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File No. SR-OCC-2005-04

Page 1 of 13

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

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**Form 19b-4**

**Proposed Rule Change**

**by**

**THE OPTIONS CLEARING CORPORATION**

**Pursuant to Rule 19b-4 under the  
Securities Exchange Act of 1934**

**Item 1. Text of the Proposed Rule Change**

The Options Clearing Corporation ("OCC") proposes to amend its Rules as set forth below to make certain procedural changes in connection with the processing of escrow deposits with respect to short options positions to conform to the functionality of Version 4.5 of OCC's clearing system, known as ENCORE. Material proposed to be added is underlined and material proposed to be deleted is bracketed.

**THE OPTIONS CLEARING CORPORATION**

**RULES**

\* \* \*

**CHAPTER VI**

\* \* \*

**Escrow Deposit Program**

**RULE 613.** A bank or other depository that has entered into an escrow deposit agreement with the Corporation (an "Escrow Bank") may make escrow deposits in respect of stock option contracts and index option contracts carried in short positions and "roll over" and withdraw such deposits, and a Clearing Member may withdraw such deposits, by submitting instructions to the Corporation through any electronic means prescribed by the Corporation for such purposes, subject to the following provisions of this Rule:

(a) - (e) [unchanged]

[(f) At or before 9:00 A.M. Central Time (10:00 A.M. Eastern Time) on the first business day following the expiration date of any short position covered by an escrow deposit made in accordance with this Rule, the Corporation shall make available to each Clearing Member a listing of expired escrows that lists each such expired short position carried by such Clearing Member. Each Clearing Member shall identify to the Corporation, at or before such time as the Corporation shall prescribe on the same business day, through electronic means prescribed by the Corporation, each short position shown in the listing of expired escrows to

which an exercise notice has been allocated by the Clearing Member. At or before 9:00 A.M. Central Time (10:00 A.M. Eastern Time) on the following business day, the Corporation shall make available to each Clearing Member and to each Escrow Bank a final listing of expired escrows containing the same information with respect to each expired short position listed therein as the initial listing of expired escrows, but indicating, as to each position listed therein, whether an exercise notice was allocated to such position (based on the assigned escrows information received by the Corporation on the preceding business day). If the Corporation is unable, for any reason, to make available final listings of expired escrows at or before the prescribed time on the second business day following any expiration date, the Corporation shall make available such listings as promptly as possible thereafter.]

([g]f) Any escrow deposit made in accordance with this Rule in respect of stock options shall be released by the Corporation on its own initiative at [12:00 Noon] 6:00 P.M. Central Time ([1:00] 7:00 P.M. Eastern Time) on the [second] business day following [expiration of] the [short position covered by the deposit,] exercise settlement date [provided that:

- (1) If the final listing of expired escrows provided for in paragraph (f) above is not made available by the Corporation prior to 12:00 Noon Central Time (1:00 P.M. Eastern Time) on the second business day following an expiration date, such deposits shall not be released until 12:00 Noon Central Time (1:00 P.M. Eastern Time) on the business day following the date on which such listing is made available.
- (2) If a Clearing Member carrying an expired short position for which such a deposit has been made fails to meet its margin or premium settlement obligations to OCC on the business day on which such deposit would otherwise be released, the Corporation may, in accordance with the terms of the applicable escrow deposit agreement, defer the release of such deposit until the Clearing Member has satisfied all settlement obligations to the Corporation. Notwithstanding the foregoing, the Corporation shall release any such deposit if the Corporation determines that no exercise notices have been assigned by the Corporation to the delinquent Clearing Member's customers' account in respect of the series of options comprising the expired short position.
- (3) If a final listing of expired escrows issued by the Corporation pursuant to paragraph (f) above indicates that an exercise notice has been allocated to an expired short position listed therein, the escrow deposit made in respect of such position shall not be released until 12:00 Noon Central Time (1:00 P.M. Eastern Time) on the first business day following the exercise settlement date therefor] unless (i) the Corporation has received notice from the correspondent clearing

corporation indicating that the settlement obligations in respect of such short position have not been met by the Clearing Member or the member of the correspondent clearing corporation effecting settlements of exercises and assignments on the Clearing Member's behalf, in which case the deposit shall not be released until the first business day after the Corporation receives confirmation that it shall have no obligations in respect of the short position, or (ii) the Corporation has directed that the exercise be settled otherwise than through the correspondent clearing corporation, in which case the deposit shall not be released until the Corporation receives confirmation that settlement has been made and notifies the Escrow Bank holding the deposit, in accordance with the terms of the applicable escrow deposit agreement, that the deposit is released. Any escrow deposits made in accordance with this Rule in respect of index options shall be released by the Corporation on its own initiative as specified in Rule 1801.

