(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 NYSE Amendment No. 2 and NASD Amendment No. 2, including whether the amendments are consistent with the Exchange Act and whether there are any differences between the NYSE and NASD proposals that present compliance or interpretive issues.

On April 28, 2003, Commission Chairman William H. Donaldson, NASD Chairman and CEO Robert Glauber, NYSE Chairman and CEO Richard Grasso, and other regulators, announced the completion of enforcement actions against a number of the nation's largest investment banking firms.[50] The enforcement actions finalized a settlement in principle reached and announced by regulators last December.[51] The settlement followed joint investigations by the regulators of allegations of undue influence of investment banking interests on securities research at brokerage firms. The Commission notes that certain elements of the settlement cover areas addressed by the SROs in the Original Notice; however, the requirements are not identical. In light of the settlement, the Commission solicits additional comment on the NYSE and NASD rule changes that were proposed in the Original Notice.

In addition, the Commission specifically solicits comment on proposed NASD 2711(k) and proposed NYSE 472(m), which address small firms. In particular, the Commission requests comment on whether the proposed thresholds for the small firm exception are appropriate (ten or fewer investment banking services transactions as manager or co-manager and $5 million or less in gross investment banking revenues from those transactions). Should the $5 million limit apply to gross revenues from all investment banking services transactions rather than only to those for which the firm acted as manager or co-manager?

The Commission notes that, in addition to proposing rules to meet the requirements of the SOA and the small firm exception, in NYSE Amendment No. 2 the Exchange also proposed an Interpretation relating to public appearances and the print media that would require members to make and keep records of information relating to public appearances. The NASD has not included a similar record-keeping requirement in NASD Amendment No. 2. The Commission requests comment on whether this record-keeping requirement is appropriate, and whether both SROs should adopt such a requirement.

Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes 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 in 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of such filing will also be available for inspection and copying at the principal offices of the SROs. All submissions should refer to File Nos. SR–NYSE–2002–49 and SR–NASD–2002–154 and should be submitted by June 19, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[52]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–13446 Filed 5–28–03; 8:45 am]

BILLING CODE 8010–01–P

[50] SEC Press Release No. 2003–54 (April 28, 2003).

[51] SEC Press Release No. 2002–179 (December 20, 2002).

[52] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47898; File No. SR–OCC–2002–11]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving Proposed Rule Changes To Modify the Stock/Loan Hedge Program

May 21, 2003.

I. Introduction

On May 21, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') and on July 16 and September 26, 2002, amended proposed rule change SR–OCC–2002–11 pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on March 4, 2003.[2] For the reasons discussed below, the Commission is approving the proposed rule changes.

II. Description

The purpose of the proposed rule change is to modify OCC's Hedge Program, under which OCC operates a centralized facility for clearing stock loan/borrow transactions between OCC clearing members. In order to provide enhanced risk management while maintaining the flexibility of the current program, OCC proposes to establish: (i) Heightened financial requirements as a condition for clearing members to designate accounts as margin-ineligible; (ii) additional eligibility requirements for eligible securities; and (iii) limits on the notional value of the stock loan/borrow position that a clearing member may maintain in a single stock in a margin-ineligible account.

OCC's Hedge Program is intended to facilitate stock lending transactions among OCC's clearing members. Clearing members effecting stock loan/borrow transactions through the Hedge Program obtain the advantages of centralized clearing of those transactions as well as reduced credit risk through the substitution of OCC as the counterparty in all transactions. Unless a clearing member has designated an account as margin-ineligible for purposes of the Hedge Program, stock loan and borrow positions are margined by OCC's TIMS [3] margin system using the same basic risk assessment procedures that are used for positions in options or futures. For many clearing members, this results in an important advantage of the Hedge Program. By taking into consideration the reduction in risk where stock loan/borrow positions are on the opposite side of the market from option positions on the same underlying stock, the margin system will calculate a reduced margin requirement for the account containing the offsetting positions.[4]

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

[2] Securities Exchange Act Release No. 47402 (February 25, 2003), 68 FR 10291.

[3] The Theoretical Intermarket Margin System, known as TIMS, uses advanced portfolio theory to recognize economically and statistically reasonable hedges among various positions and to correctly assess the dollar risk of those positions.

