

FICC-2005-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51754; File No. SR-FICC-2005-07]

### Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Establish a Firm Deadline by Which Members of the Government Securities Division Must Satisfy Clearing Fund Deficiencies

May 27, 2005.

#### I. Introduction

On March 18, 2005, the Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-FICC-2005-07 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 21, 2005.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description

FICC is establishing a firm deadline by which members of FICC's Government Securities Division ("GSD") must satisfy clearing fund deficiencies. Currently, GSD's rules provide a deadline for a member's satisfaction of a clearing fund deficiency of two hours after GSD has issued a notice of deficiency to that member. Under current practice, GSD issues its clearing fund deficiency notices by telephone calls typically at 8:30 a.m. Eastern Time and by a facsimile containing (i) a cover letter summarizing the deficiency status and (ii) a detailed report reflecting the firm's current clearing fund requirement and collateral on deposit. Therefore, deficiency calls typically must be satisfied by approximately 10:30 a.m. Eastern Time.

Notwithstanding GSD's issuance of clearing fund calls, each member has

the ability to access a report each day detailing its clearing fund balances and any deficiency thereof generally by 12:30 a.m. Eastern Time.

Taking into account members' ready access to clearing fund deficiency information, the rule change establishes a firm deadline of 10:30 a.m. Eastern Time to ensure the timely satisfaction of clearing fund deficiency calls and to eliminate current provisions which correlate the timing of the deadline to the issuance of the notice by FICC.<sup>3</sup> As a result, it will be incumbent upon members to access directly the appropriate report detailing their clearing fund deposit requirements so they might satisfy any deficiencies.

#### III. Discussion

Section 17A(b)(3)(F) of the Act 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.<sup>4</sup> The Commission finds that FICC's proposed rule change is consistent with this requirement because it will promote timely satisfaction of clearing fund deficiency calls and will reduce the amount of risk to FICC and its members.

#### 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>5</sup> that the proposed rule change (File No. SR-FICC-2005-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

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<sup>3</sup> Under GSD's rule, FICC may extend this deadline if operational or systems difficulties arise that reasonably prevent members from satisfying the 10:30 a.m. Eastern Time deadline.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>5</sup> 15 U.S.C. 78s(b)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51753; File No. SR-NSCC-2005-02]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Enhance Automated Customer Account Transfer Service To Permit the Automated Notification of Changes to the Broker-Dealer of Record for Applicable Insurance Products

May 27, 2005.

#### I. Introduction

On April 4, 2005, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") and on April 12, 2005, amended proposed rule change SR-NSCC-2005-02 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 20, 2005.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### II. Description

NSCC is enhancing its Automated Customer Account Transfer Service ("ACAT Service") to permit the automated notification of changes to the broker-dealer of record for applicable insurance products.

Information regarding the broker-dealer of record for an annuity or life insurance product is maintained by the insurance company that is the issuer of the product. Currently there is no mechanism within the ACAT Service that can automate notification of changes to the broker-dealer of record. Annuity and life insurance products have a manually-intensive processing stream connected with account transfers relative to the automated processing of assets such as equity and debt securities and mutual fund shares.

Under the proposed rule, the delivering and receiving broker-dealers for annuities or life insurance products will be able to communicate information regarding the change of broker-dealer of record through the ACAT Service. The ACAT Service will communicate the information through a link to a new product of NSCC's Insurance Processing Services ("IPS") called Inforce Transactions ("IFT"). IFT

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

<sup>2</sup> Securities Exchange Act Release No. 51541 (April 13, 2005), 70 FR 20609 (April 20, 2005).

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 51550 (April 15, 2005), 70 FR 20781.

will relay the information to the issuer insurance company and will also provide a means of communicating to the ACAT Service whether the insurance company has confirmed, rejected, or requested a modification of the change. NSCC will not debit or credit a delivering or receiving broker-dealer for the value of any applicable insurance product that is part of a customer account transfer.

In order for the receiving and delivering broker-dealers and the issuer insurance company to be able to effect an account change through the ACAT Service, the insurance company must participate in IPS, the receiving broker-dealer must participate in the ACAT Service and IPS, and the delivering broker-dealer must participate in the ACAT Service.

NSCC is also making certain technical changes to Rule 50, which governs the ACAT Service. For purposes of bringing efficiencies to the financial marketplace, NSCC's Rule 50 will cover all asset types regardless of whether NSCC has the operational capability to effect the transfer of such assets. NSCC either will undertake to cause the asset transfer or asset reregistration to occur or will issue a document evidencing each delivering firm's obligation and each receiving firm's entitlement that will result from the transfer. Such instructions, regardless of their form, are commonly referred to as receive and deliver instructions. NSCC is adding a definition, "ACAT Receive and Deliver Instruction,"<sup>3</sup> relating to these instructions. NSCC also is making certain technical changes to the ACATS rule.