(h) to (i) [Renumbered as (g) to (h), but otherwise unchanged.]

([j]i) The release of an escrow deposit by the Corporation or the withdrawal of an escrow deposit from the Corporation in accordance with the provisions of this Rule shall have the effect of releasing any and all rights of the Corporation with respect to the deposit against the Escrow Bank through whose facilities the deposit was made. Subject (in the case of a withdrawal) to the provisions of paragraph ([i]h) above, such release or withdrawal shall also release any and all rights against such Bank of the Clearing Member for whose account the escrow deposit was made; provided, however, that if any on-line report referred to in paragraph (d) above [(in the case of a withdrawal) or a final listing of expired escrows (in the case of a release)] indicates that an exercise notice has been allocated to a short position covered by an escrow deposit that is being withdrawn or released, an Escrow Bank shall be prohibited, under the terms of its escrow deposit agreement, from returning the deposit to the customer and [until it has received from the Clearing Member a customer detail allocation form in a form prescribed by the Corporation, listing each customer to whom an exercise notice has been allocated and specifying (i) as to any exercised stock option, the quantity and description of the underlying securities required to be delivered or received by such customer pursuant to such allocation and the aggregate exercise price (less all commissions and other charges) due to or from the customer, and (ii) as to any exercised index option, the exercise settlement amount (plus any applicable commissions and other charges) payable by such customer pursuant to such allocation. Clearing Members shall deliver customer detail allocation forms to affected Escrow Banks at or before 12:00 Noon Central Time (1:00 P.M. Eastern Time) on the business day following issuance of any such on-line report or final listing of expired escrows. Following receipt of any such customer detail allocation form, an Escrow Bank shall be free, under the terms of its escrow deposit agreement, to return to its customers any escrow deposits that are being withdrawn or released, except to the extent that such form indicates that exercises were allocated to particular customers designated thereon. To the extent that any such form indicates

that exercises were allocated to particular customers designated thereon, an Escrow Bank] shall remain obligated under the terms of its escrow deposit agreement, (i) as to any stock option escrow deposit, to deliver to the Clearing Member (x) in the case of a deposit made in respect of one or more calls, the underlying securities deposited against payment of the aggregate exercise price of the call(s) covered by such deposit (less all applicable commissions and other charges), upon presentation by the Clearing Member of a duly executed delivery order in a form prescribed by the Corporation, or (y) in the case of a deposit made in respect of one or more puts, the aggregate exercise price of the put(s) covered by such deposit (plus all applicable commissions and other charges) against delivery of the underlying securities, upon presentation by the Clearing Member of a duly executed payment order in a form prescribed by the Corporation, or (ii) as to any index option escrow deposit, to pay to the Clearing Member the exercise settlement amount (plus any applicable commissions or other charges) upon presentation by the Clearing Member of a duly executed payment order in a form prescribed by the Corporation.

(k) [Renumbered as (j), but otherwise unchanged.]

**... Interpretations and Policies:**

.01 [unchanged]

\* \* \*

**CHAPTER XVIII**

**Index Options**

\* \* \*

**Index Option Escrow Deposits**

**RULE 1801.**

(a) – (g) [unchanged]

(h) Any index option deposit made in accordance with this Rule shall be released by the Corporation on its own initiative at 6:00 P.M. Central Time (7:00 Eastern Time) on the exercise settlement date, provided the Clearing Member has fully complied with its settlement obligations in the account in which the escrow deposit is held.

(h) – (k) [Renumbered as (i) – (l), but otherwise unchanged].

**... Interpretations and Policies:**

.01 - .02 [unchanged]

\* \* \*

**Item 2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved by the Board of Directors of OCC at a meeting held on March 3, 2005. Questions regarding the proposed rule change should be addressed to Jean M. Cawley, First Vice President and Deputy General Counsel, at (312) 322-6269.