[4] While similar offset may exist between positions in index options and a group of stock loan/borrow positions that are identified as baskets comprised of constituent securities in the index, the stock borrow basket/stock loan basket feature of the Hedge Program, although provided for in the OCC By-Laws and Rules, has not been placed into operation for

For other clearing members, however, the margin offset or hedging aspect of the Hedge Program is of little or no benefit. For these clearing members, the nature of their business is such that they rarely if ever have stock loan/borrow transactions that provide any significant offset against their options positions. These clearing members may nevertheless desire to use the Hedge Program because of its other benefits. The participation of these clearing members, which tend to be the larger clearing members, is desirable from OCC's perspective because they contribute liquidity to the program and facilitate the hedging activity of some of OCC's less well-capitalized clearing members.

For those clearing members whose stock loan/borrow positions are not ordinarily offset by options positions, clearing stock loan/borrow activity through the Hedge Program increases rather than reduces their risk margin requirement at OCC. In the stock loan market, collateral (usually equal to 100% or 102% of the value of the loaned stock) is provided by the borrower to the lender to secure the lender's obligation to return the stock. Daily mark-to-market payments between the borrower and lender maintain the collateral at that level. The same is true when stock loan activity is cleared through the Hedge Program. However, in addition to the collateral that is passed by OCC between the borrowing and lending clearing members, OCC's TIMS system also assesses both the borrower and the lender an amount of risk margin equal to one day's anticipated maximum market movement in order to protect OCC against a default by the borrower or the lender in its mark-to-market obligations. Because this risk margin is collected only for stock loan transactions that are submitted to OCC, clearing these transactions through OCC imposes additional costs on some clearing members.

In order to address this issue, the Hedge Program permits clearing members to elect to carry stock loan and borrow transactions on a margin-ineligible basis. If a clearing member designates an account as margin-ineligible, OCC will exclude any stock loan or borrow positions in that account when calculating the regular margin requirement for the account. OCC, however, relies on other elements of its protection systems [5] to assess its potential exposure with respect to positions carried in a margin-ineligible account.[6]

OCC believes that permitting clearing members to carry stock loan and borrow positions on a margin-ineligible basis is appropriate, safe, and essential to the competitiveness of the Hedge Program. However, in recognition of the fact that this alternative does create uncollateralized risk for OCC, OCC has conducted a study of credit practices in the stock loan market generally and has determined to implement certain measures to reduce its risk.

Although OCC's current risk management practices are consistent with industry standards, OCC is nevertheless adopting elevated financial standards for clearing members wishing to designate accounts as margin-ineligible for purposes of the Hedge Program. Clearing members would be required to maintain excess net capital of at least $75 million in order to carry margin-ineligible accounts with OCC.[7] OCC believes this requirement is sufficient to ensure strong participant credit standing without unduly hindering program participation.

The excess net capital requirement would be supplemented by a profitability standard. A clearing member will not be permitted to maintain a margin-ineligible account if it has: (i) Losses in one month equal to or exceeding 50 percent of its excess net capital; (ii) cumulative losses over two consecutive months equal to or exceeding 60 percent of its excess net capital; or (iii) cumulative losses over three consecutive months equal to or exceeding 70 percent of its excess net capital. These excess net capital and profitability standards will be ongoing tests and will have to be met at all times by a clearing member wishing to carry stock loan or borrow positions in any account on a margin-ineligible basis. Clearing members falling out of compliance with these standards will be precluded from clearing opening transactions in a margin-ineligible account while out of compliance.

The rationale for these requirements is that unlike a participant in the regular stock loan market, which has the ability to consider the impact of new transactions on counterparty credit limits before entering into them, OCC becomes a counterparty solely at the discretion of the lender and borrower without the ability to approve or disapprove individual loans on a credit basis before they are accepted for clearance. OCC's excess net capital and profitability standards should substitute for a transaction-by-transaction credit review. Using these straightforward requirements instead of a credit limit or activity cap makes it unnecessary for OCC to reserve the right to reject completed transactions in cases where acceptance would put one of the parties above its cap.

