 200.30-3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P021]

#### State of Oregon (Amendment #2)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective March 24, 2004, the above numbered declaration is hereby amended to include Crook and Grant Counties for Public Assistance in the State of Oregon as disaster areas due to damages caused by severe winter storms occurring on December 26, 2003 and continuing through January 14, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is April 19, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59008).

**Cheri L. Cannon,**

*Acting Associate Administrator for Disaster Assistance.*

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## SMALL BUSINESS ADMINISTRATION

### Interest Rates

The Small Business Administration publishes an interest rate called the optional "peg" rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 4.500 (4½) percent for the April-June quarter of FY 2004.

**James E. Rivera,**

*Associate Administrator for Financial Assistance.*

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## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection

#### Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing