

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

1. Purpose

In Securities Exchange Act Release No. 29297 (June 13, 1991), 56 FR 28191 (June 19, 1991) (File No. SR-MSE-91-11), the Commission approved on a pilot basis rules relating to the CHX's program to provide primary market protection to limit orders designated as GTX orders.² Those rules included Article XX, Rule 37(a) and Interpretation and Policy .02 thereto. In Securities Exchange Act Release No. 33991 (May 2, 1994), 59 FR 23904 (May 9, 1994) (File No. SR-CHX-93-23), the Commission permanently approved the CHX's program. The purpose of the proposed rule change is to correct possible ambiguities in the current text of Rule 37(a) and Interpretation and Policy .02 without making any substantive alterations to the program.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b)(5) of the Act³ in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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

The Exchange does not believe that proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the

meaning, administration or enforcement of an existing rule of the Exchange and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act⁴ and subparagraph (e)(1) of Rule 19b-4 thereunder.⁵ At any time within 60 days of the filing of such 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 purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments, concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-96-06 and should be submitted by March 21, 1996.

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

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34-36876; File Nos. SR-Philadep-95-08]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing of Amendments and Order Granting Accelerated Partial Permanent Approval and Accelerated Partial Temporary Approval of a Proposed Rule Change to Convert the Settlement System for Securities Transactions to a Same-Day Funds Settlement System

February 22, 1996.

On November 3, 1995, the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File Nos. SR-Philadep-95-08) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On December 19, 1995, Philadep filed an amendment to the proposed rule change.² Notice of the proposal as amended was published in the Federal Register on January 9, 1996.³ On January 8, 1996, Philadep filed an amendment to the proposed rule change to modify its charge-back policy relating to principal and income payments from a same-day reversal policy to a next-day reversal policy.⁴ On January 24, 1996, Philadep filed an amendment to the proposed rule change to clarify which participants fund formulas were additive and which were not additive and to make a technical correction to Rule 4, Section 8.⁵ On February 5, 1996, Philadep filed an amendment to the proposed rule change to remove certain previously proposed amendments made to Rule 4, Sections 1 and 2, regarding the maintenance and investment of the participants fund and to remove previously proposed allocation procedures between the Philadep participants fund and the Stock Clearing Corporation of Philadelphia ("SCCP") participants fund.⁶ On February 16, 1996, Philadep filed an amendment to the proposed rule change to clarify its inter-

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Letter from J. Keith Kessel, Compliance Officer, Philadep, to Peter R. Geraghty, Esq., Division of Market Regulation ("Division"), Commission (December 14, 1995).

³ Securities Exchange Act Release No. 36681 (January 4, 1996), 61 FR 745.

⁴ Letter from William W. Uchimoto, General Counsel, Philadep, to Peter R. Geraghty, Esq., Division, Commission (January 11, 1996).

⁵ Letter from William W. Uchimoto, Philadep, to Jerry Carpenter, Esq., Assistant Director, Division, Commission (January 24, 1996).

⁶ Letter from J. Keith Kessel, Compliance Officer, Philadep, to Peter R. Geraghty, Esq., Division, Commission (February 5, 1996).

² The CHX's program requires that Exchange specialists provide primary market protection for GTX orders in securities listed on either the New York Stock Exchange or American Stock Exchange and traded during these exchanges' after-hours closing-price trading sessions. Specifically, the responsible CHX specialist is required to fill GTVVX orders at such closing price, based on the volume that prints in the primary market during its closing-price session. GTX orders may be entered only during the Exchange's regular trading session.

³ 15 U.S.C. 78f(b)(5).

⁴ 15 U.S.C. 78s(b)(3)(4).

⁵ 17 CFR 240.19b-4(e)(1).

depository delivery procedures.⁷ No comment letters were received. For the reasons discussed below, the Commission is granting accelerated temporary approval through August 31, 1996, of the portion of the proposed rule change relating to Philadep's participants fund formulas and interdepository deliver procedures and is granting accelerated permanent approval of the remainder of the proposed rule change.

I. Description of the Proposal

1. Introduction

The purpose of the proposed rule change is to amend Philadep's rules and procedures to convert Philadep's money settlement system from a next-day funds settlement ("NDFS") system to a same-day funds settlement ("SDFS") system. Under the proposed rule change, Philadep intends to provide SDFS depository services for all eligible securities.

