

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47902; File No. SR-OCC-2002-14]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Procedures for Processing Late and Supplementary Exercise Instructions

May 22, 2003.

I. Introduction

On June 28, 2002, the Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-OCC-2002-14 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 March 4, 2003.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The proposed rule change amends Rules 801(e) and 805(g) to modify OCC’s fees for processing late exercise instructions and supplementary exercise notices and amends Rule 801(e) to establish a specific cut-off time for accepting late exercise notices after the start of critical processing and to eliminate OCC’s ability to accept instructions to modify a previously submitted exercise notice after the start of critical processing.

Background

Rule 801 sets forth the procedures for submitting exercise notices on a business day which is not an expiration date, including the requirement that such submissions be completed by 7 p.m. (All times are Central Time.) Rule 801(e) provides OCC with the authority to permit clearing members to file, revoke, or modify exercise notices after 7 p.m. for the purpose of correcting *bona fide* errors. Authority to accept or reject such late instructions is vested with the Chairman, Management Vice Chairman, President, or such officer’s delegate.

If a late instruction is accepted, Rule 801(e) requires the clearing member submitting the instruction to pay a late filing fee.³ The fees for late instructions increase the later the notice is received. Late instructions accepted for filing after the start of critical processing are processed on a best efforts basis and only if the assigned clearing member(s) can be notified before 8 a.m. Previously submitted exercises may not be revoked after the start of critical processing.

These late exercise procedures help provide a monetary incentive for clearing members to take precautions to avoid exercise errors and to identify those errors that do occur earlier in OCC’s processing cycle. The earlier late exercise notices are submitted, the easier and less costly it is for OCC to process these exercises. Late exercise notices submitted before the start of OCC’s critical processing cycle can be readily accommodated through standard procedures. Late exercise notices submitted after the start of critical processing require supplemental assignment procedures.

Rule 805 sets forth the procedures for submitting exercise notices on expiration dates. Rule 805 permits clearing members to submit exercise notices with respect to expiring options (“supplementary exercise notices”) after the normal deadline but before their expiration time (*i.e.*, 10:59 P.M.) by following prescribed procedures. A clearing member submitting such a supplementary exercise notice is required to pay a late filing fee.⁴ As under Rule 801, the filing fees increase the later the notice is received. Supplementary exercise notices submitted in accordance with the prescribed procedures are irrevocable.

Discussion

OCC recently completed a review of these rules as a result of an increase in the number of late instructions received from clearing members. Based on that review, OCC is changing the applicable fee schedules and cut-off times for processing late instructions and supplementary exercise notices.

Fees

One of the principal purposes for charging a filing fee for late instructions under both Rule 801 and Rule 805 is to provide an incentive for clearing members to discover exercise errors earlier in the processing cycle. The recent increase in the number of late instructions has led OCC to conclude that the current fee schedules do not provide a sufficient incentive. The current and proposed fee schedules are as follows:

Rule 801(e)

Submission time	Current fee	Proposed fee
7 p.m.–8 p.m.	\$500/any accepted request	\$2,000/any accepted request.
8:01 p.m.–start of critical processing	\$2,000/any accepted request	\$5,000/any accepted request.
After start of critical processing up until 8 a.m. ⁵	\$10,000/line item on any exercise notice or modification accepted.	\$20,000/line item on any exercise notice accepted. ⁶

⁵ On approval of this filing, this time will be 6:30 a.m.

⁶ On approval of this filing, only exercise notice (*i.e.*, not modifications) will be accepted after the start of critical processing.

Rule 805(g)

Submission time	Current fee	Proposed fee
After the prescribed deadline for the submission of exercise instructions—start of critical processing.	\$2,000/any exercise notice accepted	\$5,000/any exercise notice accepted.
After start of critical processing—expiration time	\$10,000/line item on any exercise notice accepted.	\$20,000/line item on any exercise notice accepted.

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 47396 (February 24, 2003), 68 FR 10293.

³ Late filings, revocations, and modifications of exercise may also be the subject of disciplinary action. Rule 801(e)(4) and 805(g).

⁴ Late filings of supplementary exercise notices may also be the subject of disciplinary action. See note 3 above.

Late Exercise Cut-Off Time; Instructions To Modify

Rule 801(e) does not specify a cut-off time for the acceptance of late exercise notices. To provide for greater consistency in processing late exercise notices, OCC has concluded that it is desirable to establish a uniform cut-off time (*i.e.*, 6:30 a.m.) for their acceptance. A 6:30 a.m. cut-off allows adequate time for OCC to process a late exercise notice and to inform all assigned clearing members before 8 a.m.

Finally, OCC will no longer accept modifications to previously submitted exercise instructions after the start of critical processing. Rule 801(e) currently provides that modifications will be accepted after the start of critical processing on a best efforts basis, but revocation instructions will not be accepted after the start of critical processing. This prohibition is in place because due to the need to back out data the procedures involved in processing revocations are riskier than those associated with accepting a late exercise. A modification that reduces the number of exercised contracts requires use of the same revocation procedures. OCC therefore believes that modifications and revocations should be treated alike. A request by a clearing member to exercise additional contracts will be considered as a request to file a late exercise (and not a request to modify a previously submitted exercise notice) and will be handled pursuant to the rules applicable to late exercise instructions.

III. Discussion

Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.⁷ The Commission finds OCC's proposed rule change is consistent with section 17A(b)(3)(F) of the Act because it should reduce the number of late exercise instructions submitted to OCC. Late instructions are more time consuming and costly for OCC to process and reducing the number of them submitted for processing should promote the prompt and accurate clearance and settlement of securities transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2002-14) be and hereby is approved.

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

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03-13496 Filed 5-29-03; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below: (OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202-395-6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Bldg., 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your

comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

1. *Certification by Religious Group—20 CFR, Subpart K, 404.1075-0960-0093.* The data collected on Form SSA-1458 will be used to determine if a religious group meets the qualifications set out in Section 1402(g) of the Internal Revenue Code, which permits its members to be exempt from the payment of self-employment taxes. The respondents are spokespersons for a religious group or sect.

Type of Request: Extension of an OMB-approved information collection.
Number of Respondents: 180.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 45 hours.

2. *Statement of Care and Responsibility for Beneficiary—20 CFR, Subpart U, 404.2020-2025 & Subpart F, 416.620-.625—0960-0109.* Form SSA-788 is used to obtain information from the beneficiary's custodian about the representative payee applicant's concern and responsibility for the beneficiary. The respondents are individuals who have custody of a beneficiary, where someone else has filed to be the beneficiary's payee.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 130,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 21,667 hours.

3. *Request for Reconsideration—Disability Cessation—20 CFR, Subpart J, 404.909 & Subpart N, 416.1409—0960-0349.* Form SSA-789 is used by SSA to schedule disability hearings and to develop additional evidence/information for claimants whose disability is found to have ceased, not to have existed, or to no longer be disabling. The information will also be used to determine if an interpreter is needed for the disability hearing. The respondents are claimants under Title II & XVI of the Social Security Act who wish to request reconsideration of disability cessation.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 49,000.

Frequency of Response: 1.

Average Burden Per Response: 10-13.5 minutes.

Estimated Annual Burden: 10,045 hours.

⁷ 15 U.S.C. 78q-1(b)(3)(F).

⁸ 17 CFR 200.30-3(a)(12).