

RECEIVED  
C.F.T.C.

2005 MAY 10 PM 4: 51

OFC. OF THE SECRETARIAT

File No. SR-OCC-2005-07

Page 2 of 23

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

---

**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" or "the Corporation") proposes to amend Article XX of its By-Laws and Chapters VI and XXI of its Rules as set forth below. Material proposed to be added by this rule change to OCC's By-Laws and Rules as currently in effect is underlined and material proposed to be deleted is enclosed in bold brackets.

**THE OPTIONS CLEARING CORPORATION**

**BY LAWS**

**ARTICLE XX - CROSS-RATE FOREIGN CURRENCY OPTIONS**

**Definitions**

**Section 1**

A. [unchanged]

B.

**Business Day**

(1) Notwithstanding Article I, Section 1B.([2]5) of the By-Laws, the term "business day" when used with respect to expiring cross-rate foreign currency options may include the Sunday following the expiration date and may exclude the last day of trading preceding such expiration date for the purposes of certain Rules in Chapter XXI as specified in Interpretations and Policies following those Rules.

C. – Z. [unchanged]

[Section 1 of this Article adds certain new definitions relevant to cross-rate currency options and replaces paragraphs A.([3]5), C.(1), ([4]9), E.([8]14), ([11]17), and ([14]20), and P.([9]6) and (13) of Section 1 of Article I of the By-Laws and supplements paragraphs B.([2]5), S.([3]12) and U.([2]5) of that Section. The terms "Paying Clearing Member[,]" and "Collecting Clearing Member[,]" [and "agent bank" ]are defined in respect of cross-rate foreign currency options in Chapter XXI of the Rules.]

\* \* \*

## RULES

### CHAPTER VI – MARGINS

#### Margin on Positions in Non-Equity Options<sup>1</sup>

##### RULE 602.

(a) – (e) [unchanged]

(f) **Special Rules.** (1)(A)-(C) [unchanged]

(2) From and after the opening of business on the business day (or, in the case of a report reflecting the number of exercised and assigned foreign currency option contracts made available on a Sunday designated as a business day following an expiration date, the second business day) following the date on which such a report is made available, a Clearing Member shall not be required to deposit margin with respect to exercised long positions and assigned short positions in foreign currency options or cross-rate foreign currency options reflected in such [Report] report under paragraphs (a) through (d), and shall instead be required to deposit margin with respect to the settlement obligations resulting from such positions under this paragraph (f)(2) and paragraph (f)(3), as applicable. The margin required on a Clearing Member's net obligation to deliver or receive any currency (after giving effect to the updated netting described in Rule 1605(b)[~~]~~ or Rule 2105[(b)(1)], as applicable) on any exercise settlement date shall be equal to:

(A) in the case of a Delivering Clearing Member, the sum of (i) the marking price for the currency plus the applicable margin interval, multiplied by the number of units of currency required to be delivered, and (ii) the settlement amount (as defined in Rule 1605(b) or Rule 2105[(b)(1)], as applicable), if any, payable by such Clearing Member in respect of such currency on that date, less any portion thereof paid prior to that date pursuant to Rule 1606(b) or Rule 2105, as applicable, minus

---

<sup>1</sup>Rule 602 is proposed to be deleted in its entirety in SR-OCC-2004-20. If that rule change is approved before this rule change takes effect, the changes proposed here to Rule 602 will be superceded. The new Monte Carlo margin rule proposed in SR-OCC-2004-20 will automatically apply to cross-rate foreign currency options without modification.

(iii) the settlement amount, if any, receivable by such Clearing Member in respect of such currency on that date; or

\* \* \*

## CHAPTER XXI – CROSS-RATE FOREIGN CURRENCY OPTIONS

### Assignment and Allocation of Cross-Rate Foreign Currency Option Exercise Notices to Cross-Rate Foreign Currency Clearing Members

**RULE 2102.** Exercise notices accepted by the Corporation shall be assigned and allocated in accordance with Rules 803 and 804 except that Delivery Advices shall not be made available by the Corporation for exercises of cross-rate foreign currency option contracts. In lieu thereof, the Corporation shall make available [Exercise and Assignment Reports and Exercise Settlement Reports as provided in Rule 2105 ]reports reflecting the number of exercised and assigned cross-rate foreign currency option contracts and the gross and net payment amounts for each foreign currency.

