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 CBOE 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, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–CBOE–2006–36 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2006–36. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2006–36 and should be submitted on or before February 14, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.

Nancy M. Morris,

Secretary.

[FR Doc. E8–1178 Filed 1–23–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57164; File No. SR–FINRA–2007–041]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Amend NASD Rule 7001B To Adjust the Percentage of Market Data Revenue Shared With NASD/Nasdaq TRF Participants

January 17, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 21, 2007, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')), 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 substantially by FINRA. 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

FINRA is proposing to amend NASD Rule 7001B (Securities Transaction Credit) to modify the percentage of New York Stock Exchange (''Tape A''), American Stock Exchange and regional exchange (''Tape B''), and Nasdaq Exchange (''Tape C'') market data revenue shared with FINRA members reporting trades to the NASD/Nasdaq Trade Reporting Facility (the ''NASD/Nasdaq TRF'').[3] The text of the proposed rule change is available at *http://www.finra.org,* the principal offices of FINRA, and the Commission's Public Reference Room.

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

In its filing with the Commission, FINRA 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. FINRA 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

1. Purpose

Background

The NASD/Nasdaq TRF provides FINRA members a mechanism for reporting locked-in transactions in exchange-listed securities effected otherwise than on an exchange. In connection with the establishment of the NASD/Nasdaq TRF, FINRA and The Nasdaq Stock Market, Inc. (''Nasdaq'') entered into the Limited Liability Company Agreement of the Trade Reporting Facility LLC (''the NASD/Nasdaq TRF LLC Agreement''), a copy of which appears in the NASD Manual. Under the NASD/Nasdaq TRF LLC Agreement, FINRA, the ''SRO Member,'' has sole regulatory responsibility for the NASD/Nasdaq TRF. Nasdaq, the ''Business Member,'' is primarily responsible for the management of the NASD/Nasdaq TRF's business affairs to the extent those activities are not inconsistent with the regulatory and oversight functions of FINRA. Additionally, the Business Member is obligated to pay the cost of regulation and is entitled to the profits and losses, if any, derived from the operation of the NASD/Nasdaq TRF.

On July 21, 2006, FINRA filed a proposed rule change for immediate effectiveness to adopt a new NASD Rule 7000B Series relating to fees and credits applicable to the NASD/Nasdaq TRF.[4]

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

[2] 17 CFR 240.19b–4.

[3] Effective July 30, 2007, FINRA was formed through the consolidation of NASD and the member regulatory functions of NYSE Regulation. Accordingly, the NASD/Nasdaq TRF is now doing business as the FINRA/Nasdaq TRF. The formal name change of each Trade Reporting Facility (''TRF'') is pending and once completed, FINRA will file a separate proposed rule change to reflect those changes in the Manual.

[4] *See* Securities Exchange Act Release No. 54353 (August 23, 2006), 71 FR 51255 (August 29, 2006) (SR–NASD–2006–090).

Pursuant to NASD Rule 7001B, FINRA members reporting trades in Tape A, Tape B [5] and Tape C securities to the NASD/Nasdaq TRF currently receive a 50% *pro rata* credit on market data revenue earned by the NASD/Nasdaq TRF. At present, the revenue eligible for sharing is the revenue received by the NASD/Nasdaq TRF from the three tape associations after deducting the amount, if any, that the NASD/Nasdaq TRF pays to the Consolidated Tape Association or the Nasdaq Securities Information Processor for capacity usage.[6]

Proposal to Adjust Securities Transaction Credit

FINRA is proposing to amend Rule 7001B to base the percentage of market data revenue shared with a FINRA member reporting trades to the NASD/Nasdaq TRF on the member's ''Market Share.'' FINRA proposes to define ''Market Share'' in Rule 7001B as the percentage calculated by dividing the total number of shares represented by trades reported by a member to the NASD/Nasdaq TRF during a given calendar quarter by the total number of shares represented by all trades reported to the Consolidated Tape Association or the Nasdaq Securities Information Processor, as applicable, during that quarter. Market Share will be calculated separately for each tape.

Pursuant to the proposed rule change, the percentage of Market Share required to receive particular percentages of revenue will vary among the three tapes. Thus, for example, a member whose trade reports in NYSE-listed stocks constitute 0.25% or more of the total consolidated volume in those stocks would receive 100% of the attributable market data revenue, a member with less than 0.25% but at least 0.15% would receive 80% of the attributable market data revenue, a member with less than 0.15% but at least 0.10% would receive 50%, and a member with less than 0.1% would not be eligible for the market data revenue sharing program. For Tape B stocks, a member whose trade reports constitute 0.5% or more of the total consolidated volume in those stocks would receive 100% of the attributable market data revenue, a member with less than 0.5% but at least 0.25% would receive 80% of the attributable market data revenue, a member with less than 0.25% but at least 0.10% would receive 50%, and a member with less than 0.1% would not be eligible for the program. For Tape C stocks, a member whose trade reports constitute 0.75% or more of the total consolidated volume in those stocks would receive 100% of the attributable market data revenue, a member with less than 0.75% but at least 0.25% would receive 80% of the attributable market data revenue, a member with less than 0.25% but at least 0.10% would receive 50%, and a member with less than 0.1% would not be eligible for the program. According to Nasdaq, as the Business Member under the NASD/Nasdaq TRF LLC Agreement, the different percentages required for different tapes reflect the current extent to which participants use the NASD/Nasdaq TRF to report trades in different stocks, i.e., comparatively higher volumes of trades in Tape C stocks are reported through the NASD/Nasdaq TRF than in Tape B or Tape A stocks, and thus for Tape C, the levels of revenue sharing are tied to higher market share levels.