### III. Discussion

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>4</sup> The Commission finds that NSCC's proposed rule change is consistent with this requirement because by automating and facilitating the change in broker-dealer of record for eligible insurance products associated with account transfers, the enhancements to the ACAT Service and the new IFT product should reduce processing errors and

delays that are typically associated with manual processing.

### 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-NSCC-2005-02) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51759; File No. SR-Phlx-2004-91]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Thereto To Establish a Directed Order Process for Orders Delivered to the Phlx Via AUTOM

May 27, 2005.

#### I. Introduction

On December 9, 2004, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> to establish a directed order process for orders delivered to the Exchange via the Automated Options Market ("AUTOM"). The proposed rule change was published for comment in the **Federal Register** on December 22, 2004.<sup>3</sup> The Commission received three comment letters on the proposal.<sup>4</sup> On

<sup>1</sup> 17 CFR 200.30-3(a)(12).

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

<sup>3</sup> 17 CFR 240.19b-4.

<sup>4</sup> See Securities Exchange Act Release No. 50856 (December 14, 2004), 69 FR 76817.

<sup>5</sup> See letter from Michael J. Simon, General Counsel and Secretary, International Securities Exchange, Inc. ("ISE"), to Jonathan G. Katz, Secretary, Commission, dated January 13, 2005 ("ISE Letter"); letter from Philip D. DeFeo, Chairman and Chief Executive Officer, Pacific Exchange, Inc. ("PCX"), to Jonathan G. Katz, Secretary, Commission, dated March 22, 2005

January 18, 2005, the Phlx sent a response to the comment letters.<sup>5</sup>

On April 27, 2005, the Phlx filed Amendment No. 1 to the proposed rule change.<sup>6</sup> This order approves the proposed rule change and simultaneously provides notice of filing and grants accelerated approval of Amendment No. 1.

### II. Description of the Proposed Rule Change

The Phlx proposes to establish, for a one-year pilot period, rules that permit Exchange specialists, Streaming Quote Traders ("SQTs"), and Remote Streaming Quote Traders ("RSQTs") assigned in options trading on the Phlx XL system ("Streaming Quote Options") to receive directed orders. The Phlx proposes to define the term "Directed Order" to mean any customer order to buy or sell that has been directed to a particular specialist, SQT, or RSQT by an Order Flow Provider ("OFP").<sup>7</sup> The Phlx also proposes to establish a trade algorithm for electronically executed and allocated trades involving Directed Orders, which would provide a participation guarantee to the Directed Specialist, SQT, or RSQT (collectively "Phlx directed participants").

To qualify as a Directed Order, an order must be delivered to the Exchange via AUTOM. AUTOM currently functions to provide automatic executions in Streaming Quote Options only when the Exchange's disseminated bid or offer is the National Best Bid or Offer ("NBBO"). Therefore, to participate in automatic executions of Directed Orders, Phlx directed participants would be required to be quoting the NBBO at the time the Directed Order is received.

Currently, an SQT or RSQT must quote continuous, two-sided markets in not less than 60% of the series in each Streaming Quote Option traded on Phlx XL in which such SQT or RSQT is assigned. A specialist must quote

("PCX Letter"); and letter from Matthew Hinerfeld, Managing Director and Deputy General Counsel, Citadel Investment Group, L.L.C., on behalf of Citadel Derivatives Group LLC ("Citadel"), to Jonathan G. Katz, Secretary, Commission, dated April 6, 2005 ("Citadel Letter").

<sup>5</sup> See letter from Richard S. Rudolph, Director and Counsel, Phlx, to Jonathan G. Katz, Secretary, Commission, dated January 18, 2005 ("Phlx Letter").

<sup>6</sup> Amendment No. 1 added language to clarify the application of the allocation algorithm and to note that Phlx Rule 707, Just and Equitable Principles of Trade, would prohibit coordinated actions between a Phlx directed participant and an OFP involving Directed Orders.

<sup>7</sup> The term Order Flow Provider under proposed Phlx Rule 1080(l)(i)(B) would mean any member or member organization that submits, as agent, customer orders to the Exchange.

<sup>3</sup> As defined in NSCC Rule 1:

The term "ACAT Receive and Deliver Instruction" shall mean such document, form, file, report or other information issued by the Corporation [NSCC] to a Member or to a QSD (as defined in Rule 50), on behalf of such QSD's participants, which identifies Automated Customer Account Transfer receive and deliver obligations.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(F).