#### *... Interpretations and Policies:*

**.01** The Corporation may designate the Sunday following an expiration date for cross-rate foreign currency options as a business day for purposes of making available [Exercise and Assignment Reports ]a report reflecting the exercise and assignment of options that were exercised on the expiration date.

\* \* \*

### Exercise Settlement Date for Cross-Rate Foreign Currency Options

**RULE 2104.** (a) Subject to paragraph (b) of this Rule 2104, the exercise settlement date for cross-rate foreign currency options shall be the fourth business day after the day on which an exercise notice with respect to such option was properly submitted to the Corporation pursuant to Rule 801; provided, however, that the Corporation may specify a later exercise settlement date whenever necessary or appropriate to reflect the occurrence of bank holidays in any country where foreign currency is to be [delivered]paid or received by the Corporation or in any country in which a [correspondent] bank acting on behalf of the Corporation is located. The Corporation shall notify Cross-Rate Foreign Currency Clearing Members of such later exercise settlement in such time and in such manner as the Corporation deems practicable under the circumstances.

(b) The [Board of Directors ]Chairman, Management Vice Chairman or President or delegate of such officer may advance or postpone any exercise settlement date for cross-rate foreign currency options whenever, in [its ]his or her opinion, such action is required in the public interest or to meet unusual conditions.

*. . . Interpretations and Policies:*

.01 [unchanged]

**[Allocation of Exercise Settlement Obligations With Respect to Cross-Rate Foreign Currency Options**

**RULE 2105.** (a) Prior to 7:00 A.M. Central Time (8:00 A.M. Eastern Time) on the business day immediately following the day on which an exercise notice in respect of a cross-rate foreign currency option has been properly tendered to the Corporation pursuant to Rule 801, the Corporation shall:

(1) Determine, as to each account of each Cross-Rate Foreign Currency Clearing Member, the number of exercised and assigned option contracts of each series of cross-rate foreign currency options for which exercise notices were properly tendered.

(2) Net the settlement obligations in all accounts of each Cross-Rate Foreign Currency Clearing Member to the extent that such Clearing Member would be both a Delivering Clearing Member and a Receiving Clearing Member for cross-rate foreign currency option contracts of the same type, covering the same unit of trading of the same foreign currency, and having the same exercise price payable in the same trading currency.

(3) Further net the settlement obligations in all accounts of each Cross-Rate Foreign Currency Clearing Member to the extent that such Clearing Member would be both a Delivering Clearing Member and a Receiving Clearing Member for cross-rate foreign currency option contracts covering the same foreign currency and denominated in the same trading currency regardless of the type of option, unit of trading and exercise price.

(4) Make available to each Cross-Rate Foreign Currency Clearing Member an Exercise and Assignment Report for each trading currency (i) setting forth the number of exercised and assigned cross-rate foreign currency option contracts

denominated in that trading currency as determined by the Corporation pursuant to clause (1) above and the quantity of each underlying foreign currency to be delivered or received and the exercise settlement amount in such trading currency for each exercise and assignment and (ii) reflecting the netting performed by the Corporation pursuant to clauses (2) and (3) above.

(b) Prior to 3:00 P.M. Central Time (4:00 P.M. Eastern Time) on each date on which an Exercise and Assignment Report is made available, the Corporation shall:

(1) Update the netting operations performed pursuant to clauses (2) and (3) of paragraph (a) of this Rule, excluding from the netted settlement obligations (i) all obligations to deliver or receive the underlying foreign currency as to which the Corporation has accepted DVP Authorizations pursuant to Rule 2107 and (ii) all amounts to be paid or collected in each trading currency under such DVP Authorizations. For the purposes of these Rules, the term "Collecting Clearing Member" shall mean any Cross-Rate Foreign Currency Clearing Member who is entitled to collect a trading currency after giving effect to such updated netting; the term "Paying Clearing Member" shall mean any Cross-Rate Foreign Currency Clearing Member who is obligated to pay a trading currency after giving effect to such updated netting; and the term "settlement amount" shall mean the amount of a trading currency that a Paying Clearing Member is obligated to pay, or a Collecting Clearing Member is entitled to collect, as a result of such updated netting.