In accordance with the SDFS service, Philadep will accept deposits of securities certificates for safekeeping and will provide the full range of SDFS depository services which include, but are not limited to, processing deposits, book-entry deliver and receive orders, withdrawals, pledges, trade confirmations, affirmations, transfers, and dividend and interest payments. Philadep's rules and procedures have been amended to provide for, among other things, the pledging of securities, failure to settle procedures, transaction processing, risk management controls, and money settlement in an expanded SDFS environment.

Pursuant to a joint agency agreement between SCCP and Philadep, SCCP, among other things, effects daily money settlements on behalf of Philadep participants for securities received into and delivered out of participants' accounts at Philadep. On behalf of Philadep, SCCP also processes continuous net settlement ("CNS") movements from one participant to another, processes all SCCP and Philadep dividend and reorganization settlements, and prepares and renders bills and collects fees from Philadep participants for depository services.

Philadep evaluated the impact of converting to an SDFS system with respect to the operational requirements, liquidity requirements, and overall risk on a joint SCCP/Philadep basis.⁸

Philadep estimates that at the time of implementing the proposed modifications, SCCP and Philadep will have combined liquidity resources of over \$73 million, consisting of \$1.1 million in the Philadep participants fund, \$7.3 million in the SCCP participants fund, \$4.7 million in unrestricted capital, and \$60 million in lines of credit.⁹ Philadep will routinely monitor these amounts and assess the need to increase them based on SCCP and Philadep activity levels.

2. Risk Management Controls

Philadep's risk management controls are intended to protect Philadep participants against the inability of a participant to pay for its settlement obligations. Philadep's two primary risk management controls for securities processing are the collateral monitor and the net debit cap. Philadep's collateral monitor and net debit cap analysis were structured to incorporate the netting of SCCP and Philadep settlements. Certain transactions also are not subject to these risk management controls.¹⁰

A. Collateralization

Philadep will operate its SDFS system on a fully collateralized basis. Philadep has designed its collateral monitor to assure that a participant will have sufficient collateral in its account in the event that the participant becomes insolvent and/or fails to pay its end-of-day settlement obligation and Philadep must pledge the collateral to draw on its lines of credit.

Philadep recognizes several sources of collateral. The primary sources of collateral are: (1) participants' required and voluntary deposits to the participants fund; (2) proprietary or firm positions that the participant designates as collateral; (3) securities received versus payment for which the participant has not yet paid (includes CNS deliveries); and (4) securities added to a participant's account but not received versus payment (e.g., deposits, free deliveries, free pledge releases, and reclassification of non-collateral

securities) that the participant designates as collateral.

Securities designated as collateral by participants are valued based on the security's closing price on the prior business day less an applicable haircut. Philadep employs haircuts to protect itself and its participants against price fluctuations in collateral in the event that Philadep must liquidate the collateral of an insolvent participant. Moreover, because Philadep may have to borrow against a participant's collateral to finance overnight a participant's failure, Philadep's haircut structure takes into consideration the haircuts imposed by its lending institutions. Ordinarily, banks will not assign the full market value to securities used to collateralize loans. Banks will generally consider the relative price volatility of the collateral and impose a haircut accordingly. Philadep's haircut levels configured by security type are as follows: (1) 10% for equities; (2) 5% for corporate and municipal debt, and (3) 2%, 5%, or up to 100% for money market instruments (depending on their term and investment grade rating). Philadep reserves the right to reprice and modify haircuts intraday if it determines changes to be in the best interest of Philadep and its participants.

Philadep will monitor the collateral in each of the participant's accounts through the use of its collateral monitor. At the start of each business day, Philadep credits each participant's collateral monitor with its participants fund deposit. Philadep updates the collateral monitor throughout the day for each transaction that adds or removes collateral to or from the participant's collateral monitor. At all times, the collateral monitor in a participant's account must be equal to or exceed the participant's net settlement obligation. Therefore, the market value of all the collateral less any applicable haircuts in a participant's account must be equal to or exceed the participant's net settlement obligation.

Throughout the day, Philadep will continually verify each participant's collateral value to assure that the deliverer's and receiver's collateral monitor will not become negative as a result of Philadep processing a transaction. If a transaction will cause either the deliverer or the receiver to be undercollateralized, Philadep will prevent the transaction from completing until the participant with the deficient collateral monitor has infused sufficient collateral into its account for the transaction to complete. Transactions that continue to recycle at the end of the processing day will be dropped from the

⁷ Letter from Keith Kessel, Compliance Officer, Philadep, to Peter R. Geraghty, Esq., Division, Commission (February 16, 1996).

