

to Section 19(b)(3)(A)(ii) of the Act⁴ and Rule 19b-4(f)(2)⁵ promulgated thereunder. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. 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 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 Section, 450 Fifth Street NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NSCC. All submissions should refer to the File No. SR-NSCC-2002-02 and should be submitted by April 11, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45557; File No. SR-OCC-2001-17]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Establishing Financial Reporting Standards for Clearing Futures Commission Merchants That Are Not Fully Registered With the Commission as Broker-Dealers

March 14, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on November 9, 2001, 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 on the proposed rule change from interested persons.

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

The proposed rule change amends OCC Rule 306 to facilitate financial reporting by clearing members that are FCMs not fully registered with the Commission as broker-dealers.

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

As a result of the Commodity Futures Modernization Act, entities registered with the Commodity Futures Trading Commission ("CFTC") as futures commission merchants ("FCMs") are

allowed to trade in security futures upon notice registration with the Commission.³ These entities are not subject to the full panoply of Commission regulation, and in particular, they are not required to file reports of financial condition under Rule 17a-5. As a result of amendments to OCC's Rules that were approved by the Commission in File No. SR-OCC-2001-07 (adopting rules for the clearance and settlement of security futures), such entities are now allowed to become clearing members of OCC.⁴ OCC has also filed an application with the Commission and the CFTC seeking authority to clear futures on broad-based indexes and options thereon.⁵ These products are regulated exclusively by the CFTC, and OCC's proposed rules would permit it to admit clearing members that are regulated exclusively by the CFTC and not registered as broker-dealers at all.

The purpose of this rule change is to facilitate financial reporting by clearing members that are FCMs not fully registered with the Commission as broker-dealers while providing OCC with the same level of financial oversight that OCC has with respect to other clearing members. Such FCMs will be permitted to file their monthly financial reports with OCC using the CFTC's Form 1-FR-FCM. However, notwithstanding the provisions of CFTC Regulation 1.10(b) generally requiring such reports to be filed with the CFTC on a quarterly basis, OCC will require such reports to be filed with OCC monthly. OCC believes that monthly reporting is conducive to the protection of OCC, its clearing members, and the public.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the regulations thereunder because it protects investors and the public interest by ensuring the availability of adequate financial information to OCC regarding clearing members.

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

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

³ Section 15(b)(11)(A) of the Securities Exchange Act of 1934.

⁴ Securities Exchange Act Release No. 44727, (August 20, 2001), 66 FR 45351.

⁵ The CFTC granted OCC's application for registration as a derivatives clearing organization on December 12, 2001. The Commission has published notice of OCC's filing. Securities Exchange Act Release No. 45152, (December 12, 2001), 66 FR 65770.

⁴ 15 U.S.C. 78s(b)(3)(A)(ii).

⁵ 17 CFR 240.19b-4(f)(2).

⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

(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 with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act⁶ and Rule 19b-4(f)(1)⁷ thereunder because it constitutes a stated policy, practice or interpretation with respect to the meaning, enforcement or administration of an existing rule. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

VI. 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. 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 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 Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR-OCC-2001-17 and should be submitted by April 11, 2002.

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. 34-45558; File No. SR-OCC-2002-01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Eliminating Clearing Fees

March 14, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 11, 2002, 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 on the proposed rule change from interested persons.

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

The proposed rule change amends OCC's fee schedule to eliminate certain fees for discontinued or soon to be discontinued services.

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

The purpose of this rule change is to amend OCC's fee schedule in two

respects. First, OCC is eliminating ONN Fees, effective January 1, 2002. ONN is an electronic bulletin board service operated by OCC for clearing members and other subscribers to access pertinent information posted by OCC and the options exchanges.³ Information posted on ONN includes information memos on contract adjustments, other notices to clearing members, statistical and volume information, and certain reports. Most of the information made available via ONN is now available on OCC's public web site, www.optionsclearing.com. Other information not currently available on OCC's web site will be made available via MyOCC,TM a new web site portal that OCC is creating for use by clearing members and other subscribers. When MyOCCTM is launched, ONN will no longer be offered and MyOCCTM will become the principal vehicle for disseminating options related information. At this time, OCC has determined not to charge fees to access MyOCC,TM and it would be inconsistent with that policy to continue to charge fees for ONN in the meantime.

Second, OCC is eliminating off-site microfiche retrieval charges. In 1996, OCC converted the media on which historical reports were made available to subscribing clearing members from microfiche to CD-ROM and amended its fee schedule to reflect the associated charges.⁴ As stated in Filing SR-OCC-96-14, microfiche charges were to be eliminated after the conversion was completed. The conversion was finished some time ago, and accordingly, OCC is updating its fee schedule.

OCC believes the proposed rule change is consistent with Section 17A of the Act because it eliminates fees charged to clearing members and other subscribers for discontinued or soon to be discontinued services.

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

OCC does not believe that the proposed rule change would 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 with respect to the proposed rule change, and none have been received.

³ Securities Exchange Act Release No. 28669 (December 3, 1990), 55 FR 50793 [Filed No. SR-OCC-09-12].

⁴ Securities Exchange Act Release No. 37993 (November 27, 1996), 61 FR 64407 [File No. SR-OCC-96-14].

⁶ 15 U.S.C. 78s(b)(3)(A)(i).

⁷ 17 CFR 240.19b-4(f)(1).

⁸ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.