(2) Make available to each Cross-Rate Foreign Currency Clearing Member an Exercise Settlement Report for each trading currency reflecting the updated netting performed by the Corporation pursuant to clause (1) above, and a report indicating all DVP Authorizations denominated in such trading currency initiated by such Clearing Member and accepted by the Corporation pursuant to Rule 2107. If a Cross-Rate Foreign Currency Clearing Member remains obligated to deliver or receive underlying foreign currency (otherwise than pursuant to DVP Authorizations) after giving effect to such updated netting, the Exercise Settlement Report shall also specify the quantity of each underlying foreign currency to be delivered to or received from each such Clearing Member in accordance with Rule 2106. If a Cross-Rate Foreign Currency Clearing Member is a Paying Clearing Member or Collecting Clearing Member with respect to any trading currency after giving effect to such updated netting, the Exercise Settlement Report for such trading currency shall also specify the settlement amount to be paid or collected by such Clearing Member in accordance with Rule 2106.

Notwithstanding any other provision of the By-Laws and Rules, from and after the time an Exercise Settlement Report is made available to a Cross-Rate Foreign Currency Clearing

Member, the rights and obligations of such Clearing Member with respect to the settlement of each net quantity of the underlying foreign currency described therein to be delivered or received by such Clearing Member in accordance with Rule 2106 shall be deemed to be in the firm account of such Clearing Member.

*... Interpretations and Policies:*

**.01** The Corporation may perform the operations and make available the reports described in Rule 2105 on a day other than that specified in Rule 2105 if deemed by the Corporation to be necessary or desirable because of holidays or unforeseen circumstances.

**.02** In the case of expiring cross-rate foreign currency options, the Sunday following the expiration date for such options may be designated by the Corporation as a business day, and the last day of trading shall be deemed not a business day, for the purposes of this Rule 2105. In the event that the Corporation has designated a Sunday following an expiration date as a business day, the Exercise and Assignment Reports made available on such Sunday will include settlement obligations in respect of long and short positions in expiring cross-rate foreign currency options resulting from exercises effected on the business day preceding the last trading day as well as exercises effected on the expiration date.

**.03** Obligations to deliver or receive euros shall not be netted against obligations to deliver or receive legacy currencies, but a Clearing Member obligated to deliver a legacy currency may elect instead to deliver the equivalent amount in euros (based on the official conversion rate), provided that the euros are delivered in accordance with these Rules to the Corporation's correspondent bank in the country of origin of the legacy currency.]

**Determination of Exercise Settlement Obligations with Respect to Cross-Rate Foreign Currency Options**

**RULE 2105.** (a) On the business day on which an exercise notice in respect of a cross-rate foreign currency option is properly tendered to the Corporation, the Corporation shall:

(1) Determine, as to each account of each Cross-Rate Foreign Currency Clearing Member, the number of exercised and assigned option contracts for which exercise notices were properly tendered.

(2) Determine, as to each Clearing Member aggregated across the Clearing Member's accounts, the gross amount of each foreign currency to be paid and the gross amount of each foreign currency to be received (whether as trading currency or underlying foreign currency).

(3) To the extent that a Clearing Member is obligated both to receive and pay the same foreign currency, net the gross amounts to be received against the gross amounts to be paid to determine a single net amount of each foreign currency to be paid or received across all accounts.

(4) Make available to each Cross-Rate Foreign Currency Clearing Member reports reflecting the number of exercised and assigned cross-rate foreign currency option contracts, the gross and net amounts for each foreign currency and any other information as deemed appropriate by the Corporation.

(5) Notwithstanding any other provision of the By-Laws and Rules, from and after the time such report is made available to a Cross-Rate Foreign Currency Clearing Member, the exercise settlement obligations of such Clearing Member with respect to exercised and assigned cross-rate foreign currency options shall be deemed to be in the firm account of such Clearing Member.

(b) The net amount of each foreign currency payable or receivable as calculated under Rule 2105(a)(3) shall be referred to as a "Payment Amount." The Clearing Member obligated to pay a Payment Amount shall be referred to as a "Paying Clearing Member," and a Clearing Member entitled to receive all or a portion of a Payment Amount shall be referred to as a "Collecting Clearing Member."

**... Interpretations and Policies:**

.01 Where a single Clearing Member has been assigned more than one Clearing Member number in OCC's clearing system, settlement obligations will not be aggregated or netted across the separate numbers.

.02 In the event that, for whatever reason, settlement obligations that arise from different exercise and assignment dates will settle on the same date, those settlement obligations will be aggregated and netted to the same extent as if they had arisen from exercises and assignments on the same date.

