

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and Rule 19b-4(f)(6) thereunder.<sup>15</sup>

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed rule change should provide transparency and more clarity with respect to the trading hours eligibility of certain derivative securities products and should promote consistency in the trading halts of derivative securities. The Commission notes that this filing does not change the trading hours of the Derivative Securities Products listed in NYSE Arca Equities Rule 7.34, but codifies trading hour sessions that have been established through other rule changes or through the use of the Exchange's generic listing standards pursuant to Rule 19b-4(e) under the Act. For these reasons, the Commission designates the proposed rule change as operative immediately.<sup>16</sup>

At any time within 60 days of the filing of the 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. 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2007-39 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2007-39. 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 Exchange. 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-NYSEArca-2007-39 and should be submitted by or before May 31, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E7-9044 Filed 5-9-07; 8:45 am]

**BILLING CODE 8010-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55709; File No. SR-OCC-2007-05]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to OCC's Clearing Fee Schedule

May 4, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on April 11, 2007, 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 (i) make permanent the current discounted clearing fee schedule for specified contracts, (ii) further discount the newly adopted clearing fee schedule, and (iii) modify the new product clearing fee schedule, with all changes being effective May 1, 2007.

#### 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

The purpose of the proposed rule change is to amend OCC's standard clearing and new products fee schedules, effective May 1, 2007, as described below. First, OCC is making permanent the current discounted clearing fee schedule for (i) securities

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

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

<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires an exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice requirement in this case.

<sup>16</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

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

options and (ii) security futures where at least one side of the trade is cleared by an OCC clearing member. Second, OCC is discounting the newly adopted

permanent clearing fee schedule until further action by the OCC Board of Directors. Third, OCC is modifying its new product fee schedule to reflect the

foregoing clearing fee changes and to make it easier to administer. The following charts summarize the changes:

Contracts/trade	Current permanent standard fee schedule, effective April 1, 2004	New permanent standard fee schedule, effective May 1, 2007*	Discounted standard fee schedule, effective May 1, 2007
1-500 .....	\$0.0825/contract .....	\$0.05/contract .....	\$0.035/contract.
501-1,000 .....	\$0.0675/contract .....	\$0.04/contract .....	\$0.028/contract.
1,001-2,000 .....	\$0.0575/contract .....	\$0.03/contract .....	\$0.021/contract.
>2,000 .....	\$110.00 (capped) .....	\$55.00 (capped) .....	\$35.00 (capped).

\*Clearing fees are currently charged at these rates as discounted fees. See File No. SR-OCC-2006-14.

New product fee schedule, effective July 1, 2005	New product fee schedule, effective May 1, 2007
<p>First calendar month traded: \$ .00.</p> <p>Second calendar month traded: \$0.00.</p> <p>Cleared trades w/contracts of: 1-4,400—\$ .01.</p> <p>Thereafter reverts to clearing fees specified in the current clearing fee schedule.</p> <p>Greater than 4,400—\$ 40.00 per trade</p> <p>Third calendar month traded:</p> <p>Cleared trades w/contracts of: 1-2,200—\$ .02.</p> <p>Greater than 2,200—\$ 40.00 per trade.</p> <p>Fourth calendar month traded:</p> <p>Reverts to current clearing fees.</p>	<p>From first day of listing through the end of the following calendar month.</p>

The foregoing reductions in OCC's clearing fees reflect the strong contract volume experienced by OCC this year to date. OCC believes that these fee changes will financially benefit clearing members and other market participants without adversely affecting OCC's ability to meet its expenses and maintain an acceptable level of retained earnings. The discounted clearing fees will remain in effect until further action by OCC's Board of Directors.

The proposed rule change is consistent with Section 17A of the Act because it benefits clearing members and other market participants by reducing and discounting clearing fees and allocating them in a fair and equitable manner. 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**

Because the foregoing rule change changes fees charged clearing members by OCC, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder. At any time within sixty days of the filing of the 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. 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-2007-05 on the subject line.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).  
<sup>4</sup> 17 CFR 240.19b-4(f)(2).

*Paper Comments*

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2007-05. 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, 100 F Street, NE., 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-2007-05 and should be submitted on or before May 31, 2007.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E7-8957 Filed 5-9-07; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55702; File No. SR-ODD-2007-02]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Accelerated Delivery of Supplement to the Options Disclosure Document Reflecting Certain Changes to Disclosure Regarding Options Adjustment Methodology and Fund Shares

May 3, 2007.

On September 22, 2006, The Options Clearing Corporation (“OCC”) submitted to the Securities and Exchange Commission (“Commission”), pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> five preliminary copies of a supplement to its options disclosure document (“ODD”) reflecting certain changes to disclosure regarding options adjustment methodology.<sup>2</sup> On December 22, 2006, OCC submitted to the Commission five preliminary copies of another supplement to the ODD reflecting certain changes to disclosure regarding, among other things, the term “fund shares.”<sup>3</sup> On April 27, 2007, OCC submitted to the Commission five definitive copies of a single supplement combining the two preliminary supplements discussed above.<sup>4</sup>

The ODD currently provides general disclosures on the characteristics and risks of trading standardize options. Recently, OCC amended its options

adjustment rules to eliminate the need to round adjusted strike prices and/or units of trading in the event of certain stock dividends, stock distributions, or stock splits.<sup>5</sup> OCC also revised the definition of “ordinary dividends and distributions” such that cash dividends or cash distributions announced on or after February 1, 2009, would be considered ordinary if declared on a regular basis pursuant to a policy or practice.<sup>6</sup> Further, OCC amended its rules to provide that no adjustment would be made for cash dividends or cash distributions less than \$12.50 per contract.<sup>7</sup> The proposed supplement therefore amends the ODD to accommodate these changes.

