

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 also will be available for inspection and copying at the principal office of NASDAQ. 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 publicly available. All submissions should refer to File Number SR-NASDAQ-2006-060 and should be submitted on or before March 7, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Nancy M. Morris,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55259; File No. SR-NSCC-2006-18]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change To Create Service To Facilitate the Exchange of Account Related Information on an Automated Basis Between Members

February 8, 2007.

#### I. Introduction

On December 21, 2006, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on January 5, 2007, amended<sup>1</sup> proposed rule change SR-NSCC-2006-18 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>2</sup> Notice of the proposal was published in the **Federal Register** on January 18, 2007.<sup>3</sup> The Commission received no comment letters. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

#### II. Description

Currently, when a correspondent firm chooses to move its book of business from one NSCC member to another,

there is no standard method for transmitting the detailed customer data between the members. This information is currently exchanged through tapes, CDs, and other means and is dependent on the proprietary data format and values defined by the clearing firm from which the correspondent is moving. The process is time-consuming and prone to incorrect interpretation of data values. It is made more inefficient because clearing firms maintain separate code for each other clearing firm for which they convert data.

NSCC is modifying its rules to create the Account Information Transmission Service ("AIT") to facilitate the exchange of account related information during the movement of correspondent broker accounts between members or during other material events that result in the bulk movement of accounts between members. AIT will provide members with a standard mechanism to transmit customer data that will reduce the potential for lost and incorrectly interpreted data and will provide members with a secure facility for the exchange of data. The standard data model also will allow for the adoption of a single code base that is applicable for all conversion events. NSCC believes the single standard format could reduce costs, increase accuracy, and accelerate delivery time.

NSCC will develop and introduce AIT in two phases. The first phase is to create the mechanism by which members may transmit data between themselves. NSCC will implement the first phase on Monday, February 12, 2007. The second phase will involve the development of standardized data formats. NSCC will notify the Commission of phase two enhancements prior to their implementation.

Since AIT is only an information transmission service, NSCC is also amending its rules to clarify that NSCC is not responsible for the accuracy or completeness of any information transmitted through AIT or for any omissions or delays that may occur in the transmission of AIT data. Finally, NSCC is implementing a \$200 monthly subscription fee for participation in AIT during phase one. NSCC will reevaluate AIT service fees as subsequent enhancements are completed.

#### III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to

such organization.<sup>4</sup> Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>5</sup> The Commission finds that NSCC's rule change is consistent with these requirements because by reducing costs, increasing accuracy, and accelerating delivery time of bulk movement of accounts between members, the proposed rule change should better enable NSCC to promote the prompt and accurate clearance and settlement of securities transactions.<sup>6</sup>

The Commission believes there is good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because doing such will allow NSCC to implement AIT according to its system implementation schedule.

#### IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-NSCC-2006-18) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Nancy M. Morris,**  
*Secretary.*

[FR Doc. E7-2540 Filed 2-13-07; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55254; File No. SR-Phlx-2006-88]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Rule 712, Independent Audit

February 8, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

<sup>4</sup> 15 U.S.C. 78s(b).

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

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

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

<sup>1</sup> The amendment added the number of the new rule inadvertently omitted in the original filing.

<sup>2</sup> 15 U.S.C. 78s(b)(1).

<sup>3</sup> Securities Exchange Act Release No. 55082 (January 10, 2007), 72 FR 2319.

("Act")<sup>1</sup>, and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 21, 2006, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Phlx. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by Phlx under Section 19(b)(3)(A)(ii)<sup>3</sup> of the Act and Rule 19b-4(f)(2)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission. 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**

The Phlx, pursuant to Section 19(b)(1) of the Act<sup>5</sup> and Rule 19b-4 thereunder,<sup>6</sup> proposes to amend Phlx Rule 712, *Independent Audit*, to clarify that in certain circumstances a member organization may request an extension of time to file its annual audit from the Exchange in writing prior to the due date of the annual audit, and to provide for the imposition of a fee to be assessed for the late filing of an annual audited financial statement ("annual audit").

The proposed new language is set forth below, with new text italicized:

Rules of the Board of Governors

\* \* \* \* \*

#### **Independent Audit**

Rule 712. Each member organization doing any business with the public shall at least once each calendar year cause to be made an audit of its affairs, conducted in accordance with applicable audit requirements of the Securities and Exchange Commission and such other requirements as deemed appropriate by the Exchange, by independent public accountants and shall have such accountants prepare an answer to the financial questionnaire of the Exchange based upon such audit.

*Pursuant to Rule 17a-5(d), promulgated under the Exchange Act, all broker-dealers are required to file annually audited financial statements ("Annual Audits") with their Designated Examining Authority and the SEC, no more than 60 days after the date of the year end financial statements. A*

*member organization unable to meet the filing deadline for its Annual Audit as a result of exceptional circumstances may request an extension of time, in writing, prior to the filing due date. Annual Audits not received by the Exchange by the due date, or revised due date if an extension has been granted, will be subject to a late fee as set forth below for each week or any part thereof that the Annual Audit has not been filed, as calculated based on the due date or revised due date for filing the Annual Audit. (Implemented on a running three-year basis.)*

*(i) \$100 per week for the first late filing in a three-year period.*

*(ii) \$300 per week for the second late filing in a three-year period.*

*(iii) \$1,000 per week for the third late filing in a three-year period.*

\* \* \* \* \*

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

In its filing with the Commission, the Phlx 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. The Phlx has substantially prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

