

significant burden on competition. At any time within sixty days of the filing of the 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.

#### 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-95-12 and should be submitted by August 15, 1995.

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

**Margaret H. McFarland,**  
Deputy Secretary.

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[Release No. 34-35983; File No. SR-NSCC-95-07]

#### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Reducing Networking Account Fees

July 18, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on May 21, 1995, the National Securities Clearing Corporation ("NSCC") 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 NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested person.

#### I. Self-Regulatory Organizations Statement of the Terms of Substance of the Proposed Rule Change

NSCC is filing the proposed rule change to reduce certain of the Networking service<sup>2</sup> account fees charged to NSCC participants.

#### 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.<sup>3</sup>

#### (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 reduce the Networking service monthly account base fees charged to NSCC participants in order that such fees will reflect more accurately the current costs of providing the service. For accounts with funds paying dividends monthly, the monthly account base fee will be reduced from \$.045 per side to \$.035 per networking subaccount. Similarly, for accounts with funds paying dividends less frequently than monthly, the monthly account base fee will be reduced from \$.03 per side to \$.023 per networking subaccount. This reduced fee structure will take effect on June 1, 1995.

Section 17A(b)(3)(D) of the Act<sup>4</sup> requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. NSCC believes that the proposed rule

change is consistent with the requirements of Section 17A(b)(3)(D) of the Act because the new fee schedule allocates fees more equitably among NSCC participants.

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

NSCC 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

NSCC neither solicited nor received written comments on the proposed rule change. NSCC will notify the Commission of any written comments it receives.

#### 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)(ii)<sup>5</sup> of the Act and Rule 19b-4(e)(2)<sup>6</sup> thereunder because the rule change establishes or changes a due, fee, or other charge. At any time within sixty 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 purpose of the Act.

#### 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 Section, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal

<sup>2</sup> Networking is NSCC's centralized and standardized data communications system that enables members to transmit mutual fund customer account data and to settle mutual fund payments between themselves. For a complete description of the Networking service, refer to Securities Exchange Act Release No. 26376 (December 28, 1988), 53 FR 52544 [File No. SR-NSCC-88-08] (order granting approval to NSCC's Networking service).

<sup>3</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(D) (1988).

<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(ii) (1988).

<sup>6</sup> 17 CFR 240.19b-4(e)(2) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

office of NSCC. All submissions should refer to File No. SR-NSCC-95-07 and should be submitted by August 15, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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[Release No. 34-35982; File No. SR-OCC-95-03]

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

July 18, 1995.

On February 16, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-95-03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 11, 1995.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

**I. Description of the Proposal**

The purpose of the proposed rule change is to modify the exercise threshold for expiring index option contracts, including American,<sup>3</sup> European,<sup>4</sup> and Capped<sup>5</sup> 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. The ex-by-ex exercise threshold used for flexibility structured index options is not effected by the rule change.

Ex-by-ex processing presumes that clearing members desire to exercise all options that are in-the-money by a

specified threshold immediately prior to expiration. 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 each clearing member through OCC's Clearing/Management and Control System ("C/MACS")<sup>6</sup> or by hard copy on each expiration date. After receipt and review of its report, each clearing member resubmits its report to OCC reflecting that the clearing member is instructing OCC to exercise all options that are in-the-money by the certain threshold amount. However, the clearing member can issue contrary instructions ("Contrary Exercise Advice") to OCC by notating on the report additional contracts it desires to exercise and contracts that are in the money by the threshold amount that it does not want exercised.

OCC's Rules currently specify two ex-by-ex processing thresholds for index options.<sup>7</sup> The first threshold applies to index options carried in clearing members' customers' accounts, and the second threshold applies to index options carried in all other clearing members' accounts.<sup>8</sup> The current aggregate price threshold for customer positions is \$25.00 per index option contract, and the aggregate price threshold for all other positions is \$1.00 per index option contract. OCC's rule change reduces the aggregate price threshold for customer positions to \$1.00 per index option contract. Now, any index option contract position, whether carried in clearing members' customers' accounts or in any of their other accounts, in-the-money by that amount or more, will be exercised immediately prior to expiration unless the clearing member submits a timely, contrary instruction to OCC. The proposed change to the threshold for ex-by-ex processing of certain index options carried in customers' accounts will not affect clearing members' obligations to their customers or correspondent brokers, which are determined by contract and by generally applicable principles of law.

**II. Discussion**

Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>9</sup> As discussed below, the

Commission believes that OCC's proposed rule change is consistent with this obligation because it should facilitate the prompt and accurate clearance and settlement of index options transactions by providing promptness and precision in the exercise of certain in-the-money index options.

The rule change should assure that certain customer-held index option contracts that are in-the-money by \$1 or more will not go unexercised unless the clearing member provides contrary exercise advice. By lowering the ex-by-ex threshold for index option contracts carried in customer accounts from \$25 to \$1, OCC has reduced the burden placed on clearing members to provide exercise advice on index options in-the-money by \$1 or more that are due to expire. Reducing the ex-by-ex processing threshold to \$1 per index option contract will mean that clearing members will have to manually identify for exercise only those customer-held index option contracts that are in-the-money by less than \$1.00 per contract; therefore, the cost associated with manually exercising customer-held index option contracts should be reduced. The proposal also should reduce the risk that a clearing member will fail to exercise a customer-held index option because under the new lower threshold only those options that are in-the-money by less than \$1.00 will not be exercised.<sup>10</sup>

Originally, the \$25 threshold was established because of the anticipation of transaction costs related to the exercise and settlement of index option contracts. Because index options are cash settled and the exercise fees for such options either do not exist, are waived, or are not expected to exceed the exercise proceeds, OCC believes that a lower ex-by-ex threshold can be applied and that its clearing members will not charge a fee for the cash settlement of an index option where a customer will be left with a loss.

**III. Conclusion**

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-95-03) be, and hereby is, approved.

<sup>10</sup> As discussed earlier, clearing members can issue Contrary Exercise Advice instructions to exempt specified customer-held index option contracts from ex-by-ex processing.

<sup>7</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> Securities Exchange Act Release No. 35566 (April 5, 1995), 60 FR 18435.

<sup>3</sup> OCC defines the term "American" option to mean an option contract that may be exercised at any time from its commencement time until its expiration.

<sup>4</sup> OCC defines the term "European" option to mean an option contract that may be exercised only on its expiration date.

<sup>5</sup> OCC defines the term "Capped" option to mean an option contract in a series which has a cap price at which all options in such series will be automatically exercised and which otherwise may only be exercised on its expiration date.

<sup>6</sup> C/MACS is an on-line, menu-driven system that allows OCC member firms to access or input trade information directly from or to OCC's clearing systems.

<sup>7</sup> Different ex-by-ex thresholds are applied to equity options.

<sup>8</sup> OCC Rule 1804(a) and (b).

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(F) (1988).