

subscribers for public use by approximately 6:00 a.m. on the first business day after the trade. The reports will be electronically disseminated to subscribers by computer modem.³

The Service will be made available to all interested persons on equal terms. In particular, the Board will ensure that interested persons are provided access to the reports on a non-discriminatory basis and in a manner that would not confer special or unfair economic benefit to any person. The Board also will encourage and facilitate the re-dissemination of the reports by private information vendors so that the widest possible spectrum of market participants can be reached.

Cost and Fees. Total system development costs, hardware and software acquisition, and other start-up expenses for the Pilot Program are estimated to be \$500,000 to \$600,000. These costs include the common computer system that will be used for generating and managing the daily transaction reports as well as operation of the surveillance database. Yearly operating costs, including the costs of producing and disseminating the transaction reports and the costs of operating the surveillance database are expected to approximate \$500,000 to \$600,000. The Board estimates that it may have 20 subscribers to the Service, which would generate \$300,000 a year in revenue at the annual subscription rate of \$15,000. These revenues are expected to be sufficient to pay the entire marginal costs of operating the Service, including the cost of producing the transaction reports, and should also cover a portion of the basic data processing costs for the Pilot Program, *i.e.*, the common computer hardware and software that is needed to operate both the Service and the surveillance database. The Board believes that this Plan will produce a fair allocation of Pilot Program costs.

2. Statutory Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act, which requires, in pertinent part, that the Board's rules shall:

Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing,

³ A paper copy of each transaction report will be made available in the Board's Public Access Facility, located at 1640 King Street, Suite 300, Alexandria, Virginia. There will be no charge for viewing the report. Documents in the Public Access Facility can be copied at a cost of 20 cents per page plus sales tax.

settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest. * * *⁴

The Pilot Program is designed to increase the integrity and efficiency of the municipal securities market by, among other things, helping to ensure that the price charged for an issue in the secondary market reflects all available price information about that issue. Moreover, the availability of aggregate data about market activity and certain volume and price information about municipal securities will promote investor confidence in the market and its pricing mechanisms. The Board believes that the fee for the Service is fair and reasonable in light of costs associated with compiling and disseminating the information, and that the Service is available on reasonable and non-discriminatory terms to any interested person.

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

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, since the Service will be made available to all interested persons on an equal basis and the fee will be applied equally to all persons who wish to subscribe to the Service.

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

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the MSRB and therefore has become effective pursuant to Section 19(b)(3)(A) of the Act,⁵ and subparagraph (e) of Rule 19b-4 thereunder.⁶ At any time within 60 days of the filing of such proposed 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.

⁴ 15 U.S.C. 78O-4(b)(2)(C) (1988).

⁵ 15 U.S.C. 78s(b)(3)(A) (1988).

⁶ 15 CFR 240.19b-4(e) (1994).

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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the MSRB. All submissions should refer to File No. SR-MSRB-94-18 and should be submitted by January 30, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95-426 Filed 1-6-95; 8:45 am]

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[Release No. 34-35180; File No. SR-NASD-94-54]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Position and Exercise Limits for Equity Options Overlying Securities Not Subject to Standardized Options Trading

December 30, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 12, 1994, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1) (1988).

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

The NASD proposes to amend Section 33 of the NASD's Rules of Fair Practice, the NASD's position limit rule for standardized and conventional options, to increase the position and exercise limits for certain equity securities that are not subject to standardized options trading.² In particular, under the proposal, if a security qualifies for a position limit of 7,500 contracts or 10,500 contracts,³ it will be subject to that higher position limit, regardless of whether it has standardized options traded on it or not.

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

In its filing with the Commission, the NASD 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. The NASD has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

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

Currently, under NASD rules, position and exercise limits for exchange-listed options traded by access firms⁴ or their customers are determined according to a "three-tiered" system, where, depending upon the float and trading volume of the underlying security, the position limit

² Position limits impose a ceiling on the number of option contracts in each class on the same side of the market (*i.e.*, aggregating long calls and short puts and long puts and short calls) that can be held or written by an investor or group of investors acting in concert. Exercise limits restrict the number of options contracts which an investor or group of investors acting in concert can exercise within five consecutive business days. Under NASD Rules, exercise limits correspond to position limits, such that investors in options classes on the same side of the market are allowed to exercise, during any five consecutive business days, only the number of options contracts set fourth as the applicable position limit for those options classes. See Sections 33(b)(3) and (4) of the NASD Rules of Fair Practice.

³ See *infra* note 4 for a description of how the position limit for a particular equity security is determined.

⁴ "Access" firms are NASD members which conduct a business in exchange-listed options but which are not members of any of the options exchanges upon which the options are listed and traded.

for options on that security is 4,500, 7,500, or 10,500 contracts.⁵ For conventional equity options trading by any NASD member,⁶ if the underlying security is subject to standardized options trading, the NASD's position limit for conventional options on that security is the same position limit imposed by the options exchange(s) trading the option. However, if the security underlying the option is not subject to standardized options trading, the applicable position limit for conventional options on the security is the lowest tier, *i.e.*, 4,500 contracts.