##### **1. Purpose**

Currently, Rule 712 sets forth the provisions governing the requirements for an annual audit to be conducted in accordance with audit requirements as set forth by the Securities and Exchange Commission and other requirements as deemed appropriate by the Exchange. The proposed amendment is designed to clarify that, if a member organization is unable to meet the filing deadline for its annual audit as a result of exceptional circumstances, the member organization may request an extension of time to file its annual audit in writing prior to the due date of the annual audit.<sup>7</sup> In addition, the proposed amendment is intended to encourage the prompt filing of annual audits by those member organizations designated to the Exchange for examining purposes

through the assessment of a late filing fee. Pursuant to the amended Rule, the Exchange may issue progressively higher fees for all subsequent violations within the running three-year time period.<sup>8</sup>

##### **2. Statutory Basis**

The Exchange believes that its proposal to amend its schedule of fees is consistent with Section 6(b) of the Act<sup>9</sup> in general, and furthers the objectives of Section 6(b)(4) of the Act<sup>10</sup> in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

#### *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**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act<sup>11</sup> and paragraph (f)(2) of Rule 19b-4<sup>12</sup> thereunder. At any time within 60 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. Comments may be submitted by any of the following methods:

<sup>8</sup> The Exchange may present repeated or aggravated failures to file such annual audits on a timely basis to the Exchange's Business Conduct Committee for disciplinary action under Exchange Rules.

<sup>9</sup> 15 U.S.C. 78f(b).

<sup>10</sup> 15 U.S.C. 78f(b)(4).

<sup>11</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>12</sup> 17 CFR 240.19b-4(f)(2).

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

<sup>2</sup> 17 CFR 240.19b-4.

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

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

<sup>5</sup> 15 U.S.C. 78s(b)(1).

<sup>6</sup> 17 CFR 240.19b-4.

<sup>7</sup> Requests for extensions of time to file an annual audit should be submitted to the Exchange.

*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](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2006-88 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number *SR-Phlx-2006-88*. 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 the principal office of the Phlx. 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-Phlx-2006-88* and should be submitted on or before March 7, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-2549 Filed 2-13-07; 8:45 am]

**BILLING CODE 8010-01-P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-55256; File No. SR-Phlx-2005-68]

**Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Deletion of Rule 702, Carrying Accounts**

February 8, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup>, and Rule 19b-4<sup>2</sup> thereunder, notice is hereby given that on November 9, 2005, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been substantially prepared by the Phlx. The Phlx filed Amendment No. 1 to the proposed rule change on January 18, 2007.<sup>3</sup> 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**

The Phlx proposes to delete Rule 702, Carrying Accounts. The text of Rule 702, proposed to be deleted, is set forth below. Brackets indicate deletion.

[Rule 702. Carrying Accounts

No member, doing business as an individual, shall carry accounts for customers, except as provided in Rule 903.]

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

In its filing with the Commission, the Phlx 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. The Phlx has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> Amendment No. 1 replaces and supersedes the original filing in its entirety.

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

1. Purpose

The purpose of the proposed rule change to delete Rule 702, Carrying Accounts, is to eliminate an unnecessary and confusing Exchange rule. Currently, Rule 702 provides that "[n]o member, doing business as an individual, shall carry accounts for customers, except as provided in Rule 903."<sup>4</sup>

The term "member" (as opposed to "member organization") is defined in Exchange rules as a permit holder which has not been terminated in accordance with the by-laws and rules of the Exchange.<sup>5</sup> Currently, the only issued and outstanding Exchange permits are Series A-1 Permits, the terms and conditions of which are governed by Rule 908. Section (b) of Rule 908, Series A-1 Permits, provides in part that, with one narrow exception not relevant here, a Series A-1 permit shall only be issued to an *individual*.<sup>6</sup>

The Exchange believes that Rule 702 is unnecessary. Additionally, since virtually all members are individuals, Rule 702's proscription against the carrying of customer accounts by a member "doing business as an individual" is confusing. The Exchange has in the past interpreted the rule as prohibiting any individual member from carrying customer accounts. Rule 908

<sup>4</sup> The reference to Rule 903 is clearly an incorrect reference which should be to Rule 904. Use of a Partnership Name, which provides that "[n]o member shall conduct business under a partnership firm name unless he has at least one general partner, provided, however, that if by death or otherwise a member becomes the sole general partner in a member organization that is a partnership he may continue business under the partnership name for such period as may be allowed by the Committee."

<sup>5</sup> See Exchange By-Law Article I, Section 1(t) and Exchange Rule 1(n). Exchange By-Law Article XII, Section 1(b) provides in part that "[e]xcept as otherwise set forth in the rules of the Exchange or any resolution of the Board of Governors authorizing a specific class or series of permits, a permit will confer upon and subject the holder thereof to all the privileges and obligations of a member pursuant to these By-Laws and the rules of the Exchange, \* \* \* and to conduct business on the Exchange as provided in these By-Laws and such rules."

<sup>6</sup> Rule 908(b) provides that a Series A-1 Permit may also be issued to "a corporation meeting the requirements of Section 12-4 of the By-Laws." Section 12-4 of the By-Laws, Admission of Corporation, provides that "[a] corporation may be issued a permit by the Exchange, provided such corporation is incorporated under the laws of the Commonwealth of Pennsylvania, and all of its capital stock is owned by the Exchange." This By-Law provision was intended to permit Exchange membership for the Exchange's subsidiary, Stock Clearing Corporation of Philadelphia.

<sup>13</sup> 17 CFR 200.30-3(a)(12).