negotiations concerning the above items, and so the Commission will have sufficient opportunity to review any comments it receives on the present notice. Finally, as with previous extensions of this pilot program, this extension will remain in effect only if the Plan continues in effect through that date pursuant to a Commission order.[10] In this regard, the Commission continues to believe that the above extension of exemptive relief is appropriate through September 15, 1996.

III. Comments on the Operation of the Plan

In the January 1995, August 1995, September 1995, October 1995, November 1995, December 13, 1995, December 28, 1995, and March 6, 1996 Extension Orders, the Commission solicited, among other things, comment on: (1) Whether the BBO calculation for the relevant securities should be based on price and time only (as currently is the case) or if the calculation should include size of the quoted bid or offer; and (2) whether there is a need for an intermarket linkage for order routing and execution and an accompanying trade-through rule. The Commission continues to solicit comment on these matters.

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 at the Commission's Public Reference Room. All submissions should refer to File No. S7–24–89 and should be submitted by April 15, 1996.

[10] In the March 6 Extension Order, the Commission extended these exemptions through March 15, 1996. Pursuant to a request made by the NASD, this order further extends the effectiveness of the relevant exemptions through September 15, 1996. *See supra,* note 3.

V. Conclusion

The Commission finds that an extension of temporary approval of the operation of the Plan through September 15, 1996, is appropriate and in furtherance of Section 11A of the Act. The Commission finds further that extension of the exemptive relief through September 15, 1996, as described above, also is consistent with the Act and the Rules thereunder. Specifically, the Commission believes that these extensions should serve to provide the Participants with more time to conclude their review of the BBO calculation and make appropriate recommendations concerning the need for an intermarket linkage and/or a trade-through rule now that the Participants have agreed on revenue sharing. This, in turn, should further the objectives of the Act in general, and specifically those set forth in Sections 12(f) and 11A of the Act and in Rules 11Aa3–1 and 11Aa3–2 thereunder.

*It is therefore ordered,* pursuant to Sections 12(f) and 11A of the Act and (c)(2) of Rule 11Aa3–2 thereunder, that the Participants' request to extend the effectiveness of the Joint Transaction Reporting Plan for Nasdaq/National Market securities traded on an exchange on an unlisted or listed basis and certain exemptive relief through September 15, 1996, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(29).

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–7153 Filed 3–22–96; 8:45 am]

BILLING CODE 8010–01–M

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**[Release No. 34–36983; File No. SR–OCC–96–01]**

## Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning Choice of Law Provisions in Connection With Amendments to Articles 8 and 9 of the Uniform Commercial Code

March 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 16, 1996, The Options Clearing Corporation (''OCC'') 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 OCC. The Commission is publishing this notice to solicit comments from interested persons.

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

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

The proposed rule change will change the choice of law provisions and other provisions in OCC's by-laws and rules in connection with Illinois' adoption of the 1994 amendments to Articles 8 and 9 of the Uniform Commercial Code (''UCC'').

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.[2]

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

In 1994, The American Law Institute and the National Conference of Commissioners on Uniform State Laws promulgated amendments to Articles 8 and 9 of the UCC (''1994 amendments''). To a significant degree, the 1994 amendments were adopted in response to the views of the Commission and others that the shortcomings in the provisions of the 1977 version of Articles 8 and 9 of the UCC contributed to the liquidity problems associated with the October 1987 stock market decline. The 1994 amendments were intended to reduce legal uncertainty and to facilitate the transfer of ownership of and creation of security interests in securities as well as other financial assets and investment property, including futures and futures options, through a set of rules designed to apply to the modern securities and futures holding systems.

OCC participated in certain aspects of the drafting process and believes that revised Articles 8 and 9 provide a framework of rules more appropriate to the special characteristics of OCC-cleared securities and for the holding of securities deposited with OCC for margin and for clearing fund purposes. OCC also believes the creation and

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

perfection of security interests arising in connection with cross-margining will be facilitated.[3] Accordingly, OCC believes that the 1994 amendments should govern its operations to the fullest extent possible even though the amendments have not been adopted in all jurisdictions.

Without this rule change, OCC will not receive the benefits of the application of the 1994 amendments despite its adoption in Illinois because OCC's by-laws and rules contain choice of law provisions that select Delaware as the governing law. Although the 1994 amendments have been adopted in Illinois, they have not been adopted in many other jurisdictions, including Delaware, the state of OCC's incorporation. OCC originally adopted the Delaware choice of law provisions to reinforce the provisions of the 1977 version of the UCC under which OCC options were deemed uncertificated securities. Under the conflict of laws rules in the 1977 version of the UCC, the law of the jurisdiction of incorporation of the issuer of uncertificated securities governs the perfection of security interests therein.