**[Exercise Settlement**

**RULE 2106.** (a) To the extent that the respective settlement obligations of a Clearing Member or the Corporation are netted out pursuant to Rule 2105(a) (as updated pursuant to Rule 2105(b)(1)), the Clearing Member or the Corporation, as the case may be, shall be deemed to have fully discharged such obligations at the settlement time on the business day (or, in the case of an Exercise Settlement Report made available on a Sunday designated as a business day following an expiration date, the second business day) following the date the Corporation makes available an Exercise Settlement Report reflecting such netting. The remaining obligations of the Clearing



Member or the Corporation, as the case may be, to deliver any underlying foreign currency or to pay any trading currency, shall be deemed to be discharged at the time such delivery or payment is completed pursuant to the Rules of this Chapter, and the Clearing Member or the Corporation, as the case may be, shall thereafter have no further obligation in respect thereof.

(b) The Corporation may further net the remaining settlement obligations referred to in paragraph (a) of this Rule to obtain a single net amount of each foreign currency payable by or to the Clearing Member on the exercise settlement date. In the case of each foreign currency that is both a trading currency and an underlying foreign currency, the Corporation may effect settlement thereof by netting such amounts together with premium and cash margin amounts payable by or to the Clearing Member on the exercise settlement date pursuant to Rule 2112 to the extent that the Corporation deems appropriate. Settlement of any amounts not so netted, and any delivery or receipt of a foreign currency that is not also a trading currency, shall be effected separately on the exercise settlement date at the settlement time established by the Corporation for such foreign currency through the applicable bank account of the Clearing Member in accordance with the usual cash settlement procedures of the Corporation. Notwithstanding any other provision of this rule, in any case where the Corporation determines in its sole discretion that the foregoing procedures could result in the Corporation's not learning of a Clearing Member's failure to render timely performance of its exercise settlement obligations in time to instruct the Corporation's bank not to proceed with performance of the Corporation's reciprocal settlement obligations, then the Corporation may require delivery of the underlying foreign currency by the Delivering Clearing Member or payment of the aggregate exercise price by the Receiving Clearing Member on the foreign business day immediately preceding the exercise settlement date.]

#### **Exercise Settlement of Cross-Rate Foreign Currency Options**

**RULE 2106.** (a) To the extent that the settlement rights and obligations of a Clearing Member are netted out pursuant to Rule 2105, such rights and obligations shall be deemed to have been fully satisfied at the settlement time on the business day following the date the Corporation makes available a report reflecting the net amounts of each foreign currency payable or receivable. The Clearing Member's remaining rights and obligations (if any) in respect of exercised or assigned positions in cross-rate foreign currency options shall be deemed to be satisfied at the time payment and receipt are completed pursuant to the Rules of this Chapter.

(b) At the time prescribed by the Corporation on the exercise settlement date, the Corporation shall withdraw the Payment Amount from the bank account of each Paying Clearing Member and pay the Payment Amount to the bank account of one or more Collecting Clearing Members, all such bank accounts to be properly designated for those purposes in accordance with the Corporation's procedures. Notwithstanding any other provision in Rule 2106, where the Corporation determines that the foregoing procedures could result in the Corporation's not learning of a Clearing Member's failure to make a Payment Amount available to the Corporation in one

currency in sufficient time to instruct the Corporation's bank not to proceed with performance of the Corporation's settlement obligations to the Clearing Member in another currency, then the Corporation may require payment of the Payment Amount by the Paying Clearing Member in one or more currencies to be made on the applicable foreign business day immediately preceding the exercise settlement date (an "early debit date").

(c) If a Collecting Clearing Member that is also a Paying Clearing Member fails to have in its account adequate funds to satisfy the draw by the Corporation, or the Corporation is for some reason unable to withdraw the Payment Amount on the exercise settlement date or on the early debit date (as the case may be) from such Paying Clearing Member's account, then Corporation may withhold, and may apply against the margin payable by such Clearing Member by reason of such failure to pay, all or any portion of a Payment Amount that would otherwise be paid to the Clearing Member as a Collecting Clearing Member, as determined by the Corporation in its discretion.

. . . Interpretations and Policies:

.01 The Corporation will prescribe deadlines for payment of currencies on the exercise settlement date. If, for any reason, a Paying Clearing Member fails to have good funds in the relevant currency in its account or the Corporation is for some other reason unable to withdraw such funds from the account prior to the applicable deadline on the exercise settlement date or on the early debit date (as the case may be), the Paying Clearing Member will be liable for interest and related charges and will run the risk of being bought in.

