

or more option contracts of the put class and the call class on the same side of the market covering the same underlying security.¹² Finally, the Commission believes that approval of the NASD's Hedge Exemption on a permanent basis is appropriate in order to achieve parity with the exchange-trade options markets.¹³

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (SR-NASD-98-78) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40816; File No. SR-NASD-98-81]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change Relating to Application of the Corporate Financing Rule to Certain Offerings by Charitable Organizations

December 21, 1998.

I. Introduction

On October 29, 1998, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly-owned subsidiary NASD Regulation, Inc. ("NASD Regulation"), submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² proposed rule change to amend NASD Rule 2710 ("Corporate Financing Rule") to exempt certain offerings by charitable organizations from the pre-offering filing requirements. The Commission published the proposed rule change for comment in the **Federal Register** on November 19, 1998.³ No comments

were received. This order approves the proposal.

II. Description of the Proposal

Rule 2710 currently subjects "church bond" offerings to a filing requirement with the Corporate Financing Department of NASD Regulation ("Department") so that the Department has an opportunity to determine whether compensation terms and arrangements are fair and reasonable for purposes of the rule. According to NASD Regulation, the aggregate underwriting compensation received by church bond broker/dealers has been significantly below the maximum amount of underwriting compensation that is permitted under Rule 2710.

Under the proposal, offerings of securities by a church or other charitable institution that are exempt from SEC registration pursuant to Section 3(a)(4) of the Securities Act of 1933 ("Securities Act")⁴ would be exempt from the filing requirements, but not the substantive requirements, of the Corporate Financing Rule. NASD Regulation proposes to implement the proposed rule change on the date of SEC approval.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of Section 15A(b) of the Act and the rules and regulations thereunder applicable to a national securities association in general and, in particular, the requirements of Section 15A(b)(6) of the Act.⁵ Section 15A(b)(6) requires, among other things, that the Association's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.⁶

The Commission believes that it is reasonable to eliminate the filing requirement in Rule 2710 for certain church bond offerings to allow NASD Regulation to better allocate its staff resources. The Commission notes that NASD Regulation has not recently identified any problems with these offerings and that the proposed exemption relates only to the filing

requirements, but not the substantive requirements, of Rule 2710. The Commission also notes that only the offerings that are exempt under Section 3(a)(4) of the Securities Act would be covered under the proposed exemption.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (SR-NASD-98-81) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁸

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40813; File No. SR-OCC-98-06]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Market Coordination in the Application of Circuit Breakers

December 21, 1998.

On June 9, 1998, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") and on July 23, 1998 and October 27, 1998, amended the proposed rule change (File No. SR-OCC-98-06) 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 November 5, 1998.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

On April 9, 1998, the Commission approved amendments to the "circuit breaker" provisions of Rule 80B of the New York Stock Exchange ("NYSE").³ Under the amended Rule 80B, the securities markets could reopen after a trading halt and continue to trade in the range of 20 to 30 percent down while the rules of the Chicago Mercantile Exchange would not permit index

¹² See Rule 2860(b)(5).

¹³ See, e.g., American Stock Exchange Rule 904; Chicago Board Options Exchange Rule 4.11.

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 40676 (November 12, 1998), 63 FR 64303.

⁴ 15 U.S.C. 77c(a)(4). The Commission emphasizes that in order for the proposed exemption to apply the offering must qualify under Section 3(a)(4) of the Securities Act, which requires that the offering not be for pecuniary profit, and no part of the net earnings can inure to the benefit of any person, private stockholder, or individual.

⁵ 15 U.S.C. 78o-3(b)(6).

⁶ In approving this proposed rule change, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁷ 15 U.S.C. 78s(b)(2).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s (b) (1).

² Securities Exchange Act Release No. 40624 (October 30, 1998) 63 FR 59834.

³ Securities Exchange Act Release No. 39846 (April 9, 1998) 63 FR 18477. OCC submitted a comment letter in response to the notice of the proposed rule change. Letter from Wayne P. Luthringshausen, Chairman, OCC (March 23, 1998).