obligations to the long participants, NSCC will issue to the remaining long participants a final protection report and will issue to the remaining short participants a final liability report, both of which will reflect open positions remaining as of the close of business of that day.

At the expiration of the protect period, NSCC will establish two CNS subaccounts representing the alternative forms of consideration for each security subject to a tender offer. All open positions for which a long participant has made an election will be moved into the appropriate CNS reorganization subaccount. The short participants will immediately be charged a mark based on the difference between the market value of the subject securities and the consideration, and NSCC will retain such funds.[5] In addition, the long positions and short positions will continue to be marked to the market daily. Positions in a CNS subaccount will be frozen until the payable date for the tender offer (*i.e.*, short participants may not deliver in the securities).

On payable date, the subaccounts will be closed. NSCC will credit the general CNS account of long participants with either the securities or cash that they have elected to receive. NSCC will debit the general account of short participants with either the cash or securities they have been assigned to deliver. NSCC also will credit the account of short participants with the marks to the offer price being retained by NSCC.

Some offers have limits on how many of the subject securities the offeror will accept or what percentage of consideration will be paid in cash or securities. At the end of the protect period of such offers, the offeror will reject on a pro rata basis excess securities. NSCC will similarly only hold short participants liable to the extent securities would have been accepted by the tenderer.

II. Discussion

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate settlement of securities transactions. The Commission believes that NSCC's proposal is consistent with this goal because the proposal provides an incentive to short participants to meet their settlement obligations on a timely basis. Short participants that fail to meet their delivery obligations as required become liable for the economic benefits long participants lose in connection with tender offers. Furthermore, by processing the deliver and receive obligations created through the guarantee through NSCC's CNS system, the proposal will allow such obligations to be netted against other obligations of the participants. By reducing the number of settlement obligations through the netting process, the proposal facilitates the prompt and accurate settlement of securities transactions.

III. 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–96–15) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

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[5] In the case of a long participant selecting cash as consideration, the corresponding short participant will be charged the difference between the cash offered in the tender offer and the market price of the securities. In the case of a long participant selecting securities as consideration, the corresponding short participant will be charged the difference between the market value of the subject securities and the market value of the consideration securities.

[6] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[7] 17 CFR 200.30–3(a)(12) (1996).

[Release No. 34–37974; File No. SR–PHLX–96–42]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Limiting Time for Submission of Settlement Offers

November 22, 1996.

On September 27, 1996, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The proposed rule change amends PHLX Rule 960.7, ''Offers of Settlement,'' to limit the time when a respondent may submit a written settlement offer to the PHLX's Business Conduct Committee (''BCC'') to within 120 calendar days immediately following the date of service of the statement of charges upon the respondent.

Notice of the proposed rule change was published for comment in the Federal Register on October 23, 1996.[3] No comments were received on the proposal. This order approves the proposed rule change.

Currently, PHLX Rule 960.7 allows a respondent in any proceeding under the PHLX's disciplinary rules to submit a written settlement offer to the Exchange's BCC at any time during the course of the proceeding. The Exchange proposes to amend PHLX Rule 960.7 to limit the time when a respondent may submit a written settlement offer to the BCC to within 120 calendar days immediately following the date of service of the statement of charges upon the respondent in accordance with PHLX Rule 960.11, ''Service of Notice and Extension of Time Limits.'' Under the proposal, the Exchange may schedule a hearing during the 120-day period immediately following the date of service of the statement of charges or as soon as practicable thereafter.

The purpose of the proposal is to adopt a time limit during which respondents involved in a disciplinary matter before the PHLX's BCC may submit settlements offers. Because PHLX Rule 960.7 currently allows settlement offers to be submitted at any time, the BCC was concerned that respondents could intentionally submit inadequate offers of settlement for the sole purpose of delaying a scheduled hearing until the offer is reviewed by the full BCC. The proposal will allow the BCC to schedule hearings after the 120-day period knowing that there will not be last minute requests for continuances based upon late offers of settlement.

Under proposed Interpretation and Policy .01, the BCC may schedule a hearing during the 120-day period immediately following the date of service of the statement of charges on the respondent.[4] The BCC will continue to have the ability to entertain settlement offers after the 120-day period if its review does not delay the scheduled hearing in the matter.

The PHLX believes that the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5), in that it is designed to promote just and equitable principles of trade, to prevent

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1995).

[3] Securities Exchange Act Release No. 37838 (October 17, 1996), 61 FR 55062.

