

requiring the audit committee or another independent body of the board of directors to approve, rather than merely review, related party transactions.⁴ Of course, all directors that review and approve a related party transaction must not only be independent as specified under Nasdaq rules but also disinterested in the transaction. Nasdaq believes that requiring approval of such transactions will improve investor protection.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,⁵ in general, and with section 15A(b)(6) of the Act,⁶ in particular, in that the proposed rules are designed to prevent fraudulent and manipulative acts and practices and, in general, to protect investors and the public interest. As previously mentioned, the proposed rule change is designed to improve investor protection.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

⁴ For purposes of Rule 4350(h), the term "related party transaction" shall refer to transactions required to be disclosed pursuant to SEC Regulation S-K, Item 404.

⁵ 15 U.S.C. 78o-3.

⁶ 15 U.S.C. 78o-3(b)(6).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amended proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2002-80 and should be submitted by August 6, 2003.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48141; File No. SR-NSCC-2003-12]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Availability of Trade Data to Members for Listed and OTC Processing

July 8, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,¹ notice is hereby given that on June 16, 2003, the National Securities Clearing Corporation ("NSCC") filed a proposed rule change with the Securities and Exchange Commission ("Commission") and on June 24, 2003, amended the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by NSCC. The Commission is publishing this

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

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 proposed rule change will make technical modifications to NSCC's trade comparison rules and procedures to clarify (1) the format, availability, and content of trade data available to its participants and (2) that NSCC will no longer provide trade comparison processing for New York Stock Exchange ("NYSE") and American Stock Exchange ("Amex") equity trades.

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

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. NSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.²

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

The purpose of the proposed rule change is to make technical changes to NSCC's rules and procedures to conform them to actual practice. NSCC issues transaction information known as "output" to its members in various formats and at different intervals throughout the day. The changes make it clear that the frequency and availability of such information is dependent on the format of the output.

Historically, NSCC's reporting of equity trading activity on behalf of various participants and marketplaces was limited to reporting at the end of the trading processing day, with report output produced to participants and marketplaces in both a print image ("PI") and machine readable output ("MRO") form.

With PI output, data appears as a formatted report with predefined columns of information. PI-formatted information is "reader friendly," includes both activity and total fields, and is usually produced at end-of-day, reflecting the total activity reported by the participant for that processing day.

² The Commission has modified the text of the summaries prepared by NSCC.

MRO consists of a continuous strand of data and the receiver uses an NSCC-defined record layout that identifies each specific field of data to populate the information into its own internal reports. MRO contains additional fields of useful data that do appear on PI output. Participants that use MRO may receive multiple transmissions of data throughout the processing day and each transmission of data generally reflects activity only. Participants accumulate their intraday output files from NSCC throughout the day, and the sum of the accumulated files represents their total activity reported to NSCC for that processing day.

NSCC is also clarifying its rules to indicate that NSCC performs comparison processing only for over-the-counter and non-NYSE/Amex trades. NSCC's rules previously provided that when the NYSE and the Amex provided comparison processing, NSCC would no longer perform these functions for securities traded on these exchanges. Since the NYSE and Amex now provide this function, references to comparison processing for NYSE and Amex equities are being deleted.

NSCC believes that this proposed rule change is consistent with the provisions of section 17A of the Act³ and the rules and regulations thereunder because NSCC's rules will more accurately reflect the availability of trade reporting and trade comparison output. Therefore, the proposed rule change should enhance the prompt and accurate clearance and settlement of securities transactions.

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

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

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

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

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

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(iii) of the Act⁴ and Securities Exchange Act Rule 19b-

4(f)(4)⁵ because it effects a change in an existing NSCC service that does not adversely affect the safeguarding of securities or funds in NSCC's control or for which NSCC is responsible and does not significantly affect NSCC's or its participants' respective rights or obligations. At any time within sixty 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 purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549-0069. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR-NSCC-2003-12. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the rule filing that are filed with the Commission, and all written communications relating to the rule filing between the Commission and any person, other than those that may be withheld from the public in accordance with provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, DC. Copies of such filing will also be available for inspection and copying at NSCC's principal office. All submissions should refer to File No. SR-NSCC-2003-12 and should be submitted by August 6, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48135; File No. SR-Phlx-2003-21]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to a Disclaimer by Susquehanna Indices, LLP

July 7, 2003.

On April 2, 2003, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to adopt new Rule 1104A, *Susquehanna Indices, LLP Indexes*, to provide a disclaimer with regards to SIG Investment Managers Index™ ("Index"). On May 23, 2003, the Phlx submitted Amendment No. 1 to the proposed rule change.³ The proposed rule change, as amended, was published in the **Federal Register** on June 4, 2003.⁴ This order approves the amended proposed rule change.

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.⁵ Specifically, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,⁶ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission notes that the Exchange filed the proposed rule change pursuant to a license agreement requirement with Susquehanna Indices, LLP ("SI"), and the disclaimer provision would generally provide that SI makes no warranty, express or implied, as to the results or data to be obtained by any person or entity regarding the Index. The Commission believes that the Phlx's

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Carla Behnfeldt, Director, Legal Department New Product Development Group, Phlx, to Lisa N. Jones, Attorney, Division of Market Regulation, Commission, dated May 22, 2003 ("Amendment No. 1").

⁴ Securities Exchange Act Release No. 47937 (May 28, 2003), 68 FR 33555.

⁵ In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁶ 15 U.S.C. 78f(b)(5).

³ 15 U.S.C. 78q-1.

⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵ 17 CFR 240.19b-4(f)(1).

⁶ 17 CFR 200.30-3(a)(12).