Under the 1994 amendments, OCC will function as a ''securities intermediary'' rather than an issuer of uncertificated securities. Under the new choice of law provisions in the 1994 amendments, the applicable law will be the law of the securities intermediary's jurisdiction, which may be selected by agreement between OCC and its clearing members. In absence of a contrary agreement, OCC believes that Illinois law will apply because under the choice of law rules found in the 1994 amendments, Illinois would be deemed the securities intermediary's jurisdiction. As discussed above, OCC's present choice of law rules were adopted solely to reinforce the choice of law provisions of the 1977 version of the UCC. However, in light of the 1994 amendments, OCC believes that Delaware law no longer has any special relevance. Accordingly, the present rule change will replace those provisions with Illinois choice of law provisions and makes certain other changes intended to create conformity with or a nexus between the terminology of OCC's by-laws and rules and the terminology of the 1994 amendments.

Notwithstanding the adoption of the Illinois choice of law provisions as set forth in this proposed rule change, there still will be situations in which the 1977 version of the UCC will be applicable. This could occur whenever UCC issues arise in a jurisdiction that has not adopted the 1994 amendments and a tribunal in that jurisdiction applies its own choice of law rules. Because the choice of law provisions in the 1977 version of the UCC are mandatory and cannot be altered by agreement, OCC's choice of law rules would not likely be enforceable and therefore Delaware law would be controlling.

Because this possibility exists, OCC is proposing to retain the provisions in its by-laws and rules that were deemed necessary or desirable to manage the application of Delaware law to options transactions. OCC's by-laws and rules presently contain interpretations to alert clearing members and others to the fact that Delaware law will not always govern notwithstanding the choice of law provisions. These interpretations will be adapted to reflect the proposed choice of law change from Delaware law to Illinois law. The effect of this change will be to alert members and others that now Illinois law, instead of Delaware law, may not always govern notwithstanding the choice of law provisions contained in OCC's by-laws.

To accommodate Illinois' adoption of the 1994 amendments, OCC proposes to make the following specific changes in its by-laws and rules. Article I, Section 1 of OCC's by-laws will be amended to add definitions of the terms ''lien'' and ''pledge'' to make it clear that these terms refer to a security interest within the meaning of the 1994 amendments. Even though the likelihood of misinterpretation on this point may be remote, OCC believes that the addition of these definitions seems prudent because lien and pledge no longer appear in the provisions of UCC Articles 8 and 9 under the 1994 amendments that are applicable to OCC. Section 1–201(37) of the UCC defines ''security interest'' broadly but without reference to such common law concepts as lien and pledge, which are subsumed within the amended definition of security interest.

Article 1, Section 1 will be amended further to modify OCC's definition of ''rules.'' In effect, Section 8–111 of the 1994 amendments provides that a rule adopted by a clearing corporation supersedes contrary provisions of the UCC. In order to take full advantage of this provision, OCC has proposed that the definition of rules be amended to make it clear that for purposes of Articles 8 and 9 the term ''rules of a clearing agency'' as applied to OCC will mean anything deemed to be a rule of a clearing agency under the Act.

Article VI, Section 9(c) of OCC's by-laws will be amended to replace the basic choice of law provision applicable to option holders and writers with respect to cleared securities. Subparagraph 1 of Section 9(c) will contain statements indicating how revised Articles 8 and 9 will apply to OCC and its clearing members with regard to ownership of and security interests in cleared securities. These statements are not intended to alter the substantive operation of Articles 8 and 9 but are intended merely to provide a guide to proper interpretation of Articles 8 and 9. However, UCC Section 8–111 does permit OCC to supersede provisions of the UCC with its own rules. Accordingly, Section 9(c)(1) as proposed sets forth that all cleared securities will be deemed financial assets without the need to consider whether a particular cleared security is a similar obligation to an option as would be required under the regular definition of financial asset set forth in Section 8–102 of the 1994 amendments. Subparagraph 2 of Section 9(c), which essentially is the prior OCC choice of law provision, will remain in place to cover situations where the 1977 version of the UCC is applicable.

OCC Rule 610(g) involves the use of depository receipts and electronic confirmations in connection with specific or bulk deposits made to OCC in lieu margin payments. As proposed in the current filing (File No. SR–OCC–96–01), OCC does not intend to amend Rule 610(g), if the Commission approves SR–OCC–95–17 prior to the current filing.[4] However, if the current rule filing is approved prior to SR–OCC–95–17, OCC has proposed in the current filing certain amendments to Rule 610(g), and OCC will be required to amend SR–OCC–95–17 to reflect the

