

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. 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, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of MBSCC.

All submissions should refer to File No. SR-MBSCC-99-01 and should be submitted by March 23, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41086; File No. SR-NSCC-99-01]

#### Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Revising the Fee Schedule for the Annuity Processing Service

February 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 4, 1999, the National Securities Clearing Corporation ("NSCC") 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 NSCC. 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 revises NSCC's fee schedule with regard to its Annuity Processing Service ("APS").<sup>2</sup>

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

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

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

On December 28, 1998, NSCC filed with the Commission its fee schedule for certain APS transactions, which became effective upon filing.<sup>4</sup> In that filing, NSCC erroneously stated that the fee to be charged for the transmission of a financial activity report ("FAR") by insurance carriers to distributors was \$0.50 per FAR transmitted or received.<sup>5</sup> The proposed rule change corrects NSCC's fee schedule to reflect that the fee for the transmission of a FAR by insurance carriers to distributors is \$.05 per each FAR transmitted or received.<sup>6</sup>

<sup>2</sup> For a detailed description of APS, refer to Securities Exchange Act Release Nos. 39096 (September 19, 1997), 62 FR 50416 [File No. SR-NSCC-96-21] (order approving the establishment of APS and the implementation of phase one of APS) and 40799 (December 16, 1998), 63 FR 71175 [File No. SR-NSCC-98-07] (order approving the implementation of phase two of APS).

<sup>3</sup> The Commission has modified the text of the summaries prepared by NSCC.

<sup>4</sup> Securities Exchange Act Release No. 40975 (January 25, 1999), 64 FR 4920 [File No. SR-NSCC-98-16].

<sup>5</sup> NSCC has not charged its members any fee for such transactions since NSCC filed its fee schedule with the Commission on December 28, 1998. For transactions submitted on or after February 1, 1999, NSCC will charge its member the corrected fee.

<sup>6</sup> The text of the proposed revision to NSCC's fee schedule is attached as Exhibit A to NSCC's rule filing, which is available for inspection and copying

NSCC believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act<sup>7</sup> and the rules and regulations thereunder because it provides for the equitable allocation of reasonable dues, fees, and other charges among NSCC's participants.

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

NSCC does not believe that the proposed rule change will impact or impose a burden on competition.

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

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

#### 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)(ii) of Act<sup>8</sup> and pursuant to Rule 19b-4(f)(2)<sup>9</sup> promulgated thereunder because the proposal changes a due, fee, or other charge imposed by NSCC. At any time within sixty days of the filing of such 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. 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

in the Commission's Public Reference Room and through NSCC.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>8</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR-NSCC-99-01 and should be submitted by March 23, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41088; File No. SR-OCC-98-10]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Regarding Supplementary Exercise Notices

February 22, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 10, 1998, The Options Clearing Corp. ("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 on the proposed rule change.

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

Under the proposed rule change, OCC will amend its expiration date exercise procedures to impose filing fees for exercise notices that are tendered after OCC's prescribed deadlines.

#### 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.<sup>2</sup>

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

The purpose of the proposed rule change is to modify OCC's rules that govern the submission of supplementary exercise notices on an expiration date.

Rule 805 governs the submission of expiration date exercise instructions. The rule states that if a clearing member tenders an exercise notice in response to an expiration exercise report after OCC's deadline, the tender is in violation of OCC's procedures. Rule 805 further provides that the clearing member shall be subject to disciplinary procedures unless the clearing member was prevented from submitting timely exercise instructions due to one of the circumstances specified in the rule.

Supplementary exercise notices require special processing that is manually intensive. Therefore, OCC is in the process of reviewing the effectiveness of its rules and procedures relating to expiration date exercise processing. As a result of this ongoing review, OCC believes it is necessary to modify Rule 805 to more closely align the treatment of supplementary exercise notices that are submitted on expiration dates with the treatment of late exercise instructions that are submitted on other dates.

Rule 801 imposes a graduated schedule of filing fees for any request to file exercise instructions after the applicable deadline. Rule 801 fees increase at specified times depending on when the filing is made in relation to OCC's nightly processing cycle.

Under the proposed rule change, OCC will institute a similar schedule of fees for the submission of supplementary exercise notices on expiration dates. These fees will also increase depending on when the request was made in relation to the expiration processing cycle. Under the rule change, OCC will impose a filing fee of \$2,000 per clearing member for any supplementary exercise notice tendered after the deadline prescribed pursuant to subparagraph (b) of Rule 805 but before the start of critical expiration processing. A filing fee of \$10,000 per line item per clearing member will be charged for any supplementary exercise notice tendered after the start of critical expiration processing. OCC's board of directors will be authorized to remit any filing fee if it finds that the circumstances that

gave rise to the fee were beyond the clearing member's or its customer's control or that remission would be otherwise equitable under the circumstances. OCC will further modify Rule 805 to delete the required institution of disciplinary procedures for the unexcused tender of supplementary exercise notices. Instead, the institution of such procedures will be permissive as is the case under Rule 801(e)(4).

Finally, OCC will amend Rule 805 to add a provision that will require that the tender of supplementary exercise notices be in accordance with the procedures prescribed by OCC from time to time. Under the rule change, failure to follow the procedures prescribed by OCC will result in the supplemental exercise notice being deemed null and void. This requirement is intended to ensure that supplemental exercise notices are received by the appropriate personnel who can act on them in a timely fashion in order to prevent undue delays in providing assignment information to clearing members.

The proposed rule change is consistent with Section 17A of the Act<sup>3</sup> and the rules and regulations thereunder because it enhances OCC's procedures for expiration processing of options contracts.

#### (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.

#### 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

<sup>10</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(A).