

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49492; File No. SR-SCCP-2002-07)

March 29, 2004

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

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”).¹ Notice of the proposal was published in the Federal Register on January 14, 2004.² 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

¹ 15 U.S.C. 78s(b)(1).

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

arrange for the clearance and settlement of their Nasdaq securities trading at Phlx directly with NSCC.³ As before the amendment, SCCP makes no trade guarantee respecting any ex-clearing transaction.

II. Discussion

Section 17A(b)(3)(F) of the Act⁴ 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.

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 Act⁵ and the rules and regulations thereunder.

³ 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.

⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁵ 15 U.S.C. 78q-1.

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.⁶

Margaret H. McFarland
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(12).