⁸ SCCP and Philadep are wholly-owned subsidiaries of the Philadelphia Stock Exchange, Inc. SCCP and Philadep have a substantial overlap of participants and strategic business objectives.

⁹ As of the date of this order, SCCP and Philadep have secured \$20 million in uncommitted lines of credit and \$40 million in committed lines of credit.

¹⁰ Under Philadep's proposed rule change, CNS and reclamation activity will be exempt from risk management controls. SCCP and Philadep will continue to process these activities; however, when a participant exceeds its set debit cap as a result of its CNS activity, Philadep may request settlement prepayments to reduce the participant's daily debit. If Philadep does not receive such prepayments, Philadep may reverse unsettled book-entry receives previously accepted to produce a positive collateral position and reduce the net debit to an amount under the net debit cap.

system and must be subsequently reentered by the participant that initially entered the transaction.

B. Net Debit Caps

In addition to collateralization, Philadep's net debit cap procedures will prevent the completion of transactions if completion will cause a participant's individual net debit to exceed its net debit cap. Net debit caps limit the net settlement debits that a participant may incur at any point during the processing day and at the end of the day. Net debit caps are designed to help assure that Philadep will have sufficient liquidity to complete settlement if a participant fails to settle. If a transaction will cause a participant's net settlement debit to exceed its net debit cap, Philadep's SDFS system will not allow the transaction to complete. The transaction will recycle until there is sufficient credit in the account. Most credits result from securities deliveries versus payment; securities pledges for value; principal, dividend, or interest allocations; or settlement progress payments ("SPPs") wired from a participant to Philadep's account at its designated settling bank. Transactions that continue to recycle at the close of the processing day will be dropped from the system and must be subsequently reentered by the participant who initially entered the transaction.

Each participant's individual net debit cap is determined by a participant's combined net debit history at Philadep and SCCP. Philadep will periodically adjust a participant's net debit cap in relation to the participant's ongoing activity. Philadep will calculate net debit caps using participants' daily net settlement activities and may adjust these figures monthly. A participant's net debit cap will be specifically determined by: (1) an average of the participant's three highest end-of-day net settlement debits over a rolling three-month period to establish a base figure¹¹ and (2) the participant's base figure multiplied by a factor to determine the participant's individual net debit cap.¹² Individual participants' net debit caps are limited by Philadep's established maximum net debit cap of \$40 million. Philadep's maximum net debit cap was set, as explained below, using Philadep's total available liquidity.

Philadep established a minimum net debit cap based on 50% of the combined SCCP and Philadep participants funds. The minimum net debit cap, which is currently estimated to be \$3.5 million, will be recalculated and adjusted semi-annually. Despite a participant's base figure, Philadep reserves the right to make adjustments to a participant's net debit cap. Philadep may effect such change for a length of time deemed necessary and appropriate by Philadep's management.

3. Failure to Settle Procedures

A. Rule 4(A)

New Rule 4(A) will clarify that Philadep is authorized to pledge, repledge, hypothecate, transfer, create a security interest, and/or assign ("pledge") to lenders as collateral in the event a participant fails to settle any or all property received by Philadep for Philadep from its participants.¹³ This property includes (i) deposits in the participants fund; (ii) the securities or repurchase agreements in which the participants fund is invested overnight; (iii) certain qualifying securities which secure the open account indebtedness of the participant; (iv) securities which have been pledged to Philadep as a voluntary deposit to the participants fund; and (v) any or all securities designated as collateral (collectively, "allowable assets").

If Philadep pledges these allowable assets, Philadep will make the appropriate account entries reflecting the creation and transfer of the respective security interest from the participant to Philadep and from Philadep to the lender. Likewise, if a participant designates additional securities as pledged collateral, Philadep will record the security interest for such pledged collateral on its books which reflects the decrease in the account of the pledging participant and the increase in Philadep's account. Philadep will receive these journal entries upon the release and return of any pledged assets, which will reflect a decrease in the account of any pledgee and an increase in the account of the pledgor as appropriate.

B. Settlement Failure

At the end of the processing day, Philadep will provide each participant with a net settlement amount, which will be the aggregate of the end-of-the-day net debits and credits in the

participant's SCCP and/or Philadep accounts. Money settlements will occur daily with immediately available funds in the form of fed wire transfers into and out of Philadep's account at its designated settling bank.