**[Alternative Settlement Procedure**

**RULE 2107.** (a) A Clearing Member that is obligated to deliver or receive an underlying foreign currency in settlement of an exercise of cross-rate foreign currency options may, in lieu of following the settlement procedures prescribed in Rule 2106, settle such obligations in whole or in part through the procedures provided in this Rule.

(b) At or before 12:00 Noon Central Time (1:00 P.M. Eastern Time) on the date on which any Exercise and Assignment Report is made available, or at such other times as the Corporation shall prescribe, a Clearing Member may submit to the Corporation one or more Delivery Versus Payment ("DVP") Authorization instructions through electronic means prescribed by the Corporation for such purposes. A DVP Authorization instruction shall constitute an instruction from the Clearing Member to an approved bank acting on its behalf ("agent bank") directing the agent bank to guarantee to OCC's correspondent bank, via international bank wire, delivery on the exercise settlement date in immediately available funds of either (i) a designated quantity of an underlying foreign currency against payment of a specified sum in the trading currency or (ii) a specified sum in the trading currency against delivery of a designated quantity of an underlying currency.

(c) A Clearing Member may submit DVP Authorization instructions to settle all or any part of the gross settlement obligations or any netted combination thereof reflected in an Exercise and Assignment Report pursuant to Rule 2105(a)(4). Notwithstanding the foregoing, under no circumstances may a Clearing Member submit DVP Authorization instructions for the delivery or receipt, on any exercise settlement date, of a quantity of underlying foreign currency greater than the gross quantity shown as deliverable or receivable by the Clearing Member on that date in the applicable Exercise and Assignment Report.

(d) If a properly submitted DVP Authorization instruction (i) is consistent with the Corporation's records as to the initiating Clearing Member's settlement obligations on the applicable exercise settlement date; (ii) is addressed to an agent bank approved by the Corporation for the purposes of this Rule, and (iii) would not, when aggregated with other outstanding DVP Authorization instructions addressed to the same bank, cause the bank's obligations to the Corporation's correspondent bank to exceed such credit limits as the latter may from time to time impose; then the Corporation shall confirm its acceptance of the DVP Authorization instruction to the Clearing Member via an on-line confirmation of acceptance message. A Clearing Member may designate the Corporation's correspondent bank as the Clearing Member's agent bank, in which event clause (iii) of the preceding sentence shall be inapplicable.

(e) If a Clearing Member fails to meet its settlement obligations shown in an Exercise Settlement Report, the Corporation may revoke its acceptance of any or all DVP Authorization instructions taken into account by the Corporation in calculating the remaining delivery and payment obligations reflected in such Exercise Settlement Report, and the Clearing Member's settlement obligations under Rule 2106 shall be adjusted accordingly. If the Corporation revokes its acceptance of a DVP Authorization instruction, the Corporation shall promptly notify the affected Clearing Member and agent bank.

(f) After the Corporation accepts a DVP Authorization instruction, the initiating Clearing Member shall deliver to its agent bank a DVP Authorization report listing the accepted DVP Authorization instruction, and shall cause the agent bank to issue a message via international bank wire to the Corporation's correspondent bank, not later than such time as the Corporation shall prescribe on the second foreign business day preceding the exercise settlement date, guaranteeing delivery or payment, as the case may be, in accordance with the terms of the DVP Authorization instruction.

(g) If the Corporation's correspondent bank receives a timely guarantee message from an agent bank, and the message agrees with the terms of the accepted DVP Authorization instruction, the Corporation shall cause its correspondent bank to deliver to the agent bank on the exercise settlement date, the quantity of the underlying foreign currency or the amount of the trading currency specified in the DVP Authorization instruction as payable by the Corporation.

(h) If the Corporation's correspondent bank fails to receive a timely guarantee message from a Clearing Member's agent bank, or the message received fails to agree with the terms of the accepted DVP Authorization instruction, the Corporation shall (i) revoke its acceptance of the DVP Authorization instruction, (ii) promptly advise the Clearing Member and its agent bank thereof, and (iii) direct the Clearing Member to effect settlement in accordance with Rule 2106 for the delivery or payment obligations that were to have been settled pursuant to the DVP Authorization instruction. In such event, the settlement amount shown in the applicable Exercise Settlement Report shall be recalculated. If, after giving effect to such recalculation, the Clearing Member is a Paying Clearing Member for an amount greater than the amount (if any) specified in the updated Exercise Settlement Report, the Clearing Member shall be obligated to pay such greater amount to the Corporation, in immediately available funds, or shall authorize the Corporation to withdraw the settlement amount shown in such report from the Clearing Member's bank account as provided in Rule 2106.

