

## 2. Statutory Basis

The Exchange believes that the proposed rule change, as amended, is consistent with section 6(b) of the Act,<sup>8</sup> in general, and the provisions of section 6(b)(5) of the Act,<sup>9</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change, as amended.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended, does not: (i) Significantly affect the protection of investors or the public interest; (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>10</sup> and Rule 19b-4(f)(6)<sup>11</sup> thereunder.<sup>12</sup> At any time within 60 days of the filing of the proposed rule change, as amended, 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.

The NYSE has requested that the Commission waive the five-day pre-filing notice and the 30-day operative delay. The Commission believes that

waiving the five-day pre-filing notice and the 30-day operative delay is consistent with the protection of investors and the public interest. Waiver of the operative date will allow the Exchange to suspend immediately its effective Pilot Program relating to minimum continued numerical listing standards for qualification of domestic and international companies. The Commission notes that suspension of the Pilot Program for minimum continued numerical listing standards would alleviate the concerns of commenters who believed that they were given inadequate notice of the effectiveness of the Pilot Program.<sup>13</sup> For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.<sup>14</sup>

## 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. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-NYSE-2004-15. 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, comments should be sent in hardcopy or by e-mail but not by both methods. 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 submissions should refer to File No. SR-NYSE-2004-15 and should be submitted by April 14, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-6598 Filed 3-23-04; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49436; File No. SR-OCC-2004-01]

### **Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Clearing Fees for Securities Option Contracts**

March 17, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 23, 2004, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change 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 parties.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The purpose of the proposed rule change is to reduce certain clearing fees for securities option contracts, effective April 1, 2004.

#### **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 these statements.<sup>2</sup>

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6).

<sup>12</sup> As required under Rule 19b-4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date or such shorter period as designated by the Commission.

<sup>13</sup> See *infra* note 6.

<sup>14</sup> For purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<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.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

for securities option contracts, effective April 1, 2004, as follows:

The principal purpose of this rule change is to reduce OCC's clearing fees

Contracts per trade	Current per contract per trade fee	April 1, 2004 contract per trade fee
0–500 .....	\$0.09	\$0.0825
501–1,000 .....	0.07	0.0675
1,001–2,000 .....	0.06	0.0575
> 2,000 .....	110.00 (capped)	110.00 (capped)

In addition to the foregoing, OCC will expand what is considered to be a "market maker scratch trade." Currently, OCC considers market maker scratch trades to be the same day purchase and sale of identical option contracts in the same quantity and price by a market maker on a single exchange. Such trades are subject to a reduced clearing fee of \$.02 per contract in recognition of a market maker's obligation to continuously maintain a fair and orderly market, which often may result in near simultaneous breakeven purchase and sale transactions. Effective April 1, 2004, OCC will no longer require that the condition that the purchase and sale transactions take place on a single exchange in order to be treated as a market maker scratch trade. As a result of this change, a greater number of contracts will be eligible for clearance at the \$.02 per contract rate.

OCC believes that the foregoing changes will financially benefit clearing members without adversely affecting OCC's ability to meet its expenses and maintain an acceptable level of retained earnings.

*(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 upon filing pursuant to Section

19(b)(3)(A)(ii) of the Act<sup>3</sup> and Rule 19b-4(f)(2)<sup>4</sup> thereunder because the proposed rule establishes or changes a due, fee, or other charge. At any time within sixty days of the filing of such 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-OCC-2004-01. 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, comments should be sent in either hardcopy or by e-mail but not by both methods. 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 20549-0609. 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 submissions should refer to File No. SR-OCC-2004-01 and should be submitted by April 14, 2004.

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

**Margaret H. McFarland,**  
Deputy Secretary.

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

[Docket No. NHTSA 2004-16921]

**Insurance Cost Information Regulation**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of availability.

**SUMMARY:** This notice announces publication by NHTSA of the 2004 text and data for the annual insurance cost information booklet that all car dealers must make available to prospective purchasers, pursuant to 49 CFR 582.4. This information is intended to assist prospective purchasers in comparing differences in passenger vehicle collision loss experience that could affect auto insurance costs.

**ADDRESSES:** Interested persons may obtain a copy of this booklet by contacting the U.S. Department of Transportation, Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 10 a.m. to 5 p.m.].

**FOR FURTHER INFORMATION CONTACT:** Ms. Rosalind Proctor, Chief, Consumer Standards Division, NHTSA, 400

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

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

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