In the event a participant or its representative settling bank fails to settle, Philadep will utilize its liquidity resources to finance such participant's unsettled net debit. Philadep will prioritize the order in which it will use the resources. Philadep first will use cash from the participants fund and other immediately available internal sources prior to drawing upon its external lines of credit to secure an extension of credit in connection with the defaulting participant. Philadep shall secure the participant's assets as collateral pursuant to proposed Rule 4(A).

If the participant settles by 10 a.m., Eastern Standard Time, the morning after the default occurs, Philadep will use the settlement payment received to repay the principal and finance charges of the lending bank. Philadep then will return the pledged collateral to the participant. For example, if the defaulting participant is solvent and pays its net debit balance and interest charge in same-day funds on the day after the default, Philadep generally will reverse the procedures followed on the day of the default. Philadep will repay lenders and restore pledged securities.

However, if the defaulting participant remains in default the next business day, Philadep may take the following steps in successive order: (i) apply the defaulting participant's fund deposit to satisfy the participant's obligation; (ii) apply collateral of the defaulting participant which is the subject of incomplete transactions; (iii) apply any collateral of the defaulting participant including collateral which is not subject to incomplete transactions; (iv) if the participant's collateral is exhausted, apply pro rata net credit reductions to all participants that delivered securities to the defaulting participant on the day of the default with such reductions being limited to the amount of the net credit balance of each participant resulting from transactions with the defaulting participant; (v) in the alternative to such net credit reductions, resell to the delivering participants securities that were sold to the defaulting participant on the day of the default; and (vi) make pro rata net credit reductions to all participants with net credit balances including those participants that did not make deliveries to the defaulting participant on that day.

¹¹ For purpose of calculating a participant's net debit settlement, Philadep includes net CNS settlements.

¹² Factors are based on a sliding scale, ranging from 1 to 2, where lower base figures are multiplied by larger factors and higher base figures are multiplied by smaller factors.

¹³ The text of proposed New Rule 4(A) is attached as Exhibit B(2) to File No. SR-Philadep-95-08. The file is available for review in the Commission's Public Reference Room and at the principal office of Philadep.

4. Paying Agent Charge-Back Procedures

With respect to principal, dividend, interest, and corporate reorganization payment obligations ("P&I payments"), Philadep will pay participants in same-day funds upon receipt of payment in same-day funds from paying agents for such P&I payments. In order to induce the delivery of P&I payments in same-day funds to Philadep from paying agents that would not otherwise receive such payments from issuers in same-day funds on payable date, Philadep may agree to provide rebates to such paying agents. Philadep will act as the conduit passing along such rebate costs to those participants benefitting from receiving P&I payments in same-day funds.

Under Philadep's SDFS proposal, Philadep will be authorized to charge-back participants that were previously credited with P&I payments if the payment was made in error by the paying agent, the issuer failed to provide the paying agent with sufficient funds to cover the payments, the issuer filed for bankruptcy on or prior to the payable date, or other paying agent default. In order for Philadep to charge-back participants, the paying agent must furnish Philadep a written request within ten business days of the payable date. Philadep also may charge-back participants for any errors made by Philadep including errors as a result of erroneous announcements or payment calculations credited to participants in anticipation of receiving payments from paying agents which Philadep has not received.

Under Philadep's charge-back procedures, Philadep will notify participants of charge-backs initiated by a paying agent one business day prior to the date Philadep includes the charge-back in the participant's daily settlement. Although Philadep usually verifies the facts stated in the notice from the paying agent, Philadep does not have any obligation to do so. If the paying agent notifies Philadep more than ten business days after payment date, Philadep is not required to charge-back the participant's account but will cooperate with the paying agent and the participants to resolve the matter. For Philadep initiated charge-backs, Philadep will give participants one business day notice of the charge-back before Philadep includes the charge-back in the participant's daily settlement. For either charge-back, Philadep reserves the right to impute and recover interest from the respective participants.

5. Inter-depository Delivery Procedures

When processing participants' deliveries to The Depository Trust Company ("DTC"), Philadep will employ an immediate update technique whereby a delivering participant's security position, collateral, and settlement accounts are immediately updated if the delivering participant has sufficient securities and collateral to complete the delivery. The delivering participant's position is reduced by the quantity of securities it is delivering, its settlement account is credited for the settlement value of the transaction, and its collateral monitor is increased by the settlement credit it will receive and reduced by the collateral value of the securities it is delivering (provided the securities being delivered are part of the participant's collateral position).

