paragraph (a)(2)(ii), as the basis for the exemption. The underlying purpose of the requirement to perform three Type A CILRTs, at approximately equal intervals during each 10-year service period, is to assure that leakage through the primary reactor containment is detected and does not exceed allowable leakage rate values. The licensee has stated that the existing Type B and C local leak rate test (LLRT) programs are not being modified by this request, and will continue to effectively detect containment leakage caused by the degradation of active containment isolation components as well as containment penetrations. It has been the consistent and uniform experience at Callaway during the three Type A tests conducted from 1984 to date, that any significant containment leakage paths are detected by the Type B and C testing. The Type A test results have only been confirmatory of the results of the Type B and C test results. Therefore, consistent with 10 CFR 50.12, paragraph (a)(2)(ii), application of the regulation in this particular circumstance would not serve, nor is it necessary to achieve, the underlying purpose of the rule.

IV.

Section III.D.1.(a) of Appendix J to 10 CFR Part 50 states that a set of three Type A leakage rate tests shall be performed at approximately equal intervals during each 10-year service period.

The licensee proposes an exemption to this section which would provide an interval extension for the Type A test by approximately 18 months. The Commission has determined that pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption; namely, that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

The NRC staff has reviewed the basis and supporting information provided by the licensee in the exemption request. The NRC staff has noted that the licensee has a good record of ensuring a leak-tight containment. All Type A tests were within the acceptance limits. The first Type A test passed with significant margin. The second Type A test confirmed leakage previously identified by Type C testing. The licensee subsequently replaced all containment boundary Essential Service Water valves with an improved design stainless steel valve. This replacement improved LLRT results by 84% for the affected penetrations. The licensee has noted that the results of the Type A testing have been confirmatory of the Type B and C tests, which are performed biennially, and will continue to be performed. The NRC staff considers that these inspections and system enhancements, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The NRC staff has also made use of a draft staff report, NUREG–1493, which provides the technical justification for the present Appendix J rulemaking effort which also includes a 10-year test interval for Type A tests. The integrated leakage rate test, or Type A test, measures overall containment leakage. However, operating experience with all types of containments used in this country demonstrates that essentially all containment leakage can be detected by local leakage rate tests (Type B and C). According to results given in NUREG–1493, out of 180 ILRT reports covering 110 individual reactors and approximately 770 years of operating history, only about 3% of leakage that exceeds current requirements is detectable only by CILRTs, and those few failures were only marginally above prescribed limits. This study agrees well with previous NRC staff studies which show that Type B and C testing can detect a very large percentage of containment leaks. The Callaway experience has also been consistent with this.

The Nuclear Management and Resources Council (NUMARC), now the Nuclear Energy Institute (NEI), collected and provided the NRC staff with summaries of data to assist in the Appendix J rulemaking effort. NUMARC collected results of 144 ILRTs from 33 units; 23 ILRTs exceeded $1.0L_a$. Of these, only nine were not due to Type B or C leakage penalties. The NEI data also added another perspective. The NEI data show that in about one-third of the cases exceeding allowable leakage, the as-found leakage was less than $2L_a$; in one case the as-found leakage was less than $3L_a$; one case approached $10L_a$; and in one case the leakage was found to be approximately $21L_a$. For about half of the failed ILRTs the as-found leakage was not quantified. These data show that, for those ILRTs for which the leakage was quantified, the leakage values are small in comparison to the leakage value at which the risk to the public starts to increase over the value of risk corresponding to L_a (approximately $200L_a$, as discussed in NUREG–1493).

Based on generic and plant specific data, the NRC staff finds the basis for the licensee's proposed exemption to allow a one-time exemption to permit a schedular extension of one cycle for the performance of the Appendix J Type A test to be acceptable.

Pursuant to 10 CFR 51.32, the Commission has determined that granting this Exemption will not have a significant impact on the environment (60 FR 15611).

