

RECEIVED
S.E.T.C.

2005 DEC 14 AM 7:48

OFFICE OF THE SECRETARIAL

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") proposes to amend its Rules as set forth below. Material proposed to be added to the Rules as currently in effect is underlined.

Material proposed to be deleted therefrom is enclosed in brackets.

THE OPTIONS CLEARING CORPORATION

* * *

RULES

CHAPTER IV

Trade Reporting and Matching

* * *

Allocations

RULE 405. [unchanged from File No. SR-OCC-2005-ww]

...Interpretations and Policies:

.01 [unchanged from File No. SR-OCC-2005-ww]

[.02 No Clearing Member shall submit an allocation instruction pursuant to this Rule 405 for positions in securities options and security futures until the Securities and Exchange Commission has issued an order permitting such positions to be allocated in accordance herewith.]

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 December 6, 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

The principal purpose of this rule change is to adopt Rule 405 for use in allocating positions in contracts subject to the Commission's jurisdiction.

Introduction

In January, 2006, OCC plans to install a new system to process post-trade allocation instructions by clearing members. In order to accommodate the immediate use of the allocation system, when installed, for commodity contracts cleared by OCC that are subject to the exclusive jurisdiction of the CFTC, OCC adopted Rule 405 by submitting File No. SR-OCC-2005-21 for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. However, Interpretation and Policy .02 to Rule 405 provides that the system may not be used for securities options or security futures until the Commission issues an approval order with respect to Rule 405. In File No. SR-OCC-2005-21, OCC stated that it would submit a separate rule change, specifically this rule change, for purposes of adopting Rule 405 for use in

allocating positions in contracts which are subject to the Commission's jurisdiction.¹ This rule change is being filed pursuant Section 19(b)(2) for approval by the Commission.

Background

OCC plans to provide clearing members with a centralized system for processing allocation or "give-up" instructions across all exchanges for which OCC provides clearing services. Allocations are post-trade instructions entered by one clearing member (i.e., an authorized "executing" or "giving-up" clearing member) that direct a transaction or position to the account of another clearing member (i.e., the "carrying" or "given-up" clearing member). OCC's centralized system will enhance OCC's service offerings and will provide efficiencies to clearing members.

Post-trade allocations of securities options are currently processed through OCC's Clearing Member Trade Assignment ("CMTA") functionality (See OCC Rule 403), which normally causes a transaction to clear into an account of the carrying clearing member automatically so long as the executing and carrying clearing members have an effective CMTA arrangement registered with OCC for the exchange submitting the matching trade information for that transaction. Once Rule 405 is approved by the Commission for purposes of allocating positions in securities options, clearing members will be able to elect either to continue to use the existing CMTA system or to use the new allocation system for securities options.

For most commodity futures cleared through OCC, post-trade allocations are currently processed through The Clearing Corporation's ("CCorp") "give-up" system (See OCC

¹ OCC proposes to delete Interpretation and Policy .02 to Rule 405 in this filing.

Rule 404), which requires the given-up clearing member to affirmatively accept a transaction.

OCC's allocation system will enable clearing members to process commodity futures "give-ups" without going through the CCorp system.

Rule 405

Rule 405 governs the processing of allocation instructions for contracts subject to the exclusive jurisdiction of the CFTC, and will operate in the same fashion for contracts subject to the Commission's jurisdiction.

Transactions will first clear in the designated account of the giving-up clearing member. Instructions to allocate positions may be submitted either through an exchange's system for providing matching trade information to OCC or through ENCORE. In either case, if the given-up and giving-up clearing members are parties to an allocation agreement that has been registered with OCC,² OCC will automatically allocate the positions resulting from an allocation instruction to a designated account of the given-up clearing member without further action by the clearing members. If the clearing members are not parties to a registered allocation agreement, OCC will not effect the allocation instruction until the given-up clearing member gives OCC notice of its affirmative acceptance of the allocated positions. (In contrast, the CMTA system does not allow for the acceptance of allocated positions without a registered CMTA agreement.)

If the given-up clearing member does not give OCC notice of such acceptance by an OCC-

² Unlike CMTAs, clearing members will not be required to register their allocation arrangement by exchange.

specified deadline, the allocation instruction will not be processed, and the positions will remain in the account of the giving-up clearing member, which will remain obligated on those positions.

A given-up clearing member will be responsible for appropriately allocated positions. Given-up positions are moved to the given-up clearing member's account at the premium price (in the case of options) or contract price (in the case of futures) at which the positions were established by the executing clearing member. Positions that are allocated on an intra-day basis will not be reflected in position reports until the following business day. However, OCC will take those positions into account in processing any intra-day settlements authorized by the by-laws and rules, including intra-day margin settlements. A given-up clearing member may enter an instruction to reverse an allocation that was accepted in error. If the given-up and giving-up clearing members are parties to a registered allocation agreement, the reversing instruction would be automatically processed. If the clearing members are not parties to a registered allocation agreement, the reversing instruction must be affirmatively accepted by the original giving-up clearing member.

Allocation instructions may be for a single position (i.e., a position in a given series established at a single price, or for a group of positions (i.e., positions in the same series established at different prices). Allocation instructions for grouped positions must be submitted via ENCORE, OCC's clearing system. For single positions, the instruction must identify the contract quantity, series and price as specified in the matching trade information. For grouped positions, the allocation instruction must provide the same information but the price may be an

average price if not prohibited under exchange rules and applicable law.³ For the convenience of clearing members, OCC's system will produce a suggested average price for grouped allocations that clearing members may adopt for purposes of processing the instruction.

Registration of allocation agreements may be terminated either by mutual agreement or unilaterally. Mutually terminated registrations will be effected immediately in OCC's system. Unilaterally terminated registrations will be terminated in OCC's system effective as of 8:00 a.m. (CT) the business day after the termination notice is received by OCC and the other clearing member. These are the same standards applied to terminating CMTA arrangements under OCC Rule 403. Following termination of registration of an allocation agreement, an allocated position may be allocated to a given-up clearing member only upon its affirmative acceptance thereof.

* * *

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), because it ensures that positions resulting from exchange transactions in derivative contracts are carried in the appropriate account by the clearing member which is the clearing broker for the investor for whom the transaction was executed, and thereby, promotes the prompt and accurate clearance and settlement of transactions in derivative contracts, fosters cooperation and coordination with

³ Average pricing is permitted under the Commodity Exchange Act in certain circumstances. In those circumstances, a clearing member may instruct OCC to use the average price in clearing and settling the trades. Clearing members have requested that OCC to provide functionality that would also permit positions in securities options and security futures to be also allocated at an average price. Accordingly, OCC has developed its allocation system to accommodate the use of such prices for security options and futures, provided that such use does not violate Exchange rules or applicable law.

persons engaged in the clearance and settlement of such transactions, removes impediments to and perfect a mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, protects investors and the public interest. 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 for Commission action on the proposed rule change.

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

Not applicable.

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.

SIGNATURE

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
William H. Navin
Executive Vice President and
General Counsel