Once a delivery satisfies Philadep's risk management controls and completes at Philadep (e.g., the participant has sufficient securities to make the delivery and the participant's collateral monitor will not become negative because of the delivery), the delivery is sent to DTC where it is subject to DTC's internal risk management controls. In certain instances, DTC's internal risk management controls may prevent a delivery from completing (i.e., the receiving participant may not have sufficient collateral or the receipt will violate the participant's net debit cap) and may cause those deliveries to recycle in DTC's system. Deliver orders and payment orders that fail to successfully complete in DTC's system at the end of each processing day will be returned to Philadep, and Philadep will reverse the deliveries to the original delivering participants. Such reversals will not be subject to Receiver-Authorized Delivery ("RAD") processing¹⁴ or risk management controls.

6. Participants Fund

Rule 4, governing the participants fund, and the procedures regarding the participants fund formulas are being amended to respond to Philadep's increased liquidity needs. Rule 4 and the procedures are being amended to provide for an all cash participants fund. The all cash requirement applies to both the required deposit and any additional or voluntary deposits that participants may make. Participants that choose to make voluntary deposits, in most situations, will be able to increase their level of activity at Philadep.

¹⁴ RAD allows a participant to review and either approve or cancel incoming deliveries before they are processed in Philadep's system.

Participants will receive interest rebates from Philadep for deposits in excess of \$50,000.

Philadep also has modified the size of the participants fund by amending the participants fund formulas. Rule 4 as amended requires all Philadep participants to maintain a minimum cash deposit of \$10,000 in the Philadep participants fund. Philadep will calculate participants' required cash deposit pursuant to the following formulas:

- (a) Inactive Accounts:¹⁵ \$10,000.00
- (b) Specialized Services:
(Maximum \$50,000 required with \$100 or greater in average monthly billings for either Deposit or Transfer activity)
—Deposit Activity—\$25,000.00 plus
—Transfer Activity—\$25,000.00
- (c) Participants not doing Specialized Service activity with service fees of \$100 or greater in average monthly billings. The greater of either:
(1) \$25,000, or;
(2) 1% of the average of the three highest net debits over the past three months (rounded to the next \$5,000 increment).

Philadep will recalculate each participant's deposit requirement at the end of each month based on a participant's activity over the previous three months. Philadep will notify its participants of any required deposit increases and the amount of such additional deposit within ten business days of the end of the month. Participants whose deposit requirements have decreased will be notified at least quarterly although they may inquire and withdraw excess deposits monthly. Participants may leave excess cash deposits in the participants fund.

II. Discussion

Section 17A(b)(3)(F) of the Act¹⁶ requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and 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 Philadep's proposed rule change is consistent with Philadep's obligations under Section 17A(b)(3)(F) to promote the prompt and accurate clearance and settlement of securities transactions because the proposal converts Philadep's money

¹⁵ Philadep's procedures define inactive account to mean an account that has less than \$100 of average monthly billings.

¹⁶ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

settlement system from an NDFS system to an SDFS system. Philadep's conversion to an SDFS system should help reduce risk by, among other things, eliminating overnight participant credit risk. The SDFS system also should reduce risk by achieving closer conformity with the payment methods used in the derivatives markets, government securities markets, and other markets.

The Commission also believes the proposal is consistent with Philadep's obligations to assure the safeguarding of securities and funds in its custody or control because Philadep's SDFS proposal provides certain protections for Philadep and its participants from financial loss associated with member defaults and insolvencies. The rule change contains several risk management controls that are intended to protect Philadep and its participants by limiting Philadep's exposure from one or more participants' inability to fulfill its or their settlement obligations to an account within Philadep's liquidity resources. Those protections include an all cash SDFS participants fund,¹⁷ individual net debit caps, a fixed maximum net debit cap of \$40 million, and the application of the collateral monitor. In addition, Philadep has increased its liquidity resources by retaining additional committed and uncommitted lines of credit totaling \$60 million.

However, the Commission continues to have concerns about the adequacy of Philadep's participants fund formulas in providing a sufficient source of cash liquidity and the formulas' conformity with the standards set forth by the Division.¹⁸ The Commission believes clearing agencies must establish an appropriate level of clearing fund contributions based, among other things, on its assessment of the risks to which it is subject.