**Item 3. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

**Purpose of the Rule Change**

The primary purpose of the rule change is to modify the procedures in OCC's rules with respect to deposits of cash or securities with an escrow bank in respect of short positions in stock option or index option contracts, known as "escrow deposits." OCC intends to implement the revised procedures as part of the implementation of Release 4.5 of its ENCORE clearing system.

OCC Rule 613 sets out procedures governing escrow deposits. Rule 613(f) currently provides that OCC will send to each clearing member, by 9:00 a.m. Central Time on the first business day following each expiration date, a list of each expired short position carried

by that clearing member that was covered by an escrow deposit. By a prescribed deadline that same day, the clearing member is required to identify for OCC each short position on the list to which it has allocated an exercise notice. Based upon the information supplied by clearing members, by 9:00 a.m. Central Time the next business day OCC makes available to escrow banks and clearing members a final listing of expired escrows. This final listing shows expired short positions covered by escrow deposits and indicates whether an exercise notice has been allocated to each such short position.

Rule 613(g) provides that OCC will release escrow deposits on its own initiative at 12:00 noon Central Time on the second business day following the expiration date, with three exceptions. First, the release of an escrow deposit will be delayed if OCC was unable to produce the final listing of expired escrows within the time frame specified in the rules. Second, the release may be deferred if the clearing member carrying an expired short position covered by an escrow deposit failed to meet its margin or premium settlement obligations to OCC on the business day that the deposit would have been released. Third, if the final listing shows that an exercise notice was allocated to an expired short position, the escrow deposit will not be released until 12:00 noon Central Time on the first business day after the exercise settlement date, and can be delayed even further if National Securities Clearing Corporation ("NSCC") notifies OCC that the clearing member has not met its settlement obligations. In that event, the deposit will not be released until the first business day after OCC receives confirmation that it has no further obligations to NSCC with respect to the short position, or, if OCC has directed that settlement be

made otherwise than through NSCC, until OCC receives confirmation that the settlement has been made.

The processing of escrow deposits at expiration will be substantially simplified under ENCORE Release 4.5. OCC's report of expired positions covered by escrow deposits, the clearing member's identification of exercises allocated to those positions, and OCC's final listing of expired escrows will all be eliminated. Instead, OCC will automatically release index option escrow deposits at 6:00 p.m. Central Time on the exercise settlement date, provided that the clearing member has met its settlement obligations in the account in which the escrow deposit is held. OCC will automatically release equity option escrow deposits at 6:00 p.m. on the business day after the exercise settlement date, provided that release may be delayed if NSCC notifies OCC that the clearing member has not met its settlement obligations. In that event, as under the existing rule, a deposit would not be released until OCC received confirmation that it had no further obligations to NSCC with respect to the short position covered by the deposit. If OCC had directed that settlement be made otherwise than through NSCC, the deposit would not be released until OCC received confirmation that settlement had been made. Clearing members or escrow banks will still be permitted to withdraw escrow deposits prior to the scheduled release time if the clearing member maintains sufficient margin with OCC after giving effect to the withdrawal.

These changes more closely align the processing of releases of escrow deposits in respect of expired short positions with the processing of releases of specific deposits.



Consistency in the procedures with regard to specific deposits and escrow deposits should assist OCC's clearing members in understanding and therefore properly complying with those procedures.

**Changes to OCC's Rules**

In connection with the simplification of the escrow deposit system resulting from the installation of ENCORE Release 4.5, OCC is proposing to delete Rule 613(f), which describes the various reports relating to expired short positions covered by escrow deposits, as these reports will no longer be disseminated. In addition, OCC proposes to amend current Rule 613(g), which will be redesignated as Rule 613(f), to change the time at which OCC will release equity option escrow deposits on its own initiative and to eliminate references to the final listing of expired escrows provided for by current Rule 613(f). Rule 613(j) would be redesignated as 613(i) and amended to delete references to the listing of expired escrows and to revise the cross reference to Rule 613(i), which is redesignated as Rule 613(h). Rule 613(k) would be renumbered as 613(j), but otherwise is unchanged.

