

speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit. Applicants contend that because neither of the harms that Rule 22c-1 was meant to address is found in the recapture of the Credit, Rule 22c-1 and Section 22(c) should have no application to any Credit. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c-1 to the extent deemed necessary to permit them to recapture the Credit under the Contracts and Future Contracts.

8. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put an amount greater than their purchase payments to work for them in the selected variable investment options. Also, owners will retain any earnings attributable to the Credit and, unless any of the contingencies set forth on the Application apply, the principal amount of all Credit.

9. Applicants submit that the recapture of any Credit only applies in relation to the risk of anti-selection against an Insurance Company. "Anti-selection" can generally be described as a risk that Contract owners obtain an undue advantage based on elements of fairness to the Insurance Companies and the actuarial and other factors each takes into account in designing the Contracts. Each Insurance Company provides all Credits from its general account on a guaranteed basis. Thus, it undertakes a financial obligation that contemplates the retention of the Contracts by their owners over an extended period, consistent with the long-term nature of retirement planning. The Insurance Companies expect generally to recover their costs, including Credits, over an anticipated duration while a Contract is in force. An Insurance Company's right to recapture Credits applied to purchase payments made within a year of death protects the Insurance Company against the risk that owners will contribute larger amounts as they approach death to obtain the Credit, while avoiding Contract charges over the long term. With respect to refunds paid upon the return of Contracts within the "free-look" period, the amount payable by the Insurance Company must be reduced by the allocated Credits. Otherwise, purchasers could apply for Contracts for the sole purpose of exercising the free-look refund provision and making a quick profit.

10. Applicants submit that their request for an order that applies to any

Account or any Future Account established by an Insurance Company in connection with the issuance of Contracts and Future Contracts that are substantially similar to the Contracts described herein in all material respects, and underwritten or distributed by PIMS or Affiliated Broker-Dealers, is appropriate in the public interest. Such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this Application. Having Applicants file additional applications would impair Applicants' ability effectively to take advantage of business opportunities as they arise.

11. Applicants undertake that Future Contracts funded by Accounts or by Future Accounts that seek to rely on the order issued pursuant to this Application will be substantially similar to the Contracts in all material respects.

#### Conclusion

Sections 6(c) of the Act, in pertinent part, provides that the Commission, by order upon application, may conditionally or unconditionally exempt under persons security or transaction, or any class or classes or persons, securities or transactions, from any provision or provisions of the Act, or any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that, based upon the facts and for the reasons set forth above, their exemptive requests meet the standards set out in Section 6(c) and that an order should, therefore, be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-43244; File No. SR-OCC-00-06]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Clearing Fees Charged for Established Products Effective September 1, 2000

September 5, 2000.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on August 10, 2000, 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 parties.

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

OCC is proposing to reduce its levels of clearing fees which are charged for established products effective September 1, 2000.

#### 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 these statements.<sup>2</sup>

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

OCC is proposing to reduce the clearing fees charged for established products. During the first half of 2000, OCC experienced a record volume of options cleared. As a result, OCC proposes to reduce its clearing fees, effective September 1, 2000, as follows:

<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.

Contract trade level	Current clearing fee	Proposed clearing fee
1–500 .....	\$0.09/contract .....	\$.0575/contract.
501–1000 .....	0.07/contract .....	.045/contract.
1001–2000 .....	0.06/contract .....	.04/contract.
>2000 .....	110.00 flat fee .....	65.00 flat fee.

The proposed discounted fee schedule will enable clearing members to benefit from reduced fees without adversely affecting OCC's ability to maintain an acceptable level of retained earnings. Commencing the first trading day of 2001, the discounted clearing fees will revert to their current levels.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>3</sup> and the rules and regulations thereunder because it benefits clearing members by reducing fees and allocates fees among clearing members in an equitable manner.

*(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**

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(ii)<sup>4</sup> of the Act and Rule 19b-4(f)(2)<sup>5</sup> promulgated thereunder because the proposal establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of such 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 also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-00-06 and should be submitted by October 4, 2000.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**User Input to the Aviation Weather Technology Transfer (AWTT) Board**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The FAA will hold an informal public meeting to seek aviation weather user input. Details: October 10, 2000; Ernest N. Morial Convention Center, 900 Convention Center Blvd., New Orleans, Louisiana; 1 pm to 5 pm in room 244. The objective of this meeting is to provide an opportunity for interested aviation weather users to provide input on FAA's plans for implementing new weather products.

**DATES:** The meeting will be held in Room 244 at the Ernest N. Morial Convention Center, 900 Convention

Center Blvd., New Orleans, LA 70130 in conjunction with the National Business Aviation Association, Inc. (NBAA) annual convention. Times: 1 5 pm, on October 10, 2000.

**FOR FURTHER INFORMATION CONTACT:** Debi Bacon, Aviation Weather Policy Division, ARW 100, Federal Aviation Administration, 400 7th St. SW., Washington, DC 20590; telephone number (202) 366 1040; fax: (202) 366 5549; email: [debi.bacon@faa.gov](mailto:debi.bacon@faa.gov). Internet address: <http://www.debi.bacon@faa.gov>.

**SUPPLEMENTARY INFORMATION:**

**History**

The FAA has established an Aviation Weather Technology Transfer (AWTT) Board to manage the orderly transfer of weather capabilities and products from research and development into operations. The AWTT Board is chaired by the head of the Aviation Weather Directorate, ARW-1 and is composed of stakeholders in Air Traffic Services, ATS; Regulation and Certification, AVR; and Research and Acquisitions, ARA in the Federal Aviation Administration and the Office of Meteorology in the National Weather Service.

The AWTT Board will meet semi-annually or as needed, to determine the readiness of weather research and development products for experimental use or for full operational use. The Board's determinations will be based upon criteria in the following areas: users' needs; benefits; costs; risks; technical readiness; operational readiness and budget requirements.

The user interface process is designed to allow FAA to both report progress and receive feedback from industry users. Each AWTT Board meeting will be preceded by a half-day industry review session approximately one month prior to each Board meeting. These industry review sessions will be announced in the **Federal Register** and open to all interested parties.

This meeting is the first industry review session and is intended to receive feedback for the November 2000 AWTT Board meeting.

**Meeting Procedures**

(a) The meeting will be informal in nature and will be conducted by

<sup>3</sup> 15 U.S.C. 78q-1.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>5</sup> 17 CFR 240.19b-4(f)(2).

<sup>6</sup> 17 CFR 200.30-3(a)(12).