

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58180; File No. SR-SCCP-2008-01)

July 17, 2008

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval to a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, to Amend and Restate Its Articles of Incorporation

I. Introduction

On April 24, 2008, Stock Clearing Corporation of Philadelphia (“SCCP”) 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”).¹ Notice of the proposal was published in the Federal Register on May 20, 2008.² SCCP filed Amendment No. 1 to the proposed rule change on July 2, 2008.³ The Commission received no comments on the proposed rule change. This order provides notice of filing of Amendment No. 1 to the proposed rule change, and grants accelerated approval to the proposed rule change, as modified by Amendment No. 1.

II. Description

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 57817 (May 14, 2008), 73 FR 29171.

³ In Amendment No. 1, SCCP filed the complete Certificate of Incorporation and amended By-Laws of The NASDAQ OMX Group, Inc. (“NASDAQ OMX”) in order to propose their adoption as rules of SCCP. The By-Laws contained minor amendments to terminology to apply to SCCP and SCCP’s parent corporation, the Philadelphia Stock Exchange, Inc. (“Phlx”), all of the same provisions that are currently specifically applicable to The NASDAQ Stock Market LLC (“NASDAQ”). Such amendments are being made in connection with the NASDAQ OMX Merger, as defined in footnote 6 below. The amended By-Laws were published for comment in a separate filing by NASDAQ. See Securities Exchange Act Release No. 57761 (May 1, 2008), 73 FR 26182 (May 8, 2008) (notice of SR-NASDAQ-2008-035) (“NASDAQ Stock Market Proposal”).

SCCP is amending its current Articles of Incorporation (“Articles”) to more clearly state that all of the authorized shares of common stock of SCCP are issued and outstanding and are held by Phlx. In addition, SCCP is adding language to its Articles relating to transfers and assignments of SCCP shares of stock. SCCP is restating its Articles to consolidate previous amendments and make other technical amendments, which according to SCCP will modernize the existing language in the Articles.⁴

The purpose of the amendment and restatement of the Articles is to ensure that any future change in ownership of SCCP stock, whether transferred or assigned, in whole or in part, would be filed with the Commission under Section 19 of the Act and the rules promulgated thereunder. This language is consistent with language recently approved by the Commission in connection with the amending by Phlx of its Certificate of Incorporation and By-Laws⁵ as a result of the proposed acquisition of Phlx by NASDAQ OMX.⁶

⁴ The specific amendments proposed for SCCP’s Articles can be viewed at http://www.phlx.com/SCCP/sccp_rules/SR-SCCP-2008-01.pdf.

⁵ Securities Exchange Act Release No. 58179 (July 17, 2008) [File No. SR-Phlx-2008-31] (order approving proposed rule change relating to NASDAQ OMX’s acquisition of Phlx).

⁶ On November 7, 2007, NASDAQ OMX announced that it had entered into an agreement with Phlx pursuant to which NASDAQ OMX would acquire all of the outstanding capital stock of Phlx. In connection with this acquisition, Pinnacle Merger Corp., a Delaware corporation and wholly owned subsidiary of NASDAQ OMX, would be merged with and into Phlx with Phlx surviving the merger (“NASDAQ OMX Merger”). As a result of the NASDAQ OMX Merger, all of Phlx’s common stock would be owned by NASDAQ OMX. Thereafter, NASDAQ OMX would operate Phlx as a wholly-owned subsidiary and SCCP as an indirect wholly-owned subsidiary. Phlx and SCCP would continue to be separate self-regulatory organizations.

III. Discussion

The Commission finds that the rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(C) of the Act.⁷ The proposed rule change would amend SCCP's Articles to reflect the proposed NASDAQ OMX Merger. The Commission notes that the proposed rule change does not amend SCCP's rules or procedures with respect to the clearance and settlement of securities transactions or the safeguarding of securities and funds which are in SCCP's control or for which it is responsible. Section 17A(b)(3)(C) of the Act requires that a clearing agency's rules assure the fair representation of its shareholders and participants in the selection of its directors and administration of its affairs. SCCP would remain a wholly-owned subsidiary of Phlx following the NASDAQ OMX Merger and the SCCP By-Laws relating to the selection, composition, powers, and duties of the SCCP board of directors, committees, and officers would remain unchanged. Accordingly, the Commission finds that SCCP's rules would continue to assure the fair representation of its shareholders and participants in the section of SCCP's directors and the administration of SCCP's affairs as required by Section 17A(b)(3)(C).