This Exemption is effective upon issuance and shall expire at the completion of the 1996 refueling outage.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 4th day of April 1995.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35567; File No. SR–OCC–95–02]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Seeking to Make the Stock Loan/Hedge Program Available to Market-Maker and Specialist Accounts Established and Maintained by Clearing Members

April 5, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 13, 1995, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–OCC–95–02) as described in Items I, II, and III below, which items have been prepared primarily by OCC. 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 purpose of the proposed rule change is to make OCC's Stock Loan/Hedge Program available to accounts established and maintained with OCC by clearing members for market-makers and specialists.

[1] 15 U.S.C. 78s(b)(1) (1988).

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.

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

The primary purpose of the proposed rule change is to make OCC's Stock Loan/Hedge Program [2] available to accounts established and maintained with OCC by clearing members for market-makers and specialists.[3] Pursuant to OCC's By-Laws and Rules regarding its Stock Loan/Hedge Program, clearing members are permitted to carry stock loan and borrow positions in market-maker accounts.[4] However, at the time OCC proposed its Stock Loan/Hedge Program, OCC was concerned that its Market-Maker Agreements [5] did not adequately accommodate stock loans. Accordingly, OCC appended an Interpretation to Article XXI, Section 5 of its By-Laws stating that OCC would not permit stock loan positions and stock borrow positions to be maintained in a market-maker's or specialist's account unless the market-maker or specialist had entered into an account agreement authorizing stock loan positions and stock borrow positions to be maintained in the account.[6] In addition, OCC stated in SR–OCC–92–34 that it intended to submit revised versions of the various forms of Market-Maker Agreements to the Commission in a separate proposed rule change in the near future.

OCC has reviewed its current Market-Maker Agreement forms and concluded that the current forms do adequately accommodate the Stock Loan/Hedge Program. Section 1 of each Market-Maker Agreement causes the market-maker and the clearing member to each agree that OCC has a lien ''on all long positions, securities, margin and other funds and assets in the Account.'' OCC believes that stock loan and borrow positions are ''securities, margin and other funds and assets,'' and accordingly has concluded that this language adequately establishes its rights with respect to stock loan and borrow positions carried in market-maker accounts.

In addition, OCC has concluded that Section 3 of its Market-Maker Agreement causes market-makers signing the agreement to adequately authorize the clearing member to lend assets (*i.e.*, stock) in the account and to adequately authorize OCC to rely on the terms on which the assets are loaned.[7] Therefore, OCC now believes that the Interpretation to Article XXI, Section 5 of its By-Laws is unnecessary and proposes to delete the Interpretation.

OCC believes the proposed rule change is consistent with the requirements of the Act, specifically Section 17A of the Act, and the rules and regulations thereunder because the rule proposal will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impact 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 have been solicited or received. OCC will notify the Commission of any written comments received by OCC.

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

Within thirty-five 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 ninety 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 OCC 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, NW., Washington, DC 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

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[2] For a description of OCC's Stock Loan/Hedge Program, refer to Securities Exchange Act Release No. 32638 (July 15, 1993), 58 FR 39264 [File No. SR–OCC–92–34] (order granting permanent approval of the Stock Loan/Hedge Program).

[3] Market-makers and specialists are collectively referred to in this Notice as ''market-makers,'' and accounts established and maintained with OCC by clearing members for market-makers, including separate market-maker's or specialist's accounts, combined market-maker's or specialists' accounts, registered trader's accounts and stock market-maker's or stock specialist's accounts (as described in Article VI, Section 3 of OCC's By-Laws) are collectively referred to in this Notice as ''market-maker accounts.''

[4] For examples of permitted stock loan and borrow positions, refer to OCC By-Laws Article XXI, Section 5 stating that a stock loan position may not be maintained in a market-maker account unless the loaned stock to which the stock loan position relates is held for the account of the market-maker; OCC Rule 601(c) setting out margin requirements for market-maker accounts in which stock loan and borrow positions are carried; and OCC Rules 2209 and 2210 describing the treatment of stock loan and borrow positions of a suspended clearing member, including stock loan and borrow positions carried in market-maker accounts.

[5] The term ''Market-Maker Agreements'' is used in this Notice to refer collectively to the three forms of agreement for market-maker accounts (*i.e.*, separate market-maker's accounts, combined market-maker's accounts, and joint accounts). Market-Maker Agreements cause market-makers to provide this authority to both the clearing member and OCC.

[6] *Supra* note 2.