As an additional safety measure, OCC is amending the definition of ''eligible stock'' to exclude non-option stocks from the program subject to limited exceptions.[8] Loans for non-option stocks will be permitted to be maintained (i) if the loan was accepted prior to the implementation of the restriction or (ii) if the stock is deliverable upon exercise of an outstanding option (*e.g.*, where a stock ceases to be an option stock but options on that stock remain outstanding or where a non-option stock is distributed to holders of an option stock and options on the latter are adjusted to require delivery of both stocks). The restriction applies only to non-option stocks because OCC does not want to limit clearing members' ability to include option hedging transactions in their accounts.

Finally, no lender or borrower will be allowed to maintain a stock loan or borrow position in a single issue in a margin-ineligible account if the notional value of the position exceeds the clearing member's excess net capital. This restriction is intended to address concentration risk. Where the positions are carried in a margin-eligible account, the restriction is deemed unnecessary because OCC will hold collateral sufficient to cover the risk.

systems reasons. OCC is proposing in this filing to add an interpretation following Section 2 of Article XXI of the By-Laws stating that OCC will provide notice to its clearing members when this feature becomes operative.

[5] OCC especially relies on its concentration monitoring system, known as ConMon, which provides a comparison of the capital and net worth of each OCC clearing member to the market risk associated with the clearing member's positions. Securities Exchange Act Release No. 40083 (June 11, 1998), 63 FR 33424 (June 18, 1998) [File No. SR–OCC–98–3].

[6] For example, margin will be required for positions carried in a margin-ineligible account if predefined concentration monitoring parameters are exceeded.

[7] Clearing members currently maintaining margin-ineligible accounts would be given a one-year grace period in which to conform to the minimum excess net capital requirement. If a clearing member is not in compliance at the end of that period, OCC would thereafter treat all of the clearing member's accounts as margin-eligible.

[8] As originally filed, the proposed rule change sought to amend the definition of ''eligible stock'' to require that non-option stocks that are the subject of program transactions have a price per share of at least $10.00 at the time the transaction is submitted to clearance. The September 26, 2002, amendment excludes non-option stocks from the program subject to limited exceptions in order to more closely align the use of the Hedge Program with its primary objective of recognizing the intermarket hedges between a participant's stock and options positions.

III. 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 its custody or control or for which it is responsible.[9] The Commission finds that OCC's proposed rule change is consistent with this requirement because the elevated net capital requirement, the loss limitation standards, the restriction on non-option stocks, and the concentration limitation have been designed to provide enhanced risk management of OCC risks resulting from clearing members carrying stock loan/stock borrow positions in margin-ineligible accounts.

IV. 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. SR–OCC–2002–11) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–13450 Filed 5–28–03; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3492, Amdt. 2]

State of Mississippi

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 19, 2003, the above numbered declaration is hereby amended to include Pearl River and Marion Counties as disaster areas due to damages caused by severe storms, tornadoes and flooding beginning on April 6 and continuing through April 25, 2003.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Forrest, Lamar, Hancock, Harrison and Stone in the State of Mississippi; and St. Tammany Parish in the State of Louisiana may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is June 23, 2003, and for economic injury the deadline is January 26, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 2003.

Cheri C. Wolff,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 03–13280 Filed 5–28–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3498, Amdt. 2]

State of Tennessee

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective May 19, 2003, the above numbered declaration is hereby amended to include Hardin, Morgan and Sumner Counties in the State of Tennessee as disaster areas due to damages caused by severe storms, tornadoes and flooding occurring on May 4, 2003, and continuing.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Anderson, Fentress, Macon and Scott in the State of Tennessee; Allen County in the State of Kentucky; and Tishomingo County in the State of Mississippi may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is July 7, 2003, and for economic injury the deadline is February 6, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 21, 2003.

Cheri C. Wolff,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 03–13279 Filed 5–28–03; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (SSA/Internal Revenue Service (IRS) Match Number 1016)

AGENCY: Social Security Administration (SSA).

ACTION: Notice of the renewal of an existing computer matching program, which is scheduled to expire on June 30, 2003.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces the renewal of an existing computer matching program that SSA is currently conducting with the IRS.

DATES: IRS will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The renewal of the matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 965–8582 or writing to the Associate Commissioner, Office of Income Security Programs, 760 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records.

It requires Federal agencies involved in computer matching programs to:

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 200.30–3(a)(12).