

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 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.

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 Depository Receipts (also known as SPDRs), and Diamonds Exchange Traded Funds (also known as Diamonds).

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).

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 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/>

⁹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁰ 17 CFR 240.19b-4(f)(2).

[rules/sro.shtml](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 Web site 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 March 9, 2005.

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

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10020 and # 10021]

**California Disaster # CA-00001
Disaster Declaration**

AGENCY: Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of California (FEMA-1577-DR), dated 02/04/2005.

Incident: Severe Storms, Flooding, Debris Flows, and Mudslides.

Incident Period: 12/27/2004 through 01/11/2005.

EFFECTIVE DATE: 02/04/2005.

Physical Loan Application Deadline Date: 04/05/2005.

EIDL Loan Application Deadline Date: 11/04/2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

¹¹ 17 CFR 200.30-3(a)(12).

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/04/2005, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Los Angeles, Ventura.

Contiguous Counties: California, Kern, Santa Barbara, Orange, San Bernardino.

The Interest Rates are:

	Percent
Homeowners With Credit Available Elsewhere	5.875
Homeowners Without Credit Available Elsewhere	2.937
Businesses With Credit Available Elsewhere	5.800
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	4.750
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10020B and for economic injury is 100210.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.

[FR Doc. 05-2943 Filed 2-15-05; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10007 and # 10008]

Indiana Disaster Number IN-00001

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Indiana (FEMA-1573-DR), dated 01/21/2005.

Incident: Severe Winter Storms and Flooding.

Incident Period: 01/01/2005 and continuing.

Effective Date: 01/31/2005.

Physical Loan Application Deadline Date: 03/22/2005.

EIDL Loan Application Deadline Date: 10/21/2005.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Disaster Area Office 1, 360 Rainbow Blvd. South 3rd Floor, Niagara Falls, NY 14303.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of Indiana dated 01/21/2005, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties

- Adams
- Allen
- Dearborn
- De Kalb
- Elkhart
- Fayette
- Franklin
- Fulton
- Jasper
- Kosciusko
- Lake
- Laporte
- Marshall
- Newton
- Noble
- Porter
- Pulaski
- Ripley
- St. Joseph
- Starke
- Union
- Wayne
- Whitley

Contiguous Counties

- Indiana
 - Lagrange
 - Ohio
 - Steuben
 - Switzerland
- Illinois
 - Cook
 - Kankakee
 - Will
- Kentucky
 - Boone
- Michigan
 - Berrien
 - Cass
 - St. Joseph
- Ohio
 - Butler
 - Defiance
 - Hamilton
 - Paulding

- Preble
- Van Wert
- Williams

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Herbert L. Mitchell,
Associate Administrator for Disaster Assistance.

[FR Doc. 05-2942 Filed 2-15-05; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF STATE

[Delegation of Authority Number 276]

Designation of Central Authority and Delegation of Authority Regarding Functions Under Treaties Governing the Return of Stolen, Embezzled, or Appropriated Vehicles and Aircraft

(1) By virtue of the authority vested in me as Secretary of State, including the authority of section 1 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2651a), I hereby:

(a) Designate the Assistant Secretary for Consular Affairs and the Chief of Mission of the relevant United States Embassy as the Central Authority for the United States under treaties governing the return of stolen, embezzled, or appropriated vehicles and aircraft that do or may hereafter specify that the Central Authority is the Secretary of State or such persons designated by the Secretary of State; and

(b) delegate to the Assistant Secretary for Consular Affairs the authority to promulgate such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary of State and the Department of State under treaties that do or may hereafter govern the return of stolen, embezzled, or appropriated vehicles and aircraft.

(2) The foregoing functions may also be performed by the Secretary of State, the Deputy Secretary of State, or the Under Secretary of State for Management.

This designation of Central Authority and delegation of authority shall be published in the **Federal Register**.

Dated: January 2, 2005.

Colin L. Powell,
Secretary of State, Department of State.
[FR Doc. 05-3003 Filed 2-15-05; 8:45 am]

BILLING CODE 4710-08-P