

• Send e-mail to *rule-comments@sec.gov*. Please include File Number SR-NYSE-2005-01 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-NYSE-2005-01. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. 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-NYSE-2005-01 and should be submitted on or before February 28, 2005.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-51120; File No. SR-OCC-2004-19]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Clearing Member Trade Assignment Processing

February 1, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on November 1, 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 would amend OCC's By-laws and Rules by adding new clearing member trade assignment ("CMTA") processing requirements.

#### 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

Since OCC amended its CMTA rules in 2004,<sup>3</sup> a group of clearing members, the options exchanges, and OCC has

been collaborating to better define the rights and obligations of the clearing members that are parties to a CMTA arrangement in order to increase the regulatory and legal certainties with respect thereto. One focus of this working group has been to formulate new CMTA processing rules that would be applied to transactions that have been executed for institutional and other customers ("CMTA customers") with prime brokerage arrangements with the carrying clearing member that serves as a CMTA customer's prime broker.

Under the proposed rule change, OCC would modify Article I ("Definitions") of its By-Laws and Rules 401 and 403 to require clearing members that are parties to a CMTA arrangement involving CMTA customers to register with OCC certain customer identifiers that the clearing members use to process the CMTA transactions. Specifically, the new rules would provide that an exchange transaction executed on behalf of a CMTA customer that is to be transferred by CMTA processing for clearance and settlement will be identified by a special indicator called a Customer CMTA Indicator in the matching trade information submitted with respect to that transaction.<sup>4</sup> For each transaction marked with the Customer CMTA Indicator, the matching trade information would also contain identification information about the CMTA customer on whose behalf a transaction was executed ("CMTA Customer Identifier") and the introducing broker that executed or arranged for the execution of such transaction ("IB Identifier").<sup>5</sup>

If a transaction is marked with the CMTA Indicator, OCC's systems would verify against a database of registered identifiers that the CMTA Customer Identifier and the IB Identifier supplied as a part of the trade information match registered identifiers for purposes of the CMTA arrangement between the carrying and executing clearing members to the trade. This verification step would be in addition to the other verifications performed by OCC's systems for CMTA processing. If a transaction is marked with a Customer CMTA Indicator but either the CMTA Customer Identifier or the IB Identifier is incomplete, inaccurate, or missing,

<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> Securities Exchange Act Release No. 49841 (June 9, 2004); 69 FR 34207 (June 18, 2004) [File No. SR-OCC-2003-11]. CMTA processing enables one clearing member ("carrying clearing member") to authorize another clearing member ("executing clearing member") to direct that exchange transactions be transferred to an account of the carrying clearing member for clearance and settlement.

<sup>4</sup> The same indicator would be used by all options exchanges. OCC made various system changes to process this indicator and other information to be supplied with respect to CMTA customers' transactions. Matching trade information submitted by the options exchanges would need to include this information that requires changes to the exchanges' systems.

<sup>5</sup> If the introducing broker is also the executing clearing member, a separate IB Identifier would still be required.

OCC's systems would treat the transaction as a failed CMTA and would cause the transaction to be cleared in the executing clearing member's designated or default account in accordance with OCC Rule 403.

Under the terms of a model agreement developed by the working group to reflect the rights and obligations of the carrying and executing clearing members with respect to their customer CMTA arrangement, the firms would identify each CMTA covered customer. Separately, the clearing members would assign identifiers to their CMTA customers and introducing brokers. One clearing member then would register the assigned identifiers with OCC. OCC's systems would require the other clearing member to approve the identifiers before they are submitted to OCC for registration. Identifiers would be effectively registered when they are accepted by OCC's systems, subject to OCC's right to reject an already registered identifier.<sup>6</sup> OCC would retain the right to specify criteria applicable to the characters used to form identifiers for systemic reasons.

The prime broker clearing members involved in developing these requirements believe that including identification information about the CMTA customer and introducing broker to a transaction would make CMTA processing more transparent. Since carrying clearing members do not have the ability to approve or reject a transaction before it is entered into the exchanges' systems for reporting to OCC, they believe having OCC verify customer and introducing broker information will assist in limiting the chances that a transaction erroneously will be transferred into one of their clearing accounts. They also believe having such information available on the trade record will improve the effectiveness of their back office efforts to confirm that transactions cleared in their accounts conform to the information supplied by their customer or its introducing broker, and thereby, will facilitate decision making on whether the position resulting from the transaction is eligible for return under their CMTA agreement and Rule 403.

OCC believes that the proposed rule change is consistent with Section 17A of the Act<sup>7</sup> because it fosters the prompt and accurate clearance and settlement of securities transactions, the safeguarding of funds and securities, and the

protection of investors and the persons facilitating transactions by and acting on behalf of investors.

#### *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*

OCC did not solicit or receive written comments with respect to the proposed rule change.

### **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 organization consents, the Commission will:

- (A) By order approve such 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. 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-2004-19 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-2004-19. 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 OCC's principal office and on OCC's Web site at [http://www.optionsclearing.com/publications/rules/proposed\\_changes/proposed\\_changes.jsp](http://www.optionsclearing.com/publications/rules/proposed_changes/proposed_changes.jsp). 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-2004-19 and should be submitted on or before February 28, 2005.

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

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E5-474 Filed 2-4-05; 8:45 am]

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-51113; File No. SR-PCX-2005-08]

### **Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Thereto Relating to a Revision and Extension of a Limitation on Trade Through Liability at the End of the Options Trading Day Pilot Program**

January 31, 2005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 26, 2005, the Pacific Exchange ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II

<sup>6</sup> Carrying and executing clearing members would be responsible to update their respective registrations of CMTA Customer Identifiers and IB Identifiers including registering any changes or deletions with respect thereto.

<sup>7</sup> 15 U.S.C. 78q-1.

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

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

<sup>2</sup> 17 CFR 240.19b-4.