As the Business Member, Nasdaq has determined that the proposed changes in the percentage of market data revenue shared with NASD/Nasdaq TRF participants may be necessary for competitive reasons. FINRA recently filed proposed rule changes to share 100% and 75% of the revenues paid with respect to trades reported to the NASD/NYSE TRF and the NASD/NSX TRF, respectively.[7] Nasdaq believes that market data revenue associated with over-the-counter trade reporting should continue to serve its traditional function of defraying at least a portion of the regulatory costs associated with the activity and is reluctant to impose the regulatory costs of the NASD/Nasdaq TRF exclusively on customers that lack a nexus to its operations. Even with 50% revenue sharing, however, the amount of remaining market data revenue is not sufficient to defray the regulatory costs of the NASD/Nasdaq TRF. Without a significant pricing change, Nasdaq believes that the NASD/Nasdaq TRF would have greater difficulty competing. Nasdaq believes that the proposed tiered revenue sharing program, in which market participants that make the most use of the NASD/Nasdaq TRF are eligible for the highest level of revenue sharing with others receiving progressively lower percentages, will allow the NASD/Nasdaq TRF to remain competitive while still funding a portion of its regulatory costs out of market data revenue. Nevertheless, Nasdaq will be required to fund a portion of the regulatory costs associated with the NASD/Nasdaq TRF from Nasdaq's general revenues.

FINRA is proposing that the implementation date of the proposed rule change shall be retroactive to January 1, 2008.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A of the Act,[8] in general, and with Section 15A(b)(5) of the Act,[9] in particular, which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed rule change is a reasonable and equitable credit structure in that it bases the percentage of revenue shared on members' respective contributions to the revenues of the NASD/Nasdaq TRF, and further Nasdaq has indicated that all regulatory costs owed by Nasdaq as the Business Member related to the NASD/Nasdaq TRF that are not funded out of market data revenue or trade reporting fees will be funded by Nasdaq general revenues.

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

FINRA does not believe that the proposed rule change will impose 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**

[5] The proposed rule change would clarify an ambiguity in the current rule. Both Rule 7001B and the predecessor rule in effect prior to Nasdaq's separation from FINRA referred to ''Amex'' and ''Tape B'' as synonymous, but in fact the Tape B revenue sharing program has always been interpreted to include stocks listed on regional exchanges, such as NYSE Arca, because transactions in such stocks are reported to Tape B.

This ambiguity also exists in the market data revenue sharing rules relating to the other TRFs, which FINRA will propose to clarify in a separate filing.

[6] The proposed rule change would eliminate the deduction for capacity usage. Nasdaq, as the Business Member, believes that the amount of the deduction is small and needlessly complicates the administration of the revenue sharing program.

[7] *See* Securities Exchange Act Release No. 56754 (November 6, 2007), 72 FR 64101 (November 14, 2007) (SR–NASD–2007–031); Securities Exchange Act Release No. 56752 (November 6, 2007), 72 FR 64099 (November 14, 2007) (SR–NASD–2007–043).

[8] 15 U.S.C. 78o–3.

[9] 15 U.S.C. 78o–3(b)(5).

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 FINRA 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, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or

• Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2007–041 on the subject line.

Paper Comments

• Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2007–041. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–FINRA–2007–041 and should be submitted on or before February 14, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–1156 Filed 1–23–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57163; File No. SR–OCC–2007–18]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Expiration Date Exercise Procedure

January 16, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on December 7, 2007, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval to the proposed rule change.

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

The proposed rule change would reduce the threshold amounts used to determine the equity options that are deemed to be in the money for purposes of exercise by exception processing.

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 these statements.[2]

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

OCC is proposing to amend Rule 805, which prescribes expiration date exercise procedures including exercise by exception processing, to reduce from $.05 to $.01 the threshold amount used to determine the equity options that are deemed to be in the money for purposes of exercise by exception processing.[3]

(1) Background

OCC has for years maintained an ''exercise by exception'' procedure. Under that procedure, options that are in the money at expiration by more than a specified threshold amount are exercised automatically unless the clearing member carrying the position instructs otherwise. Equity options are determined to be in the money or not based on the difference between the exercise price and the closing price of the underlying equity interest on the last trading day before expiration. In each of the last two years, OCC has reduced the threshold amounts for equity options in order to streamline expiration processing.[4] These changes were implemented at the request of the OCC Roundtable [5] and benefited both OCC and clearing members by reducing the time required for the submission of exercise instructions on an average expiration weekend.

(2) Discussion

In view of the high options volumes experienced in 2007, the OCC Roundtable once again recommended that OCC decrease the threshold applicable to equity options in an effort to continue to improve expiration

[10] 17 CFR 200.30–3(a)(12).

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

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] A conforming change is also being made to Rule 1106, which concerns the treatment of open positions following the suspension of a clearing member.

[4] In September, 2005, the threshold was reduced from $.75 to $.25 for equity options in a clearing member's customers' account and from $.25 to $.15 for equity options in any other account (*i.e.*, firm and market makers' accounts). Securities Exchange Act Release No. 50178 (August 10, 2004), 69 FR 51343 (August 18, 2004) [File No. SR–OCC–2004–04]. In October, 2006, the threshold became $.05 for equity options in all account types. Securities Exchange Act Release No. 54514 (September 26, 2006), 71 FR 58656 (October 4, 2006) [File No. SR–OCC–2006–05].

[5] OCC's Roundtable is an OCC sponsored advisory group comprised of representatives from OCC's participant exchanges, OCC, a cross-section of OCC clearing members, and industry service bureaus. The Roundtable considers operational improvements that may be made to increase efficiencies and lower costs in the options industry.