[7] A stock loan is not the result of an ''exchange transaction'' for purposes of OCC's rules because it does not arise from a transaction on an exchange. OCC therefore was concerned that the language of Section 1 of the Market-Maker Agreement did not adequately accommodate stock loans because the language is limited to exchange transactions of market-makers for whom an account is established. However, a stock borrow or loan position is established by a lending clearing member or borrowing clearing member not by a market-maker. As defined in Article I, Section 1(S)(8), the term ''stock borrow position'' means the position of a borrowing clearing member in respect of a stock loan. In addition, in Article I, Section 1(S)(11), the term ''stock loan position'' means the position of a lending clearing member in respect of a stock loan. A borrowing clearing member does not need any authorization from a market-maker in whose account it instructs OCC to carry a stock borrow position because the position is entirely the responsibility of the clearing member. Similarly, a stock loan position is entirely the responsibility of the lending clearing member. However, because a stock loan position in a market-maker account may arise only from a clearing member's lending of stock held for the account of a market-maker for whom the account is carried (see Article XXI, Section 5(d) of OCC's By-Laws), a lending clearing member does need authority from a market-maker's stock and OCC needs authority from the market maker to permit the clearing member to lend a market-maker to rely upon the terms of the loan. As described in the text, OCC believes the current form of the

available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–95–02 and should be submitted by May 2, 1995.

For the Commission by the division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–8870 Filed 4–10–95; 8:45 am]

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[Release No. 34–35566; File No. SR–OCC–95–03]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to OCC's Exercise-by-Exception Procedures Applicable to Expiring Index Options

April 5, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on February 16, 1995, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–OCC–95–03) as described in Items I, II, and III below, which items have been prepared primarily by OCC. 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 purpose of the proposed rule change is to reduce the threshold used to determine the in-the-money amount of index options (other than flexibly structured index options) carried in clearing members' customers' accounts in connection with OCC's exercise-by-exception processing procedures.[2]

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 that 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.

(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 modify the exercise threshold for index option contracts, including Quarterly Index Expiration option contracts, carried in a clearing member's customer account in connection with OCC's exercise-by-exception (''ex-by-ex'') processing procedures.[3] The exercise threshold used for flexibly structured index options is not effected by the proposed change.

Two thresholds are currently specified in OCC's Rules; the first threshold is for index options carried in clearing members' customers' accounts, and the second threshold is for index options carried in all other clearing member accounts. The current threshold for customer positions is $25.00 per index option contract and the threshold for all other positions is $1.00 per index option contract. OCC proposes to reduce the threshold for customer positions to $1.00 per index option contract. Any position in-the-money by that amount or more would be exercised unless the clearing member submitted a timely, contrary instruction to OCC. The proposed change to the threshold for ex-by-ex processing will not affect clearing members' obligations to their customers or correspondent brokers, which are determined by contract and by generally applicable principles of law.

The proposed change has been discussed with representatives from OCC's participant exchanges and clearing membership who have concurred in its implementation. Clearing member representatives have advised OCC that the change would reduce the risks associated with the expiration of index options as well as their operational costs. Accordingly, OCC believes that the proposed change would provide cost savings to its clearing membership without affecting the risk of processing expiring options.

OCC believes the proposed rule change is consistent with the requirements of the Act, specifically Section 17A of the Act, and the rules and regulations thereunder because the rule proposal will facilitate the prompt and accurate clearance and settlement of index options transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impact 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 have been solicited or received. OCC will notify the Commission of any written comments received by OCC.

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

Within thirty-five 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 ninety 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 OCC 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, NW., Washington, DC 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 Section, 450 Fifth Street, NW.,

[8] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Conforming changes have been proposed to OCC Rules 1804(a) and (b).

[3] Ex-by-ex processing presumes that a clearing member would desire to exercise all options that are in-the-money by a specified threshold. Accordingly, all options subject to ex-by-ex processing are identified as being in-the-money, at-the-money, or out-of-the-money in a report provided to the clearing member through C/MACS or by hard copy. Such report reflects that the clearing member instructs OCC to exercise all options that are in-the-money by the threshold amount. However, the clearing member can issue contrary instructions to OCC.