

Based on this analysis, OCC has concluded that the average SmallCap security presents market risks similar to that of NNM securities especially for those securities that trade at a price greater than ten dollars per share.⁹ This analysis also confirms that the current 70% valuation rate provides a sufficient cushion to protect against adverse market moves in SmallCap securities.

Finally, OCC performed a volume analysis to assess the liquidity of SmallCap securities over the same four-year period which confirmed that SmallCap securities are not as liquid as NNM securities.¹⁰ However, the analysis also showed that a material portion of this average share volume is concentrated in a relatively small number of NNM issuers. For example, 20% of the NNM average share volume is attributable to the shares of five issuers. However, there are over 2,150 additional NNM securities that may be deposited for margin purposes. In light of the concentration within the NNM, OCC believes that there is sufficient liquidity in SmallCap issues over ten dollars to support their acceptance for margin purposes.

The proposed rule change also makes certain changes to Rule 604(d) to conform it to recent changes made elsewhere in OCC's By-Laws and Rules. As it has already done in other of its rules, OCC is deleting the term "primary market" from Rule 604(d).¹¹ Removing the term "primary market" has been prompted by recognition that the equity markets are becoming increasingly fragmented. Rule 604(d) currently provides that no security that has been suspended from trading or is subject to special margin requirements by its "primary market" may be deposited as margin. OCC is amending Rule 604(d) so that no security that has been suspended from trading or is subject to special margin requirements by the market that listed or qualified the issue for trading may be deposited as margin.

Rule 604(d) also currently defines the current market value of a stock or bond to be its closing price on the "primary market" for such stock or bond. In order

to avoid disputes over which market is a stock's primary market, OCC is amending the rule so that it has the discretion to designate the market whose closing price will serve as the benchmark.

Another conforming change concerns the time when a "closing price" is determined. To address any questions that may arise with the growth of after-hours trading, OCC is proposing to amend Rule 604(d) to provide that the closing price will be determined "at the close of regular trading hours (as determined by the Corporation)." * * * This change allows OCC to avoid potential disputes by (i) eliminating any basis for arguing that the closing price should be determined based on after-hours trading and (ii) giving OCC the discretion to determine when "regular trading hours" end.

Finally, OCC is eliminating those provisions of Rule 604(d) that require stocks that are deposited as margin to be subject to last sales reporting. It is OCC's understanding that all exchange traded and Nasdaq Stock Market securities are now subject to last sales reporting, making the requirement unnecessary.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the clearing agency's custody or control or for which it is responsible. In connection with this rule change, which allows OCC clearing members to deposit Nasdaq SmallCap market securities as margin collateral, OCC has done extensive market and liquidity analysis and is subjecting any deposits of Nasdaq SmallCap market securities to its existing margin deposit requirements (*e.g.*, ten dollar per share minimum and ten percent issuer concentration prohibition). Therefore, the Commission finds that OCC's proposed rule change is consistent with Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

III. 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.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. OCC-2001-02) be and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

National Women's Business Council; Notice of Meeting

In accordance with the Women's Business Ownership Act, Public Law 106-554 as amended, the National Women's Business Council (NWBC) announces as forthcoming Council meeting. The meeting will cover action items worked on by the National Women's Business Council included by not limited to procurement, access to capital and training. The meeting will be held on October 18, 2001 at the U.S. Small Business Administration 409 Third Street, SW., Washington, DC in the Eisenhower Conference Room—A, 2nd Floor at 9 am to 11:30 am est.

Anyone wishing to make an oral presentation to the Board must contact Ms. Gilda Pressley, in writing by letter or by fax no later than October 12, 2001, in order to be put on the agenda. Gilda Pressley, Administrative Officer, U.S. Small Business Administration, 409 Third Street, SW., Washington, DC 20416. Telephone (202) 205-3850 or Fax (202) 205-6825.

Steve Tupper,

Committee Management Officer.

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SMALL BUSINESS ADMINISTRATION

Region II Buffalo District Advisory Council; Public Meeting

The U.S. Small Business Administration Region II Advisory Council located in the geographical area of Buffalo, New York, will hold a public meeting at 10 a.m. eastern time on October 24, 2001, at the Erie County Industrial Development Agency, 275 Oak Street, Buffalo, New York to discuss such matters that may be presented by members, staff of the U.S. Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Franklin J. Sciortino, District Director, in writing by letter or fax no later than October 15, 2001, in order to be put on

⁹ Approximately 12% of SmallCap securities trade at over ten dollars per share.

¹⁰ Average daily share volume of NNM securities trading over ten dollars per share was 594,632 while the average daily share volume of SmallCap securities trading above ten dollars was 15,005 shares.

¹¹ Securities Exchange Act Release Nos. 44652 (August 3, 2001), 66 FR 42580 [File No. SR-OCC-00-04] (order approving proposed rule change revising OCC's price determination rules); and 41089 (March 1, 1999), 64 FR 10051 [File No. SR-OCC-98-14] (order approving the revision of OCC Rules 805 with respect to closing prices in expiration processing).

¹² 17 CFR 200.30-3(a)(12).