

## II. Description

The ISE proposes to amend ISE Rule 720 to provide that, unless all parties to a trade agree otherwise, the Exchange (through its Market Control Unit) may nullify a transaction if all parties to the trade do not receive a trade execution report<sup>5</sup> due to a verifiable system outage. The Exchange represented that it routinely sends out trade execution reports to all Members that are parties to a trade.<sup>6</sup>

The ISE states that it developed the Obvious Error Rule to address the need to handle errors in a fully electronic market where orders and quotes are executed automatically before an obvious error may be discovered and corrected by Members. The Exchange notes that in formulating the Obvious Error Rule, it weighed carefully the need to assure that one market participant is not permitted to receive a windfall at the expense of another market participant that made an obvious error, against the need to assure that market participants are not simply being given an opportunity to reconsider poor trading decisions. The Exchange believes that the proposed rule change would strengthen ISE's Obvious Error Rule because it would ensure that parties are not adversely affected by a trade whose terms were never fully communicated to them as a result of a system outage. As a matter of "housekeeping," the Exchange also proposes to renumber ISE Rule 720(e) as ISE Rule 720(d).

## III. Discussion

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<sup>7</sup> and, in particular, the requirements of Section 6(b) of the Act<sup>8</sup> and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,<sup>9</sup> in that it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with

<sup>5</sup> A trade execution report is an ISE system message sent to all parties to a trade to inform them that a trade has been consummated. Among other things, a trade execution report contains pertinent details such as the underlying security, the price, number of contracts traded, the strike price and the expiration date.

<sup>6</sup> See, Amendment No. 1, *supra* note 3.

<sup>7</sup> In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the circumstances surrounding an execution suggest that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, the determination of whether an "obvious error" has occurred should be based on specific and objective criteria and subject to specific and objective procedures. Under ISE's proposal, unless all parties to a trade agree otherwise, ISE Market Control may nullify a trade if all parties to the trade fail to receive a trade execution report due to a verifiable system outage. The Commission believes that ISE's proposal provides specific and objective criteria to be used by the Exchange to nullify a trade in this circumstance. Accordingly, the Commission finds that the Exchange's proposal is consistent with the Act.

## IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (SR-ISE-2006-14), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54163A; File No. SR-NSCC-2006-06]

### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Enhancements to ACATS-Fund/SERV Processing Capabilities

July 28, 2006.

#### Correction

In Release No. 34-54163, FR Doc. E6-11681, revise the words "delivering

<sup>10</sup> 15 U.S.C. 78f(b)(2).

<sup>11</sup> 17 CFR 200.30-3(a)(12).

member" to read "relevant mutual fund" in each of the following places:

- page 41852, second column, fourth paragraph, tenth line;
- page 41852, third column, first paragraph, third line;
- page 41852, third column, second paragraph, fourteenth line;
- page 41852, third column, second paragraph, twenty-first line;
- page 41853, first column, second full paragraph, ninth line; and
- page 41853, first column, second full paragraph, twelfth line.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>1</sup>

**J. Lynn Taylor,**

*Assistant Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-54237; File No. SR-Phlx-2006-39]

### Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Conforming Changes to Its By-Laws

July 28, 2006.

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> notice is hereby given that on July 21, 2006, the Philadelphia Stock Exchange, Inc. ("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 Phlx. The Phlx has designated this proposal as one concerned solely with the administration of the Exchange under Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b-4(f)(3) thereunder,<sup>4</sup> which renders the proposal effective upon filing with the Commission. 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 various provisions of its By-Laws ("By-

<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> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(3).