

payment requirement have been established to maintain adequate liquidity of margin collateral and are also intended to be consistent with the redemption conditions contained in CFTC rule 1.25.⁹

Valuation

OCC will require funds to perform a net asset value computation at least once per day with the dissemination of such computation to be made available to OCC no later than 9 a.m. central time the following day. Given the diversified nature of eligible fund investments as well as the investment duration limitations, a daily computation of net asset value appears reasonable. Nevertheless, OCC will apply a 2% haircut on the current market value of fund shares. The 2% haircut was selected for consistency with the treatment of similar assets under the net capital rule.¹⁰

OCC's Security Interest

As in the case of other securities held as collateral, OCC will require that clearing members give OCC a first priority perfected security interest in deposited fund shares. Because shares in money market funds are typically not issued in certificated form, ownership is established by registration of the securities on the books of the fund or its transfer agent. OCC can ordinarily obtain a perfected security interest in fund shares registered in the name of a clearing member by execution of the fund's standard three-party agreement among OCC, the clearing member, and the fund or its transfer agent.

In addition, to preclude a situation whereby a clearing member secures its obligations to OCC with collateral managed and within the control of that clearing member or a related party, an association restriction is included in rule 604(b)(3)(iii). This restriction is consistent with OCC rules regarding the deposit of government securities, debt or equity issues, or letters of credit as margin collateral.¹¹ This standard may be waived if the issuing institution can demonstrate that an acceptable arrangement has been made for the control of underlying portfolio investments and for the processing of

OCC redemption requests by a third party.

OCC is also moving the provisions which require compliance with the Commission's rule 15c3-3 when applicable, formerly set forth in rule 604(d)(2), have been moved so that these provisions apply not only to equity and debt securities but to all securities deposited as margin under rule 604(b). A sentence has been added to these provisions to require compliance with the CFTC's customer protection regime when securities are deposited with respect to futures accounts.

OCC believes that the proposed rule change is consistent with the requirements of section 17A of the Securities Exchange Act of 1934, as amended, because it enhances the efficiency of the clearing system while still allowing OCC to safeguard securities and funds by permitting clearing members to collateralize their obligations to OCC with an additional form of highly liquid, stable value assets.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F).¹² Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that OCC's rule change meets this requirement because while OCC clearing members will be able to deposit money market funds as margin collateral, OCC has established procedures with respect to the deposits of money market funds as margin collateral that should ensure that OCC will be able to safeguard the securities and funds that are within its custody or control or for which it is responsible.

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, that the proposed rule change (File No. SR-OCC-2002-04) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹³

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 03-8387 Filed 4-4-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47605; File No. SR-Phlx-2003-17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. To Adopt a License Fee for Transactions in Standard & Poor's Depository Receipts®

April 1, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on March 17, 2003, 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 and II below, which Items have been prepared by the Exchange. The Exchange amended the proposal on March 28, 2003.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

The Exchange proposes to amend its Summary of Equity Charges to adopt a license fee of \$0.00025 per share per trade side for sides greater than 500 shares, with no maximum fee per trade side charged to Non-PACE Customers⁴ and Electronic Communications Networks ("ECNs"),⁵ and a license fee

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ On March 28, 2003, the Exchange filed a Form 19b-4, which completely replaced and superceded the original filing in its entirety ("Amendment No. 1"). For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on March 28, 2003, the date the Exchange filed Amendment No. 1. 15 U.S.C. 78(s)(b)(3)(C).

⁴ PACE is the acronym for the Exchange's Automated Communication and Execution System, which is the Exchange's order routing, delivery, execution and reporting system for its equity trading floor. See Exchange Rules 229 and 229A.

⁵ ECNs shall mean any electronic system that widely disseminates to third parties orders entered therein by an Exchange market maker or over-the-

⁹ CFTC Regulation 1.25(c)(5), 65 FR 77993, 78010, 78011 (Dec. 13, 2000); see also, 65 FR 82270 (Dec. 28, 2000). CFTC Interpretive Letter No. 01-31 (April 2, 2001) (Funds will be deemed in compliance with Regulation 1.25(c)(5) even though they provide for delayed redemption in specified emergency situations).

¹⁰ 17 CFR 240.15c3-1(c)(2)(vi)(D)(1).

¹¹ OCC rule 604, Interpretation and Policies .07 and .10.

¹² 15 U.S.C. 78q-1(b)(3)(F).