IV. Accelerated Approval

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,⁸ for approving the proposal, as modified by Amendment No. 1, prior to the thirtieth day after the date

⁷ 15 U.S.C. 78q-1(b)(3)(C).

⁸ 15 U.S.C. 78s(b)(2).

of publication of notice of filing of Amendment No. 1 in the Federal Register.⁹ In Amendment No. 1, SCCP proposed to adopt as rules of SCCP the Certificate of Incorporation and By-Laws of NASDAQ OMX. The Certificate of Incorporation, as filed by the SCCP, was previously approved by the Commission as rules of the NASDAQ.¹⁰ The NASDAQ OMX By-Laws were similarly approved by the Commission.¹¹ As filed by the SCCP, the NASDAQ OMX By-Laws include certain new terminology to reflect the acquisition of Phlx and SCCP by NASDAQ OMX. These changes were filed by NASDAQ Exchange as a proposed rule change, and were published for comment.¹² The Commission received no comments on the proposed changes to the NASDAQ OMX By-Laws.

As discussed more fully in the Nasdaq Stock Market Proposal, certain provisions of NASDAQ OMX's Certificate and By-Laws are designed to facilitate the ability of NASDAQ OMX's SRO subsidiaries, including SCCP, to maintain the independence of each of the SRO subsidiaries' self-regulatory function, enable each SRO subsidiary to operate in a manner that complies with the federal securities laws, and facilitate the ability of each SRO subsidiary and

⁹ Pursuant to Section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), the Commission may not approve any proposed rule change, or amendment thereto, prior to the thirtieth day after the date of publication of the notice thereof, unless the Commission finds good cause for so doing.

¹⁰ See Securities Exchange Act Release No. 51328 (January 13, 2006), 71 FR 3550 (January 23, 2006) (order approving the application of NASDAQ for registration as a national securities exchange).

¹¹ See id.

¹² See Securities Exchange Act Release No. 57761, supra note 3.

the Commission to fulfill their regulatory and oversight obligations under the Act.¹³ As stated above, the Commission finds that such provisions are consistent with the Act.¹⁴ Notably, the NASDAQ OMX Certificate of Incorporation and By-Laws are rules of NASDAQ that have been approved previously by the Commission, as noted above, and the changes to the NASDAQ OMX By-Laws were published for notice and comment, as noted above, and the Commission did not receive any comments thereon. Accordingly, the Commission finds good cause for approving SCCP's proposal, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-SCCP-2008-01 on the subject line.

Paper comments:

¹³ In addition to the NASDAQ OMX Merger, NASDAQ OMX entered into an agreement with the Boston Stock Exchange ("BSE"), pursuant to which NASDAQ OMX would acquire all of the outstanding membership interests in BSE ("BSE Acquisition"). See Securities Exchange Act Release Nos. 57757 (May 1, 2008), 73 FR 26159 (SR-BSE-2008-23) (notice of proposed rule change related to BSE Acquisition) and 57782 (May 6, 2008), 73 FR 27583 (May 13, 2008) (SR-BSECC-2008-01) (notice of proposal to amend the articles of organization and by-laws of the Boston Stock Exchange Clearing Corporation to reflect its proposed acquisition by NASDAQ OMX).

¹⁴ See supra note 7 and accompanying text.

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-SCCP-2008-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of SCCP. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-SCCP-2008-01 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

VI. 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.¹⁵

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,¹⁶ that the proposed rule change (SR-SCCP-2008-01), as modified by Amendment No. 1 thereto, be and hereby is approved on an accelerated basis.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.¹⁷

Florence E. Harmon
Acting Secretary

¹⁵ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f). See Securities Exchange Act Release No. 58179, supra note 5.

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).