

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50992; File No. SR-OCC-2004-23]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Conforming Change in Rule 1106(a)(3)

January 7, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on December 17, 2004, 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 makes a conforming, technical change to OCC Rule 1106(a)(3).

#### 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

In August 2004 the Commission approved a proposed rule change that reduced the exercise thresholds applied to equity options for purposes of exercise by exception processing as set forth in Rule 805.<sup>3</sup> Specifically, the thresholds were reduced from \$.75 to \$.25 in a clearing member's customers'

account and from \$.25 to \$.15 in any other account (i.e., firm and market maker accounts). However, OCC neglected to change Rule 1106(a)(3), which was intended to track those thresholds. The purpose of this rule change is to correct the error by making a conforming, technical change to Rule 1106(a)(3).

OCC believes that the proposed rule change is consistent with Section 17A of the Act, as amended, because it facilitates the administration of an existing rule. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

##### (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)(i) of the Act<sup>4</sup> and Rule 19b-4(f)(1)<sup>5</sup> 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 could have summarily abrogated such rule change if it appeared to the Commission that such action was 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. Comments may be submitted by any of the following methods:

##### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2004-23 on the subject line.

##### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-OCC-2004-23. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 and on OCC's Web site at <http://www.optionsclearing.com>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2004-23 and should be submitted on or before February 3, 2005.

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

**J. Lynn Taylor,**

*Assistant Secretary.*

[FR Doc. E5-117 Filed 1-12-05; 8:45 am]

**BILLING CODE 8010-01-P**

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

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> Securities Exchange Act Release No. 50178 (August 10, 2004), 69 FR 51343 (August 18, 2004) [File No. SR-OCC-2004-04].

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

<sup>5</sup> 17 CFR 240.19b-4(f)(1).

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