With respect to index option deposits, OCC is proposing to add a new Rule 1801(h) to provide that index option deposits will be released by OCC on its own initiative at 6:00 P.M. Central Time on the exercise settlement date, so long as the clearing member has fully complied with its settlement obligations in the account in which the escrow deposit is held. The remaining subparagraphs of Rule 1801 are renumbered, but otherwise unchanged.

**Amended and Restated On-line Escrow Deposit Agreement**

OCC is proposing to further amend the Amended and Restated On-Line Escrow Deposit Agreement entered into between it and banks participating in its escrow deposit program to reflect the procedural changes to the escrow deposit program described above. The Amendment No. 1 to the Amended and Restated On-Line Escrow Deposit Agreement, with these proposed revisions, is attached to this filing as Exhibit 5.

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The proposed change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), because it more closely aligns the procedures for the processing of releases of escrow deposits in respect of expired short positions with the processing of releases of specific deposits, thereby improving the consistency and efficiency of such processing for OCC, clearing members and custodian banks. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

**Item 4. Self-Regulatory Organization's Statement on Burden on Competition**

OCC does not believe that the proposed rule change would impose any burden on competition.

**Item 5. 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.

**Item 6. Extension of Time Period for Commission Action**

Not applicable.

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)**

Pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934 and Rule 19b-4(f) thereunder, the proposed rule change is filed for immediate effectiveness in that it effects a change in OCC's processing of escrow deposits, which is an existing service of OCC, that does not adversely affect the safeguarding of securities or funds in the custody or control of OCC and does not significantly affect the rights or obligations of OCC or persons using the service.

**Item 8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**Item 9.**      **Exhibits**

- Exhibit 1.      Completed Notice of Proposed Rule Changes for publication in the Federal Register.
  
- Exhibit 5.      Amendment No. 1 to the Amended and Restated On-line Escrow Deposit Agreement

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has caused this filing to be signed on its behalf by the undersigned hereunto duly authorized.

**THE OPTIONS CLEARING CORPORATION**

By: \_\_\_\_\_

**William H. Navin  
Executive Vice President  
and General Counsel**

**EXHIBIT 1**

**SECURITIES AND EXCHANGE COMMISSION**

**(Release No. 34-\_\_\_\_\_; File No. SR-OCC-2005-04**

**SELF-REGULATORY ORGANIZATION**

Proposed Rule Change By  
The Options Clearing Corporation

Relating to OCC's Escrow Deposit System

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Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on \_\_\_\_\_, 2005, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. 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 the Substance of the Proposed Rule Change**

The proposed rule change would modify the procedures in OCC's rules with respect to deposits of cash or securities with an escrow bank in respect of short positions in stock option or index option contracts, known as "escrow deposits."

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization 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. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

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

**Purpose of the Rule Change**

The primary purpose of the rule change is to modify the procedures in OCC's rules with respect to deposits of cash or securities with an escrow bank in respect of short positions in stock option or index option contracts, known as "escrow deposits." OCC intends to implement the revised procedures as part of the implementation of Release 4.5 of its ENCORE clearing system.

OCC Rule 613 sets out procedures governing escrow deposits. Rule 613(f) currently provides that OCC will send to each clearing member, by 9:00 a.m. Central Time on the first business day following each expiration date, a list of each expired short position carried by that clearing member that was covered by an escrow deposit. By a prescribed deadline that same day, the clearing member is required to identify for OCC each short position on the list to which it has allocated an exercise notice. Based upon the information supplied by clearing members, by 9:00 a.m. Central Time the next business day OCC makes available to escrow banks and clearing members a final listing of expired escrows. This final listing shows expired short positions covered by escrow deposits and indicates whether an exercise notice has been allocated to each such short position.

Rule 613(g) provides that OCC will release escrow deposits on its own initiative at 12:00 noon Central Time on the second business day following the expiration date, with three exceptions. First, the release of an escrow deposit will be delayed if OCC was unable to produce the final listing of expired escrows within the time frame specified in the rules. Second, the release may be deferred if the clearing member carrying an expired short position covered by an escrow deposit failed to meet its margin or premium settlement obligations to OCC on the business day that the deposit would have been released. Third, if the final listing shows that an exercise notice was allocated to an expired short position, the escrow deposit will not be released until 12:00 noon Central Time on the first business day after the exercise settlement date, and can be delayed even further if National Securities Clearing Corporation (“NSCC”) notifies OCC that the clearing member has not met its settlement obligations. In that event, the deposit will not be released until the first business day after OCC receives confirmation that it has no further obligations to NSCC with respect to the short position, or, if OCC has directed that settlement be made otherwise than through NSCC, until OCC receives confirmation that the settlement has been made.

