

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48287; File No. SR-SCCP-2003-05]

### Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Specialist Volume Level Discounts

August 5, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on June 27, 2003, 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 parties.

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

The proposed rule change amends SCCP's fee schedule to allow SCCP participant firms involved in mergers, consolidations, acquisitions or other business combinations (collectively "business combinations") to combine their volumes of trades cleared through SCCP margin accounts for purposes of the SCCP specialist volume level discount. The proposal is scheduled to be effective retroactively as of February 1, 2003, with a rebate to be given from that date forward for any firms affected by this proposal.

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

In its filing with the Commission, SCCP included statements concerning the purpose of and statutory basis for the proposed 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.<sup>2</sup>

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

The proposed rule change amends SCCP's schedule of dues, fees, and charges to allow participant firms engaged in business combinations to combine their trading volumes for purposes of determining their SCCP specialist volume level discounts. From time to time, participant firms may enter into some form of business combination. Prior to a business combination, each component participant firm may take advantage of the specialist volume level discount, depending on the firm's level of trading activity in its SCCP margin account. Currently, however, when a participant firm is involved in a business combination, the resulting participant firm is penalized because the specialist volume level discount is calculated for each participant firm in such business combination rather than for both firms on a combined basis.

After a business combination, the resulting participant firm may be eligible for a higher specialist volume level discount as a result of the combination of the trading activity of its component firms. This occurs because the resulting firm may have a higher volume of transactions than each component firm and because the discount per side increases as the volume levels increase. To establish parity in these situations, SCCP is proposing that, in the month during which a business combination occurs, the specialist volume level discounts of each participant firm involved in such business combination may be consolidated for purposes of determining the specialist volume level discount of the resulting participant firm.

SCCP participants eligible for the combined discounts will be required to request the combined volume level discounts within 30 days after the issuance of the SCCP invoice for the month in which a business combination occurs. The proposal is scheduled to be effective as of February 1, 2003, with a rebate to be given from February 1, 2003 forward to any firms affected by this proposed fee change.

SCCP believes that the proposed rule change is consistent with 17A(b)(3)(D) of the Act<sup>3</sup> which requires that the rules of a registered clearing agency provide

for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants because the fee structure proposed herein applies the volume discount applicable to combined firms in an equitable manner.

#### (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

No written comments were either solicited or received.

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>4</sup> and Rule 19b-4(f)(2) thereunder.<sup>5</sup> At any time within sixty 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-SCCP-2003-05. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. 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

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

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

<sup>2</sup> The Commission has modified parts of these statements.

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

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).