[3] Currently, there is a two to three week delay before OCC members that also are members of the Chicago Mercantile Exchange (''CME'') or the Kansas City Board of Trade (''KCBOT'') (''joint members'') are eligible to participate in the cross-margining arrangements OCC has with CME and KCBOT (''cross-margining participants''). Prior to participation in these cross-margining arrangements, OCC requires that security interests be created and perfected in securities held by the joint member prior to such member's eligibility as a cross-margining participant. Under the 1977 version of the UCC, one option to perfect a security interest in securities requires the filing of the appropriate financing statements. Filing of the appropriate financing statements and confirmation thereof typically can take from two to three weeks. However, under the 1994 amendments, OCC believes that financing statements no longer will be necessary for perfection purposes. As a result, joint members can become cross-margining participants in a matter of days instead of weeks. Telephone Conversation between Michael G. Vitek, Staff Counsel, OCC, and Mark Steffensen, Attorney, Division of Market Regulation, Commission (February 12, 1996).

[4] On November 2, 1995, OCC filed a proposed rule change (File No. SR–OCC–95–17) to amend OCC Rule 610(g).

changes made to this rule by the current rule filing.[5]

Finally, OCC Rule 614(m) concerning OCC's obligations to pledges under OCC's pledge program will be revised to make clear that certain provisions of this rule which relate to the 1977 version of Articles 8 and 9 will apply only if the 1977 version of the UCC is otherwise applicable.

OCC believes the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act[6] because it will promote the protection of investors by enhancing OCC's ability to safeguard the securities and funds in its possession or subject to its control.

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

OCC does not believe that the proposed rule change will impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were not and are not intended to be solicited by OCC with respect to the proposed rule change and none were received.

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 submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–96–01 and should be submitted by April 15, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96–7068 Filed 3–22–96; 8:45 am]

**BILLING CODE 8010–01–M**

[5] SR–OCC–95–17 will amend Rule 610(g) to eliminate the requirement that in certain circumstances a depository has to acknowledge that securities transfers or pledges were effected through book-entry. This requirement arose because in order to effect a securities pledge and the corresponding perfection of a security interest therein or to deposit securities in favor of OCC, the 1977 version of Article 8 required that the pledgor or depositor ''transfer'' the security to OCC. In order to effect this transfer, Section 8–313 of the 1977 version of the UCC required an acknowledgement by the depository if the securities were delivered by book-entry. Under the 1994 amendments, a transfer pursuant to Section 8–313 is no longer required to effect a securities deposit or pledge. In fact, the entire concept of a transfer requirement in connection with a securities pledge or deposit previously embodied in Section 8–313 of the 1977 version of the UCC has been removed from the 1994 amendments. Under Sections 9–115 and 8–106 of the 1994 amendments, a securities deposit or pledge in favor of OCC with the corresponding perfection of a security interest therein is effected once the transferee or pledge obtains control over the securities. Therefore, depository acknowledgement no longer is required in connection with securities deposits or pledges in favor of OCC involving book-entry delivery of securities.

[6] 15 U.S.C. 78q–1 (1988).

[7] 17 CFR 200.30–3(a)(12) (1995).

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**[Release No. 34–36984; File No. SR–PSE–96–02]**

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the Pacific Stock Exchange, Inc., Relating to the Composition of the Exchange's Options Listing Committee

March 18, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on January 16, 1996, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization.[1] 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

Currently, Commentary .01 to PSE Rule 11.10(d) provides that the OLC shall be comprised of (i) four floor brokers; (ii) five market makers or lead market makers; and (iii) one member of the PSE or a general partner or officer of a member organization, or any other person who is considered to be qualified. The PSE proposes to amend PSE Rule 11.10(d), Commentary .01, to provide that the Exchange will attempt, but will not be required, to maintain the composition of the OLC as provided currently under Commentary .01.

The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

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

In its filing with the Commission, the self-regulatory organization 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. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the

[1] On March 11, 1996, the PSE provided additional information concerning the purpose of the proposal. Specifically, the PSE explained that the proposal is designed to make Commentary .01 to PSE Rule 11.10(d), ''Options Listing Committee,'' easier to follow and to prevent legal appeals of Options Listing Committee (''OLC'') decisions on the technical argument that the OLC was not authorized to act because its composition did not conform to the rigid requirements of PSE Rule 11.10(d), Commentary .01. According to the PSE, such an appeal could be made currently if, for example, a non-floor broker is placed in one of the floor broker slots on the OLC because of a shortage of floor brokers willing to serve on the OLC, or if a floor broker on the OLC becomes a market marker mid-year and the OLC decides to retain that member on the OLC. The PSE expects that, under the proposal, the OLC will be composed as specified in Commentary .01 under virtually all circumstances. The Exchange represents that it intends to comply with the spirit of the Commentary and anticipates departures from this general rule only in exceptionally rare circumstances. *See* Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Michael Walinskas, Branch Chief, Options Regulation, Division of Market Regulation, Commission, dated March 11, 1996 (''Amendment No. 1'').