The processing of escrow deposits at expiration will be substantially simplified under ENCORE Release 4.5. OCC’s report of expired positions covered by escrow deposits, the clearing member’s identification of exercises allocated to those positions, and OCC’s final listing of expired escrows will all be eliminated. Instead, OCC will automatically release index option escrow deposits at 6:00 p.m. Central Time on the exercise settlement date, provided that the clearing member has met its settlement obligations in the account in which the escrow deposit is held. OCC will automatically release equity option escrow deposits at 6:00 p.m. on the business day after the exercise settlement date, provided that release may be delayed if NSCC notifies



OCC that the clearing member has not met its settlement obligations. In that event, as under the existing rule, a deposit would not be released until OCC received confirmation that it had no further obligations to NSCC with respect to the short position covered by the deposit. If OCC had directed that settlement be made otherwise than through NSCC, the deposit would not be released until OCC received confirmation that settlement had been made. Clearing members or escrow banks will still be permitted to withdraw escrow deposits prior to the scheduled release time if the clearing member maintains sufficient margin with OCC after giving effect to the withdrawal.

These changes more closely align the processing of releases of escrow deposits in respect of expired short positions with the processing of releases of specific deposits. Consistency in the procedures with regard to specific deposits and escrow deposits should assist OCC's clearing members in understanding and therefore properly complying with those procedures.

### **Changes to OCC's Rules**

In connection with the simplification of the escrow deposit system resulting from the installation of ENCORE Release 4.5, OCC is proposing to delete Rule 613(f), which describes the various reports relating to expired short positions covered by escrow deposits, as these reports will no longer be disseminated. In addition, OCC proposes to amend current Rule 613(g), which will be redesignated as Rule 613(f), to change the time at which OCC will release equity option escrow deposits on its own initiative and to eliminate references to the final listing of expired escrows provided for by current Rule 613(f). Rule 613(j) would be redesignated as 613(i) and amended to delete references to the listing of expired escrows and to revise the cross reference to Rule 613(i), which is redesignated as Rule 613(h). Rule 613(k) would be

renumbered as 613(j), but otherwise is unchanged.

With respect to index option deposits, OCC is proposing to add a new Rule 1801(h) to provide that index option deposits will be released by OCC on its own initiative at 6:00 P.M. Central Time on the exercise settlement date, so long as the clearing member has fully complied with its settlement obligations in the account in which the escrow deposit is held. The remaining subparagraphs of Rule 1801 are renumbered, but otherwise unchanged.

### **Amended and Restated On-line Escrow Deposit Agreement**

OCC is proposing to further amend the Amended and Restated On-Line Escrow Deposit Agreement entered into between it and banks participating in its escrow deposit program to reflect the procedural changes to the escrow deposit program described above. The Amendment No. 1 to the Amended and Restated On-Line Escrow Deposit Agreement, with these proposed revisions, is attached to this filing as Exhibit 5.

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The proposed change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), because it more closely aligns the procedures for the processing of releases of escrow deposits in respect of expired short positions with the processing of releases of specific deposits, thereby improving the consistency and efficiency of such processing for OCC, clearing members and custodian banks. 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) of the Act and paragraph (f), of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule 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 2005-04 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-2005-04. 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, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. 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-2005-04 in the caption above and should be submitted on or before [insert date 21 days from publication in the Federal Register.] \_\_\_\_\_.

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

Secretary

Dated: \_\_\_\_\_

**AMENDMENT NO. 1 TO THE AMENDED AND RESTATED ON-LINE  
ESCROW DEPOSIT AGREEMENT**

This Amendment No. 1 to the Amended and Restated On-Line Escrow Deposit Agreement (the "Agreement") is hereby entered into this day of \_\_\_\_\_, 2005, by and between \_\_\_\_\_ ("Bank") and The Options Clearing Corporation ("OCC").