[4] Under PHLX Rule 960.5, ''Hearing,'' a respondent must be given at least 15 business days notice of the time of a hearing.

fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by allowing for more expeditious completion of disciplinary matters.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[5] in that it is designed to prevent fraudulent and manipulative acts and practices and to protect investors and the public interest. The Commission also believes that the proposal is consistent with Section 6(b)(7) of the Act because it provides a fair procedure for disciplining members.[6] Specifically, by limiting the time allowed for the submission of settlement offers, the Commission believes that the proposal should facilitate the PHLX's efforts to provide prompt, effective, and meaningful discipline for violations of Exchange rules and the federal securities laws. In addition, by minimizing opportunities for delay, the proposal should help to preserve evidence and the availability of witnesses, thereby enhancing the quality, consistency, and fairness of the Exchange's disciplinary proceedings and enabling the PHLX to better enforce compliance by its members with the Exchange's rules and the federal securities laws. By facilitating the prompt resolution of disciplinary proceedings, the proposal also will promote efficiency in the use of the Exchange's resources.

The PHLX states that because PHLX Rule 960.7 currently allows settlement offers to be submitted at any time, the Exchange's BCC was concerned that respondents could intentionally submit inadequate offers of settlement for the sole purpose of delaying a scheduled hearing until the offer is reviewed by the full BCC. The Commission believes that the proposed time limit for submitting settlement offers should allow the PHLX's disciplinary proceedings to progress promptly by preventing members from submitting inadequate settlement offers in order to delay a hearing.

At the same time, the Commission believes that the proposal protects members' rights to fair procedures in Exchange disciplinary proceedings. Specifically, the proposal allows respondents to submit settlement offers[7] up to 120 days following the date of service of a statement of charges upon the respondent.[8] Although a hearing may be scheduled during the 120-day period, PHLX Rule 960.5 provides that a respondent must be given at least 15 business days notice of the time of a hearing. Accordingly, the Commission believes that the proposal preserves a respondent's right to submit settlement offers and provides a respondent with adequate time to submit settlement offers, thereby providing a fair procedure for the disciplining of members, consistent with Section 6(b)(7).

Finally, the Commission notes that the rules of the Chicago Board Options Exchange, Inc. (''CBOE'') also provide a 120-day period for submitting settlement offers.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–PHLX–96–42) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

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[5] 15 U.S.C. § 78f(b)(5) (1988).

[6] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[7] A respondent may submit more than one settlement offer during the 120-day period. Telephone conversation between Michele R. Weisbaum, Vice President and Associate General Counsel, PHLX, and Yvonne Fraticelli, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on October 2, 1996.

[8] The proposal allows the BCC to consider settlement offers submitted after the 120-day period as long as consideration of an offer does not delay the hearing in the matter.

[9] *See* CBOE Rule 17.8(a), ''Offers of Settlement.''

[10] 15 U.S.C. § 78s(b)(2) (1988).

[11] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37977; File No. SR–PHLX–96–49]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Incorporated, Relating to Amending Floor Procedure Advice F–24, The Wheel

November 25, 1996.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 11, 1996,[1] the Philadelphia Stock Exchange Incorporated (''PHLX'' or ''Exchange'') 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 by the self-regulatory organization. The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (e)(6) of Rule 19b–4 under the Act which renders the proposal effective upon receipt of this filing by the Commission.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

The Exchange proposes to amend Floor Procedure Advice (''Advice'') F–24, AUTO–X Contra-Party Participation (''The Wheel''), to: (1) eliminate most of the sign-on and sign-off provisions; (2) rotate the Wheel in two, five and ten lot increments, depending on the size of the trading crowd's AUTO–X guarantee, as opposed to ten lot increments, as is currently stated in Advice F–24; (3) permit two Floor Officials to require all assigned ROTs to participate on the Wheel; and (4) update the text with minor revisions. The Wheel is an automated mechanism for assigning floor traders (Specialists and Registered Option Traders (''ROTs'')) on a rotating basis, as contra-side participants to AUTO–X orders. AUTO–X is the automatic execution feature of the Exchange's Automated Options Market (''AUTOM'') system,[3] which provides customers with automatic executions of

[1] On November 20, 1996, the PHLX filed Amendment No. 1 with the Commission. Amendment No. 1 constitutes a substantive change in the proposal in that it redesignates the proposal as a ''noncontroversial'' rule filing under Rule 19b–4(e)(6) rather a 19b–4(e)(5). The amendment also states that the Exchange intends to monitor the operation of the Wheel for excessive sign-on and sign-off practices by ROTs, and that Wheel participation is mandatory for specialists. *See* Letter from Philip H. Becker, Senior Vice President, Chief Regulatory Officer, PHLX, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, Commission, dated November 19, 1996.

[2] The Exchange has requested that this proposal be implemented on December 13, 1996. The Exchange has represented that this proposed rule change: (i) will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of the filing.

[3] AUTOM is an electronic order routing system for options orders.