(i) If the Corporation's correspondent bank receives a guarantee message from an agent bank, and the Corporation thereafter revokes its acceptance of the underlying DVP Authorization instruction, the Corporation shall cause its correspondent bank to release the agent bank from any further obligation pursuant to the guarantee message.

(j) Notwithstanding the foregoing, the Corporation will not accept DVP Authorization instructions, and the settlement procedures described in this rule will not be in effect, until such time as the Corporation announces. Prior to such announcement, all settlements of cross-rate foreign currency option exercises shall be settled in accordance with Rule 2106.

***. . . Interpretations and Policies:***

**.01** If unusual or unforeseen conditions (including but not limited to power failures or equipment malfunctions) prevent a Clearing Member from submitting any report, notice, instruction, data or other item to the Corporation by on-line data entry prior to any applicable cut-off time, the Corporation may in its discretion (i) require the Clearing Member to submit such item by other approved means, including the use of hard copy forms, and/or (ii) extend the applicable cut-off time by such period as the Corporation deems reasonable, practicable and equitable under the circumstances.]

**RULE 2107.**      Reserved

**Bank Accounts**

**RULE 2108.** Every Cross-Rate Foreign Currency Clearing Member shall designate, with respect to each foreign currency [that is a trading currency or an underlying currency] in which

such Clearing Member may have a settlement right or obligation, a bank account established and maintained by it at a Clearing Bank (in the country of origin of such foreign currency or in such other location as the Corporation may approve) [for each account maintained by it with the Corporation]. Banking arrangements maintained by Clearing Members in accordance with this Rule shall be subject to approval by the Corporation. Each Cross-Rate Foreign Currency Clearing Member shall authorize the Corporation to withdraw funds from and deposit funds to such bank accounts in accordance with the Rules.

*... Interpretations and Policies:*

.01 [(a) With respect to euros and ECUs, the Corporation shall designate the country of origin for the purposes of requirements in the Rules that foreign currencies be delivered to the Corporation "at the Corporation's correspondent bank in the country of origin."] Unless and until the Corporation shall direct otherwise the country of origin for euros shall be Germany] and the country of origin for ECUs shall be Belgium].

[(b) Requirements in the Rules that the Corporation deliver euros or ECUs to the Clearing Member's correspondent bank "in the country of origin" shall mean that such currency must be delivered to a bank that maintains accounts (including multi-currency accounts) denominated in such currency.]

**Failure to [Deliver or ]Pay**

**RULE 2109.** (a) If the Clearing Member required to make a [delivery or ]payment of any foreign currency under Rule 2106 shall fail to [complete such delivery or] have in its account adequate funds in the relevant foreign currency to make such payment or the Corporation is for some reason unable to access the Clearing Member's account within the time periods and in the manner prescribed pursuant to Rule 2106, the Corporation may (1) borrow the required foreign currency in order to meet its settlement obligation under Rule 2106(d), or (2) direct Collecting Clearing Members [that are entitled to receive delivery or payment of the same or a greater amount of such foreign currency on the same exercise settlement date ]to buy in the unpaid foreign currency for [the counter-currency (as defined in paragraph (e) of this Rule) or] such other currency or currencies as the Corporation may specify, such buy-in to be effected promptly (and in no event more than two foreign business days after notice by the Corporation) for the account and liability of the Corporation; provided, however, that the Corporation may direct that the execution of any such buy-in be deferred if the Corporation has reason to believe that other arrangements adequate for the protection of the Corporation and Clearing Members have been made. If the Corporation borrows the foreign currency to make [delivery or ]payment to a Collecting Clearing Member, and the Paying Clearing Member obligated to make [delivery or ]payment fails to do so within five foreign business days after the exercise settlement date, the Corporation shall promptly (and in no event more than seven foreign business days after the exercise settlement date) buy in the foreign currency for the account and liability of the defaulting Clearing Member; provided, however, that (x) the Corporation

may defer such buy-in if it has reason to believe that the defaulting Clearing Member will [deliver] make payment of the foreign currency and/or other arrangements adequate for the Corporation's protection have been made, and (y) the Corporation may, in lieu of executing such a buy-in, retransmit to the defaulting Clearing Member any buy-in executed for the account and liability of the Corporation by the party from whom the Corporation borrowed the foreign currency. No advance notice need be given of any buy-in executed pursuant to this Rule, but the party executing such a buy-in shall immediately, after execution thereof, give written notice to the defaulting Clearing Member and, in the case of a buy-in executed by a Collecting Clearing Member [entitled to receive the foreign currency], the Corporation, as to the quantity of the foreign currency purchased and the price paid. A Collecting Clearing Member that executes a buy-in pursuant to this Rule must be prepared to defend the timing of the buy-in and the price at which the buy-in is executed relative to the current market at the time of the transaction.