**WHEREAS**, the Agreement governs deposits made with the Bank, in escrow, by customers of the Bank in order to cover their obligations as writers of options contracts issued by OCC as well as the procedures whereby the Bank may issue various instructions with respect to such deposits, including confirming such deposits, "rolling-over" such deposits, and withdrawing such deposits all as provided for in such Agreement;

**WHEREAS**, OCC has effected system changes designed to improve the procedures applicable to escrow deposits, which has resulted in the elimination of one or more reports generated by OCC;

**WHEREAS**, the Bank and OCC desire to amend the Agreement in order to reflect such system changes;

**NOW, THEREFORE**, in consideration of the premises and mutual covenants and agreements set forth herein, the Bank and OCC hereby agree as follows:

1. Section 1.4 is amended to delete "of the preceding sentence" from clause (ii) thereof.
2. Sections 2.1, 3.3, 4.3 and 5.3 are amended to delete the reference to "financial intermediary" or" from clause (c) thereof.
3. Section 13 is deleted in its entirety and reserved.
4. Section 14 is deleted in its entirety and, in lieu thereof, the following is inserted:

"Any escrow deposit made in accordance with this Agreement in respect of equity options shall be released by OCC on its own initiative at 6:00 P.M. (Central Time) on the first business day after the exercise settlement date for the short position covered by the deposit, unless (i) OCC has received notice from National Securities Clearing Corporation or any successor thereto ("NSCC") indicating that the settlement obligations in respect of such short position have not been met by the Clearing Member carrying such short position or the member of NSCC effecting settlements of exercises and assignments on such Clearing Member's behalf, in which case the deposit

shall not be released until the first business day after OCC receives confirmation that it shall have no obligations in respect of the short position, or (ii) if OCC has directed that the exercise be settled otherwise than through NSCC, until OCC receives confirmation that settlement has been made and notifies the Bank, in accordance with the terms hereof, that the deposit is released. Any escrow deposit made in accordance with this Agreement in respect of index options shall be released by OCC on its own initiative at 6:00 P.M. (Central Time) on the exercise settlement date, unless the Clearing Member carrying such short position is not in full compliance with its settlement obligations in the account in which such deposit is held.”

5. Section 20 is deleted in its entirety and, in lieu thereof, the following is inserted:

“The release of an escrow deposit by OCC or the withdrawal of an escrow deposit from OCC in accordance with the provisions of this Agreement shall have the effect of releasing any and all rights of OCC against the Bank with respect to the deposit. Subject (in the case of a withdrawal) to Section 19 hereof, such release or withdrawal shall also release any and all rights of the Clearing Member for whose account the escrow deposit was made provided, however, that if any on-line report referred to in Section 11 above indicates that an exercise notice has been allocated to a short position covered by an escrow deposit that is being withdrawn or released, the Bank shall be prohibited from returning the deposit to the customer and shall remain obligated (i) as to any stock option escrow deposit, to deliver to the Clearing Member for whose account the deposit was made (x) in the case of a deposit made in respect of one or more calls, the underlying securities deposited against payment of the aggregate exercise price of the call(s) covered by such deposit (less all applicable commissions and other charges), upon presentation by the Clearing Member of a duly executed delivery order in the form attached hereto as Exhibit A, or (y) in the case of a deposit made in respect of one or more puts, the aggregate exercise price of the put(s) covered by such deposit (plus all applicable commissions and other charges) against delivery of the underlying securities, upon presentation by the Clearing Member of a duly executed payment order in the form attached hereto as Exhibit B, or (ii) as to any index option escrow deposit, to pay to the Clearing Member the exercise settlement amount (plus any applicable commissions or other charges) upon presentation by the Clearing Member of a duly executed payment order in the form attached hereto as Exhibit B. The release or withdrawal of an escrow deposit as provided herein shall not affect the rights of any Broker specified in the Instruction by which the deposit was made, and the Bank shall not return the deposit, or any portion thereof, to its customer without first having been authorized to do so by such Broker.”

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment No. 1 to the Amended and Restated On-Line Escrow Deposit Agreement on the date set forth above by their duly authorized representative.

[Bank]

The Options Clearing Corporation

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Amendment No. 1 to the AR OL ERD Agreement