

The Commission finds that extending the pilot period of the Plan furthers the goals described above by preventing the lapsing of the sole effective transaction reporting plan for Nasdaq securities traded by other exchanges pursuant to unlisted trading privileges. The Commission believes that the Plan is currently a critical component of the national market system and that the Plan's expiration would have a serious, detrimental impact on the further development of the national market system.

III. Conclusion

It is therefore ordered, pursuant to sections 12(f) and 11A of the Act¹³ and paragraph (c)(2) of Rule 11Aa3-2¹⁴ thereunder, that the pilot expiration date for the Plan be, and hereby is, extended through August 19, 2003.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46378; File No. SR-OCC-2002-18]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Matched Trade Reporting

August 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 30, 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 would amend OCC's by-laws and rules relating to exchanges' reports of matched trades to OCC and to OCC providing positions and exercise information to clearing members.

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 proposed rule change would modify OCC's by-laws and rules to accommodate the transition to near real-time reporting of matching trade information by the options exchanges.³ In addition, OCC's rules would be modified to reflect that OCC may make available to clearing members updated position and exercise information; however, such information would be provisional until final processing.

Each option exchange currently compares the trade information submitted by purchasing and selling members with respect to each transaction effected on that exchange. A compared transaction reflects that the parties to the trade have agreed on the terms of the trade. After the completion of its comparison processing, an exchange transmits to OCC a cumulative report of all matched trades effected or reconciled on that exchange on that particular trading day.⁴ A compared or "matched" trade reported to OCC also contains additional information required by OCC, including, for example, the identity of the purchasing

² The Commission has modified parts of these statements

³ While the language of this filing reflects OCC's current business of clearing and settling exchange traded options, the filing and the change to OCC's by-laws and rules extend to matching trade information from national securities exchanges, national securities associations, futures merchants, security futures markets, and international markets for which OCC clears and settles transactions.

⁴ While OCC receives periodic matched trade transmissions for each option exchange during a business day, it currently uses the cumulative matched trade transmission made by each exchange for position processing and does not use intraday transmissions for position processing. OCC anticipates that the option exchanges will gradually transition to reporting of matched trades on a near real-time basis. Until all exchanges have transitioned to near real-time matched trade reporting during the business day, OCC's systems will accept and process a cumulative batch transmission, intermittent batch transmissions, and near real-time matched trade reporting.

and selling clearing members, the accounts in which each side of the transaction was effected, the exercise prices, the expiration date, and the number of options contracts.⁵ Each night, OCC processes the cumulative report of matched trades submitted by each option exchange, as well as exercise notices submitted by clearing members and accepted by OCC, and updates the clearing members' positions for the next trading day.

In connection with systems modification, OCC is proposing to amend its by-laws and rules so that it would accept and process matched trades reported by the exchanges on a near real-time basis. After receipt of a matched trade, OCC would process the matching trade information and make available updated position information for clearing member review throughout the trading day. However, a matched trade reported by a particular exchange might not always be complete or accurate for a variety of reasons. A clearing member may need to modify or append additional information after the matched trade has been sent to OCC. For example, a clearing member may need to reflect that a transaction was either to open or close a position. In such cases, the reporting exchange would instruct OCC to disregard a previously reported matched trade and would report new matching trade information to replace the original transaction. No replacement matching trade information would be reported by an exchange if the previously reported matched trade was to be disregarded altogether. Because an exchange may instruct OCC to disregard a previously submitted matched trade, OCC proposes to amend Article VI, Section 7 of its by-laws to reflect that, in accordance with such an instruction, the matched trade would be deemed null and void and given no effect under the by-laws and rules. In addition, Section 7 would be amended to reflect that OCC would not be liable to any writer, holder, buyer, or seller in acting on an exchange's instruction to disregard a previously submitted trade. Article VII, Section 7 and Rules 401 and 402 also would be amended to eliminate references to the receipt of a report of matched trades. Instead, these provisions would reference the reporting of matching trade information by an exchange. Other by-law and rule provisions that describe the receipt of a

⁵ See Article VI, Section 7 of OCC's by-laws and OCC Rule 401 for a description of the information required by OCC.

¹³ 15 U.S.C. 78l(f) and 15 U.S.C. 78k-1.

¹⁴ 17 CFR 240.11Aa3-2(c)(2).

¹⁵ 15 U.S.C. 78s(b)(1).

report of matched trades would be similarly revised.⁶

Rule 501, which governs position reporting by OCC to its clearing members, would be amended to reflect that position information updated during a business day would only be provisional and informational in nature and that only clearing members' daily position reports could be relied upon as definitely reflecting their final positions. Daily position reports are made available to clearing members the business day after the trade date.

Rule 801, which relates to exercises of options, also would be amended to reflect that exercise information provided throughout a business day would be provisional and informational only. Exercises accepted by OCC would be definitely reflected in delivery advices and exercise and assignment reports. Such advices or reports are made available the following business day.

OCC requests that the Commission approve this rule change by October 31, 2002, so that the changes are effective when OCC implements the supporting system changes. These system changes are scheduled for implementation in early November 2002.

OCC believes that the proposed rule change is consistent with section 17A of the Act because it facilitates the prompt and accurate clearance and settlement of cleared 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 the self-regulatory

⁶In addition, the term settlement time, as defined in Section 1.S. of Articles XV, XX, and XXIII is being modified to reflect OCC's receipt of matching trade information as opposed to a matched trade report.

organization consents, the Commission will:

(a) By order approve the 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, 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-2002-18 and should be submitted by September 13, 2002.

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

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46377; File No. SR-OCC-2002-15]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Dating Assignments

August 19, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 3, 2002, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

("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 would amend OCC Rule 803 to provide that assignments of exercise notices will be dated and effective on the same date that the applicable exercise notice was accepted by OCC.

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 modify Rule 803 to provide that assignments will be dated and effective on the same date that the related exercise notice was accepted by OCC. Rule 803(b) currently provides that assignments are dated and effective as of the business day following the exercise date. This reflects the mechanics of OCC's processing. OCC assigns exercises on an overnight basis, but assigned clearing members do not receive notice of assignment until the morning of the day after exercise. OCC's practice has been to date assignments as of the day the assigned clearing members receive the notice of assignment. However, the trade (*i.e.*, the purchase or sale of stock) resulting from the exercise is treated as having occurred on the exercise date not the assignment date. Thus, settlement takes place on the third business day following the exercise date.³

This has the potential to cause confusion for call writers. OCC has learned that some, if not all, clearing members use the same assignment date

² The Commission has modified parts of these statements.

³ OCC Rule 902.