In some instances, however, a security may qualify for an options position limit of 7,500 or 10,500 contracts but it is subject to a position and exercise limit of 4,500 contracts because it does not underlie a standardized option. Given that these securities qualify for higher position limits but are not eligible for them solely because there is no standardized option traded on them in the U.S., the NASD believes its option position limit rule may be unduly restrictive for these securities and unnecessarily constrain members' legitimate hedging activity. Accordingly, the NASD proposes to amend Section 33 to provide that the position limit for options on a security shall be determined by the position limit tier the security falls under, regardless of whether the security is subject to standardized options trading.⁷

⁵ In this connection, the NASD's rules do not specifically govern how a specific equity option falls within one of the three position limit tiers. Rather, the NASD's position limit rule provides that the position limit established by an options exchange(s) for a particular equity option is the applicable position limit for purposes of the NASD's rule. Under the rules of each of the options exchanges, if the security underlying a standardized option has trading volume of 40,000,000 shares over the most recent six-month period or trading volume of 30,000,000 shares over the most recent six-month period and float of 120,000,000, it is subject to a position limit of 10,500 contracts; if the security underlying a standardized option has trading volume of 20,000,000 shares over the most recent six-month period or trading volume of 15,000,000 shares over the most recent six-month period and float 40,000,000, it is subject to a position limit of 7,500 contracts; and, if the underlying security is ineligible for a 10,500 or 7,500 contract position limit, it is subject to a 4,500-contract position limit. The rules of each options exchange are uniform in regard to the above. See *e.g.*, Commentary .07 to American Stock Exchange Rule 904 and Interpretation and Policy .02 to Chicago Board Options Exchange Rule 4.11.

⁶ Conventional equity options are defined in Section 33(b)(2)(GG) of the NASD Rules of Fair Practice to mean "any option contract not issued, or subject to issuance, by The Options Clearing Corporation."

⁷ To ensure that the higher position limits for conventional options overlying securities not subject to standardized options trading are only available for securities qualifying for a position limit of 7,500 or 10,500 contracts, a member must demonstrate to the NASD's Market Surveillance

The NASD believes its proposal is warranted for the following reasons. First, if a security has sufficient trading volume and public float to satisfy the standards for a position limit of 7,500 contracts or 10,500 contracts, the NASD does not believe that raising the position and exercise limits for conventional options on the security will adversely affect the cash market for the security. In the NASD's view, if the cash market for a security is large enough to qualify for an options position limit of 7,500 contracts or 10,500 contracts, it is irrelevant whether that security is only subject to conventional options trading and not standardized options trading. The NASD believes the primary consideration governing the appropriate position limit level for options on a security should be the characteristics and size of the underlying cash market for that security, not whether the options overlying the security are standardized or conventional. Second, the NASD does not believe its members' activities in the conventional options market should be linked to or constrained by decisions of the options exchanges concerning whether or not to trade options on particular securities.

Moreover, the NASD believes that its proposal will not compromise the stability of the securities markets underlying the conventional options eligible for the higher position limits. In this regard, for those securities that will be eligible for higher position limits under the proposal, there will only be a slight increase in the percentage of their capitalization that an investor or group of investors acting in concert can control under the new position limits.

Therefore, the NASD believes the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, 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 and, in general, to protect investors and the public interest. Specifically, the NASD believes the proposal will promote the maintenance of fair and orderly markets because it will serve to facilitate the use

Department that the security satisfies the standards for such higher options position limit prior to establishing an unhedged options position on that security in excess of 4,500 contracts.

of conventional equity options by investors seeking to satisfy their legitimate hedging needs, without compromising the integrity of the underlying securities markets. In addition, to the extent that investors have greater assurance that they can hedge larger stock positions through the use of conventional options, liquidity in the underlying cash market may be enhanced by the proposal.

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

The NASD believes that the proposed rule change will not 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

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 NASD 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.

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 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 Number SR-NASD-94-54 and should be submitted by January 30, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 95-430 Filed 1-6-95; 8:45 am]

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[Release No. 34-35185; File No. SR-OCC-94-12]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Amending By-Laws Relating to the Holiday Expiration Date for Cash-Settled Foreign Currency Options

December 30, 1994.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on December 12, 1994, The Options Clearing Corporation ("OCC") 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 primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

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

The proposed rule change will amend OCC's by-laws to change the holiday expiration date for cash-settled foreign currency options.

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

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

⁸ 17 CFR 200.30-3(a)(12)(1993).

¹ 15 U.S.C. 78s(b)(1) (1988).

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

OCC proposes to amend its by-laws to change the holiday expiration date for cash-settled foreign currency options. On December 13, 1994, the Commission approved a Philadelphia Stock Exchange ("PHLX") rule change proposing to change the holiday expiration date for cash-settled foreign currency options.² Currently, cash-settled foreign currency options expire on Mondays. However, if Monday is a PHLX holiday or a designated bank holiday, the expiration date reverts to the preceding business day, which is usually Friday, but on some occasions may be Thursday.

Under PHLX's rule change, if the regular Monday expiration occurs on a PHLX holiday or a designated bank holiday, the cash-settled foreign currency options expire on the following business day rather than the preceding business day. Accordingly, when the regular Monday expiration occurs on a holiday, the expiration will usually occur on Tuesday, but on some occasions will occur on Wednesday.³ The proposed change will allow cash-settled foreign currency option users to capture weekend risk.

To accommodate the change proposed by PHLX, OCC is proposing to modify the definition of "Expiration Date" contained in OCC by-laws, Article XXII, Section 1E. Under OCC's proposed change, if the regular Monday expiration occurs on an exchange designated bank holiday or a day that is not a business day, expiration will occur on the following business day rather than the preceding business day.

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

OCC does not believe that the 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

Written comments were not and are not intended to be solicited with respect

² Securities Exchange Act Release No. 35097, (December 13, 1994) [File No. SR-PHLX-94-54] (order granting accelerated approval of proposed rule change filed by the Philadelphia Stock Exchange, Inc., relating to the holiday expiration date for cash/spot foreign currency options).

³ For example, Monday, December 26, 1994 is a PHLX holiday (Christmas); therefore, under the proposed change, expiration will occur on Tuesday. However, Tuesday, December 27, 1994, is a designated bank holiday (Boxing Day), so expiration will occur on Wednesday, December 28, 1994.