(b) If a buy-in has been completed by a Clearing Member, upon receipt of notice thereof, the Corporation shall promptly pay such Clearing Member the [amount] cost of [any loss sustained on] such buy-in. Where a buy-in has been effected either by a Clearing Member or by the Corporation, or where a buy-in has been retransmitted by the Corporation, the defaulting Clearing Member shall promptly, and in any event prior to the time [on the following foreign business day] specified by the Corporation, pay the Corporation the [amount] cost of [any loss sustained on] such buy-in.

(c) If a defaulting Clearing Member shall fail to [complete delivery or] make payment of a foreign currency within the time periods and in the manner prescribed pursuant to Rule 2106, such Clearing Member shall be obligated to pay the Corporation the imputed interest loss resulting from such late [delivery] payment and the Corporation shall be authorized to withdraw such amount from the defaulting Clearing Member's bank account. If the Corporation shall fail to [deliver] pay to a Clearing Member any foreign currency that such Clearing Member is entitled to receive on the exercise settlement date, the Corporation shall be obligated to pay to such Clearing Member, promptly after [delivery or] payment is made, the imputed interest loss resulting from such late [delivery or] payment. The term "imputed interest loss" shall mean an amount determined by the Corporation approximating the interest which would have been derived had the foreign currency to be paid been invested in the country of origin from the exercise settlement date until the day the Corporation or such Clearing Member (as the case may be) receives the foreign currency through [delivery] payment or buy-in, or such other amount as is determined by the Corporation.

(d) [unchanged]

(e) In any case in which a Clearing Member fails to [complete delivery or] make payment within the time periods prescribed pursuant to Rule 2106, (i) the Corporation shall have power to pledge and repledge the amount of [the counter-] any other currency that would have been payable to the defaulting Clearing Member if the defaulting Clearing Member had made settlement

pursuant to Rule 2106 to secure borrowings by the Corporation until such time as the defaulting Clearing Member shall have paid to the Corporation all amounts due the Corporation in respect of the default; and (ii) the Corporation may at any time cause such [~~counter-~~ other] currency to be sold out and the proceeds applied against any such amounts due to the Corporation. [As used herein, the term "counter-currency" shall mean, in the case of a buy-in of an underlying foreign currency, the trading currency payable upon delivery of such underlying foreign currency and, in the case of a buy-in of a trading currency, the underlying foreign currency deliverable against payment of such trading currency.]

### **Disciplinary Action for Failure to [Deliver ]or Pay**

**RULE 2110.** If, without good cause, [a Delivering Clearing Member fails to discharge its guarantee or delivery obligations under Rule 2106, or] a Paying Clearing Member fails to pay the [settlement amount due]Payment Amount pursuant to Rule 2106, such failure shall be deemed to constitute a delay embarrassing the operations of the Corporation, and shall subject the Clearing Member to discipline under Chapter XII of the Rules. The Chairman, the Management Vice Chairman, or President of the Corporation shall have the authority to determine, subject to review as provided in Chapter XII of the Rules, whether good cause existed for any such failure to deliver or pay.

#### ***... Interpretations and Policies:***

**.01** As used in Rule 2110, "good cause" shall be deemed by the Corporation to include, but not to be limited to, imposition of foreign government restrictions precluding the [delivery]payment of foreign currency, failure of an international bank wire or the failure of access to such wire by the bank acting for the [Receiving Clearing Member, the Delivering]Paying Clearing Member or the Corporation, provided settlement is made on the next business day on which [delivery]payment can be made and such wire is operable.