Although Philadep submitted its assessment of the risks presented by its conversion to an SDFS system and the risks posed by its participants and their type of depository activities, the Commission desires a more thorough

analysis. Furthermore, the Commission believes Philadep's recent depository arrangement with the West Canada Depository Trust Company presents additional risks that were not present when Philadep conducted its original risk assessment. Under the proposed rule change, Philadep's participants fund formulas do not take into consideration a participants' level of depository activity. Rather, the formulas are fixed based on the type of depository services used by the participant. The Commission has concerns about whether the size of the participants fund will be sufficient because the formulas are not based on participants' levels of depository activities. For these reasons, the Commission is temporarily approving the portion of the proposed rule change relating to the participants fund formulas through August 31, 1996.

During the period of temporary approval, the Commission will monitor and analyze the adequacy of the participants fund formulas in an SDFS environment. In this regard, the Commission requests that Philadep submit prior to filing for permanent approval of the participants fund formulas a detailed report including (1) a description of the different types of participants at Philadep, the types of depository activities the participants conduct, and the number of each type of participant, and (2) a detailed discussion of the types of risks these participants and their activities pose and the measure Philadep will take to mitigate the risks.

In addition, the Commission is concerned about Philadep's proposed inter-depository delivery procedures. Under Philadep's proposed inter-depository delivery procedures, Philadep will immediately update a participant's account for delivery orders and payment orders sent to DTC participants through the interface. In the event a delivery fails to complete at DTC by the end of the day, the procedures provide a mechanism by which Philadep will reverse the transaction to the delivering Philadep participant without subjecting the reversal to risk management controls. Philadep has represented that the expected volume of deliveries through the interface and the possibility of such reversal procedures being employed are minimal. However, the Commission is concerned that Philadep's proposed inter-depository delivery procedures could create the situation where an inter-depository reversal resulting from an uncompleted delivery to a DTC participant forces Philadep participant to violate its net debit cap near the end of the day. Therefore, the Commission is

temporarily approving the portion of the proposed rule change relating to the inter-depository delivery procedures through August 31, 1996, so that the Commission and Philadep can monitor the interface activity before the procedures become permanent.

During the period of temporary approval, Philadep has agreed to submit monthly reports to the Commission concerning the number of inter-depository reversals performed pursuant to the proposed procedures that caused participants to violate their net debit caps. The Commission encourages Philadep to examine and consider future enhancements to the interface to provide a mechanism through which Philadep participants can receive real-time notification of transactions pending at DTC.

Philadep has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of amendments. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of amendments because the proposed rule change modifies Philadep's rules in anticipation of Philadep's conversion to an SDFS system on February 22, 1996. Accelerated approval of the proposal will allow Philadep to effect the conversion and to implement the procedures provided under the proposed rule change on that date.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of Philadep. All submissions should refer to the file number SR-

¹⁷ Pursuant to Philadep Rule 4, Philadep is restricted from investing the cash in the participants fund in any investment other than U.S. Government obligations or any other investments which provide safety and liquidity of the principal invested. The Commission has interpreted this rule to mean that Philadep is prohibited from investing the Philadep participants fund directly or through SCCP in the specialists financing program operated by SCCP. Letter from Jerry W. Carpenter, Assistant Director, Division, Commission, to William W. Uchimoto, General Counsel, Philadep (February 15, 1996).

¹⁸ Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (order approving standards for clearing agency registration).

Philadep-95-08 and should be submitted by March 21, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File Nos. SR-Philadep-95-08) be, and hereby is, temporarily approved through August 31, 1996, for those sections of the proposed rule change relating to Philadep's participants fund formulas and inter-depository delivery procedures and permanently approved for the remainder of the proposed rule change.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-36875; File Nos. SR-SCCP-95-06]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing of Amendments and Order Granting Accelerated Partial Permanent Approval and Accelerated Partial Temporary Approval of a Proposed Rule Change to Convert the Settlement System for Securities Transactions to a Same-Day Funds Settlement System

February 22, 1996.

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Section 8.⁴ On February 5, 1996, SCCP filed an amendment to the proposed rule change to remove certain proposed amendments made to Rule 4, Sections 1 and 2, regarding the maintenance and investment of the participants fund and to remove allocation procedures between the SCCP participants fund and the Philadelphia Depository Trust Company ("Philadep") participants fund.⁵ No comment letters were received. For the reasons discussed below, the Commission is granting accelerated temporary approval through August 31, 1996, of the portion of the proposed rule change relating to SCCP's participants fund formulas and is granting accelerated permanent approval of the remainder of the proposed rule change.

