

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-51186; File No. SR-SCCP-2004-05)

February 10, 2005

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Limitation of the Net Inbound ITS Credit to Certain SCCP and Phlx Fees and Transaction-Related Charges

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, notice is hereby given that on December 30, 2004, 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 persons.

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

SCCP will amend SCCP’s fee schedule to indicate that the Net Inbound ITS Credit (“ITS Credit”)² established in the Philadelphia Stock Exchange’s (“Phlx”) Summary of Equity Charges is limited to certain SCCP and Phlx transaction-related charges.

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 basis for the proposed rule change and discussed any comments it received on the proposed

¹ 15 U.S.C. 78s(b)(1).

² The ITS Credit is a credit that is calculated on a monthly basis consisting of: \$0.30 per 100 shares on the excess, if any, of the number of inbound ITS shares executed compared to the number of outbound ITS shares sent and executed. Securities Exchange Act Release No. 45388 (Feb. 2, 2002), 67 FR 6310 (Feb. 11, 2002) [SR-Phlx-2001-121].

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.³

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

Under the rule change, the ITS Credit will be limited to the amount of SCCP's Trade Recording Fees, Value Fees, ETF Fees, and Transaction Charges (Remote Specialist Only) plus Phlx Permit Fees and Phlx Outbound ITS Fees⁴ that are incurred in the same month that the credit is earned. On a monthly basis, ITS Credits in excess of the amount charged for all of these fees may not be used for any other purpose and may not be carried forward.⁵ The proposed amendment was effective for transactions settling on or after January 3, 2005.

Also under the rule change, SCCP will rename the fees related to certain products⁶ as "ETF Fees" for ease of reference.

The purpose of the proposed rule change is to encourage ITS trades by allowing equity specialists to get an ITS Credit but to limit the credit in a reasonable fashion so as not to financially burden Phlx, particularly in light of the change in Phlx's equity business. While the

³ The Commission has modified the text of the summaries prepared by SCCP.

⁴ Phlx has submitted a companion proposed rule change to the Commission that adds reference to the ITS Credit in the Summary of Equity Charges in Phlx's schedule of fees. [SR-Phlx-2004-95.]

⁵ For example, if an equity specialist had a monthly ITS Credit of \$30,000 and monthly Phlx and SCCP charges that were eligible to be reduced by the ITS Credit of \$5,000 and \$20,000, respectively, the equity specialist would receive a credit of \$25,000, and the unused credit amount of \$5,000 would not be used for any other purpose.

⁶ I.e. Nasdaq 100 Trust, Series 1 (also known as QQQ), Standard & Poor's Depositary Receipts (also known as SPDRs), and Diamonds Exchange Traded Funds (also known as Diamonds)

ITS Fee and ITS Credit methodology was practical when instituted in 2002,⁷ Phlx's equity business has changed so that the ITS Credit is now substantially greater than the ITS Fee. As a result, Phlx oftentimes has to credit substantial amounts to equity specialists. Phlx is therefore limiting the amount of the ITS Credit as described above. The fees to which the ITS Credit is now limited reflect the most fundamental fees applicable to equity specialists.

SCCP believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act⁸ which requires that the rules of a registered clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

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

SCCP did not solicit or receive any comments regarding the proposed rule change.

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

The foregoing rule change took effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act⁹ and Rule 19b-4(f)(2)¹⁰ thereunder because the proposed rule change changes a due, fee, or other charge imposed by SCCP. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change

⁷ Securities Exchange Act No. 45388 (Feb. 2, 2002), 67 FR 6310 (Feb. 11, 2002) [SR-Phlx-2001-121].

⁸ 15 U.S.C. 78q-1(b)(3)(D).

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

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. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-SCCP-2004-05 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-SCCP-2004-05. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 the filing also will be available for inspection and copying at SCCP's principal office and on SCCP's

website at <http://www.phlx.com/SCCP/memindex_sccpproposals.html>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-SCCP-2004-05 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹¹

Margaret H. McFarland
Deputy Secretary

¹¹ 17 CFR 200.30-3(a)(12).