\* \* \*

### **Daily Cash Settlements**

**Rule 2112.** (a) [At or prior to 7:00 p.m. Central Time on ]On each business day, the Corporation shall make available to each Cross-Rate Clearing Member a report listing, among other things, all Exchange transactions of the Clearing Member in cross-rate foreign currency options in each account of the Clearing Member as to which the Corporation received matching trade information on such business day and shall show the amount of the net daily premium payable to or by the Clearing Member in each trading currency with respect to each such account.

(b) – end [unchanged]

\* \* \*

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

The proposed rule changes were approved by the Board of Directors of OCC at a meeting held on May 25, 2004.

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**

The purpose of the proposed rule change is to update OCC's By-Laws and Rules pertaining to the settlement of exercised cross-rate foreign currency options ("cross-rate options") in connection with the recent installation of the portion of OCC's new ENCORE clearing system that processes those settlements. The installation, which occurred in April, 2005, converted existing processing to the ENCORE technology with only a few variations. OCC also wishes to take this occasion to update its rules by eliminating detail that is more appropriately included in operational procedures than in OCC's rulebook and by making a few other changes described below to reflect OCC's experience and certain developments since the cross-rate option rules were initially adopted. As proposed to be amended, these provisions of the By-Laws and Rules apply equally to processing under both ENCORE and its predecessor system.



**Overview of the Exercise Settlement Process for Cross-Rate Foreign Currency Options**

As set forth in revised Rules 2105 and 2106, following the assignment of exercise notices in respect of cross-rate options, the gross settlement obligations for each currency arising from obligations to pay and rights to receive trading currencies and underlying currencies are calculated for all accounts with a particular clearing number. Those gross amounts are netted down to a single pay or collect amount for each currency for all such accounts. In the event that two or more settlements in a currency arising from different exercise/assignment dates settle on the same date, those settlements are also netted. If such processing nets out all settlement obligations for a currency, then such obligations are deemed discharged. Settlement obligations arising from multiple clearing numbers controlled by the same Clearing Member are not netted against each other.

To the extent a settlement obligation remains, OCC makes available to each Clearing Member that is obligated to pay a currency (a “Paying Clearing Member”) and each Clearing Member that is entitled to receive a currency payment (a “Collecting Clearing Member”) a report showing the net amount of the currency they are obligated to pay or entitled to receive.

On the exercise settlement date, OCC drafts the bank account of each Paying Clearing Member in the amount of the foreign currency they are obligated to pay (a “Payment Amount”) and then pays the Payment Amount to the Collecting Clearing Members in such amounts as they are entitled to receive.

**Description of the Specific Rule Changes**

The principal changes are to Rules 2105 through 2107. Rules 2105 and 2106 have been substantially redrafted to provide for the settlement process described above. Rule 2107, which

described an alternate settlement procedure known as Delivery versus Payment (“DVP”), is removed because there are no systemic or banking mechanisms to support DVP settlements for cross-rate options.

Rule 2104(b) is being amended to grant authority to the Chairman, Management Vice Chairman, President and any delegate of such officers the authority to advance or postpone the settlement date for exercises of cross-rate options. This change is being implemented because it may be impractical to convene a Board meeting in time to take action on the day that unusual conditions arise, and OCC needs the flexibility to respond quickly to events affecting the exercise settlement date for cross-rate options. Similar changes were recently implemented to Rule 903(b) (“Obligations to Deliver”) and Rule 1604(b) (“Exercise Settlement Date for Foreign Currency Options”). *See* SR-OCC-2002-21 and SR-OCC-2004-07.

Certain non-substantive changes are made to Rules 602(f)(2), 2102, 2108-10, and 2112, and Article XX, Section 1, of the By-laws to correct cross-references and to conform to terminology used elsewhere in the revised rules.

\* \* \*

The proposed changes to OCC’s rules are consistent with the purpose and requirements of Section 17A of the Securities and Exchange Act of 1934, as amended, because such changes are designed to promote the prompt and accurate clearance and settlement of transactions in, and exercises of, cross-rate foreign currency options and to assure safeguarding of securities and funds in the custody and control of OCC. 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**

OCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Securities Exchange Act of 1934.

**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)(i) of the Securities Exchange Act of 1934, OCC believes that the proposed rule-change should take effect upon filing because it is, with one exception, a restatement of existing policies, practices and rules. The change in who can authorize a postponement of an exercise settlement date as set forth in the proposed amendment to Rule 2104(b), while a substantive change, should become effective on filing under Section 19(b)(3)(A)(iii) as relating solely to the administration of OCC.

**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 Change for publication in the Federal Register.

\* \* \*

**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**