I. Description of the Proposal

The purpose of the proposed rule change is to amend SCCP's rules and procedures to convert SCCP's money settlement system from a next-day funds settlement ("NDFS") system to a same-day funds settlement ("SDFS") system. SCCP intends to support Philadep in providing participants full SDFS clearing and depository services for all eligible securities.⁶

SCCP evaluated the impact of converting to an SDFS system with respect to the operational requirements, liquidity requirements, and overall risk on a joint SCCP/Philadep basis.⁷ Pursuant to a joint agency agreement between SCCP and Philadep, SCCP, among other things, effects daily money settlements on behalf of Philadep and its participants for securities received into and delivered out of participants accounts. SCCP on behalf of Philadep also processes continuous net settlement ("CNS") movements from one participant to another, processes all SCCP and Philadep dividend and reorganization settlements, and prepares and renders bills for Philadep and collects fees from Philadep participants for depository services.

SCCP is amending several of its rules and procedures to accomplish the conversion to SDFS. SCCP Rule 1,

which defines terms used throughout SCCP's rules, is being amended to add certain definitions related to the conversion to an SDFS system.⁸

SCCP Rule 10, which governs money settlements, is being amended to provide that all payments must be in same-day funds. Rule 27, regarding SCCP acting as agent for Philadep, currently provides that SCCP will act to effect daily money settlements on behalf of those organizations or entities which are participants of both SCCP and Philadep. SCCP Rule 27 is being amended to further clarify that SCCP will serve as the agent for money settlements for all participants transacting business with either SCCP or Philadep.

Rule 4, governing SCCP's participants fund, and the procedures regarding the participants fund formulas are being amended to respond to SCCP's increased liquidity needs. Together, Rule 4 and the procedures are being amended to provide for an all cash participants fund. The all cash requirement applies to both the required deposit and any additional or voluntary deposits that participants may make. Participants that choose to make voluntary deposits in most situations will be able to increase their level of activity at SCCP and will receive interest rebates from SCCP for deposits in excess of \$50,000.

SCCP also has modified the size of the fund by amending the participants fund formulas. Together, Rule 4 and the procedures now require all SCCP participants to maintain a minimum cash deposit of \$10,000 in the SCCP participants fund. Under its procedures, SCCP will calculate participants' required cash deposits pursuant to the following formulas:

(a) Inactive Account—The contribution of an Inactive Participant is set at a uniform rate of \$10,000. Inactive is defined as twenty or fewer trades on average per month.

(b) Full Service ("CNS") Account—The contribution of a CNS Participant is based upon the larger of: (1) The participant's monthly average of trading activity during the preceding quarter, \$1,000 for every twenty-five trading units of one hundred shares; or (2) the participant's aggregate dollar amount of all long trades at their execution price for each quarter divided by the number of days in such quarter multiplied by two percent. The required contributions are rounded upward to \$5,000 increments, and the average is a rolling average.

⁸The specific terms being defined in SCCP's rules are attached as Exhibit B to File No. SR-SCCP-95-06. The file is available for review in the Commission's Public Reference Room and at the principal office of SCCP.

¹⁹ 17 CFR 200.30-3(a)(12) (1995).

¹ 15 U.S.C. § 78s(b)(1) (1988).

² Letter from J. Keith Kessel, Compliance Officer, SCCP, to Peter R. Geraghty, Esq., Division of Market Regulation ("Division"), Commission (December 14, 1995).

³ Securities Exchange Act Release No. 36671 (January 3, 1996), 61 FR 677.

⁴ Letter from William W. Uchimoto, SCCP, to Jerry Carpenter, Esq., Assistant Director, Division, Commission (January 24, 1996).

⁵ Letter from J. Keith Kessel, Compliance Officer, SCCP, to Peter R. Geraghty, Esq., Division, Commission (February 5, 1996).

⁶ For a description of Philadep's SDFS system, refer to Securities Exchange Act Release No. 36681 (January 4, 1996), 61 FR 7451 [File No. SR-Philadep-95-08] (notice of filing of a proposed rule change).

⁷ SCCP and Philadep are wholly-owned subsidiaries of the Philadelphia Stock Exchange, Inc. SCCP and Philadep have a substantial overlap of participants and strategic business objectives.