The proposed supplement also amends the ODD to reflect certain other changes to OCC rules. To accommodate one such change, the proposed supplement adds disclosure pertaining to OCC’s authority to adjust yield-based Treasury options if an options exchange increases the multiplier for such options.<sup>8</sup> The proposed supplement also adds disclosure pertaining to OCC’s authority to fix exercise settlement price for yield-based Treasury options in unusual market conditions.<sup>9</sup> Pursuant to another OCC rule change, the proposed supplement amends the ODD to include acceleration of the expiration date of American-style equity options that have been adjusted to call for cash deliverable.<sup>10</sup>

The proposed supplement also amends the ODD to reflect changes to the rules of the option exchanges. For instance, certain options exchanges amended their rules to permit listing and trading of options on fund shares that hold baskets of currencies<sup>11</sup> or hold or trade in commodity futures products.<sup>12</sup> Therefore, to accommodate listing and trading of these options, the

proposed supplement amends the term “fund shares.”

Lastly, the proposed supplement deletes certain disclosures originally made in February 2003 Supplement.<sup>13</sup> First, the proposed supplement deletes disclosure pertaining to options series opened before September 16, 2000, as those options have all expired. Second, pursuant to adoption of rules by certain options exchanges to permit cancellation or adjustment of trades resulting from an erroneously reported index level, the proposed supplement deletes the provision disclosing that a person who buys or sells an index option based on such erroneously information is bound by the trade.<sup>14</sup> The proposed supplement is intended to be read in conjunction with the more general ODD, which, as described above, discusses the characteristics and risks of options generally.<sup>15</sup>

Rule 9b-1(b)(2)(i) under the Act<sup>16</sup> provides that an options market must file five copies of an amendment or supplement to the ODD with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of information disclosed and the public interest and protection of investors.<sup>17</sup> In addition, five copies of the definitive ODD, as amended or supplemented, must be filed with the Commission not later than the date the amendment or supplement, or the amended options disclosure document, is furnished to customers. The Commission has reviewed the proposed supplement and finds, having due regard to the adequacy of information disclosed and the public interest and protection of investors, that the proposed supplement may be furnished to customers as of the date of this order.

<sup>5</sup> See Securities Exchange Act Release No. 55258 (February 8, 2007), 72 FR 7701 (February 16, 2007) (SR-OCC-2006-01).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> See Securities Exchange Act Release No. 50895 (December 20, 2004), 69 FR 78085 (December 29, 2004) (SR-OCC-2004-11).

<sup>9</sup> *Id.*

<sup>10</sup> See Securities Exchange Act Release No. 55124 (January 18, 2007), 72 FR 3466 (January 25, 2007) (SR-OCC-2006-20).

<sup>11</sup> See Securities Exchange Act Releases No. 54087 (June 30, 2006), 71 FR 38918 (July 10, 2006) (SR-ISE-2005-60); 54693 (November 2, 2006), 71 FR 65851 (November 9, 2006) (SR-CBOE-2006-74); and 54983 (December 20, 2006), 71 FR 78476 (December 29, 2006) (SR-Amex-2006-87).

<sup>12</sup> See Securities Exchange Act Releases No. 54450 (September 14, 2006), 71 FR 55230

(September 21, 2006) (approving SR-Amex-2006-44) and 55547 (March 28, 2007), 72 FR 16388 (April 4, 2007) (SR-Amex-2006-110).

<sup>13</sup> See Securities Exchange Act Release No. 47418 (February 27, 2003), 68 FR 11439 (March 10, 2003) (SR-ODD-2003-01) (“February 2003 Supplement”).

<sup>14</sup> See e.g., Securities Exchange Act Releases No. 50880 (December 17, 2004), 69 FR 77790 (December 28, 2004) (SR-CBOE-2004-83) and 51246 (February 24, 2005), 70 FR 10425 (March 3, 2005) (SR-Amex-2005-11).

<sup>15</sup> The Commission notes that the options markets must continue to ensure that the ODD is in compliance with the requirements of Rule 9b-1(b)(2)(i) under the Act, 17 CFR 240.9b-1(b)(2)(i). Any future changes to the rules of the options markets would need to be submitted to the Commission under Section 19(b) of the Act, 15 U.S.C. 78s(b).

<sup>16</sup> 17 CFR 240.9b-1(b)(2)(i).

<sup>17</sup> This provision permits the Commission to shorten or lengthen the period of time which must elapse before definitive copies may be furnished to customers.

<sup>5</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 17 CFR 240.9b-1.

<sup>2</sup> See letter from Jean M. Cawley, First Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division of Market Regulation (“Division”), Commission, dated September 21, 2006.

<sup>3</sup> See letter from Jean M. Cawley, First Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division, Commission, dated December 21, 2006.

<sup>4</sup> See letter from Jean M. Cawley, First Vice President and Deputy General Counsel, OCC, to Sharon Lawson, Senior Special Counsel, Division, Commission, dated April 26, 2007.