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OFC. OF THE SECRETARIAT

**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” or “the Corporation”) proposes to amend Article VI, Section 11, Article XV, Section 4, Article XVII, Section 4, Article XX, Section 4, Article XXII, Section 3, Article XXIII, Sections 4 and 5, and Article XXIV, Section 6 of its By-Laws, and to add Section 11A to Article VI of its By-Laws, as set forth below in order to consolidate common policies and procedures relevant to adjustment panels that act from time to time on behalf of the Corporation to adjust the terms of outstanding cleared contracts to reflect events affecting the issuer of the instrument underlying the relevant contract. Material proposed to be added to OCC’s By-Laws as currently in effect is underlined, and material proposed to be deleted is enclosed in bold brackets.

**THE OPTIONS CLEARING CORPORATION**

**BY-LAWS**

\* \* \*

**Article VI**

**Clearance of Exchange Transactions**

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**Terms of Cleared Contracts**

**Section 10. (a) – [unchanged]**

(b) Except to the extent provided otherwise in the By-Laws and Rules with respect to transactions in flexibly structured options, the expiration date and exercise price and, (i) in the case of capped option contracts, the cap interval (as defined, in the case of capped index

option contracts, in Article XVII of the By-Laws), and (ii) in the case of packaged spread options, the base exercise price and spread interval (as defined in Article XXVI of the By-Laws), of option contracts of each series of options shall be determined by each Exchange or futures market at the time such series of options is first opened for trading on that Exchange or futures market. The unit of trading of option contracts of each series of options shall be designated by the Corporation prior to the time such series of options is first opened for trading, and in the absence of such designation for a series of options in which the underlying security is a common stock, the unit of trading shall be 100 shares. The unit of trading and exercise price initially established for an option contract are subject to adjustment in accordance with Section 11A of this Article VI or, in the case of a futures option, in accordance with Section 4 of Article XII of the By-Laws.

(c) – (e) [unchanged]

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#### **Adjustment Panel Policies and Procedures<sup>1</sup>**

**Section 11. (a)** Unless otherwise provided in the By-Laws or Rules of the Corporation, [A]all adjustments [hereunder] to the terms of outstanding cleared contracts shall be made by the Securities Committee[.], which [The Securities Committee] shall determine whether to make adjustments to reflect particular events in respect of an underlying [security] interest, and the nature and extent of any adjustment, based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers (or purchasers and sellers) of [option contracts on the underlying security] the affected contracts, the maintenance of a fair and orderly market in [options on the underlying security] the affected contracts, consistency of interpretation and practice, efficiency of exercise settlement procedures, and the coordination with other clearing agencies of the clearance and settlement of transactions in the underlying [security] interest. The Securities Committee may, in addition to determining adjustments on a case-by-case basis, adopt statements of policy or interpretations having general application to specified types of events or specified kinds of cleared contracts. [Two sentences moved to paragraph (c) below.] In making any adjustment determination, the Securities Committee shall apply the factors set forth in this Section 11 in light of the circumstances known to it at the time such determination is made.

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<sup>1</sup> The current text of Section 11(b) is being incorporated, with minor changes, into proposed Section 11(a) and (b). The current text of Section 11(k) is being incorporated, with minor changes, into proposed Section 11(c). Changes from the existing Section 11(b) and (k) are marked. However, material from existing Section 11(b) and (k) has, in some cases, been rearranged in proposed Section 11. Material in existing Section 11(a) and (c)-(j) has been moved to new Section 11A and, therefore, no deletions of these paragraphs of existing Section 11 are shown in proposed Section 11.

(b) Every determination by the Securities Committee [pursuant to this Section 11] with respect to an adjustment under the By-Laws or Rules of the Corporation shall be within the sole discretion of the Securities Committee and shall be conclusive and binding on all investors and not subject to review. If the Securities Committee does not learn, or does not learn in a timely manner, of an event for which the Securities Committee would have otherwise made an adjustment, neither the Corporation nor the Securities Committee shall be liable for any failure to make such adjustment or delay in making such adjustment.

(c) The Securities Committee shall consist of one designated representative of each Exchange and the Chairman of the Corporation. In making a determination regarding the adjustment of outstanding [option contracts or BOUNDS] cleared contracts on a particular underlying interest, the action of an adjustment panel, consisting of two designated representatives of each Exchange on which such [option contracts or BOUNDS] cleared contracts are open for trading (one of whom shall be such Exchange's representative on the Securities Committee) and the Chairman of the Corporation shall constitute the action of the Securities Committee. The vote of a majority of the voting members of the Securities Committee, or of any adjustment panel, shall constitute the determination of the Securities Committee or such panel. The Chairman of the Corporation shall not be a voting member of the Committee or of any adjustment panel except in the case of a tie vote, in which case the Chairman shall have the right to cast a vote to break the tie and shall, for such purpose, be deemed to be a voting member. The Securities Committee or any adjustment panel may transact its business by telephone. Notwithstanding the foregoing provisions of this paragraph, the Chairman of the Corporation may designate any other officer of the Corporation, and any representative of an Exchange may designate any other representative of such Exchange, to serve in his place at any meeting of the Securities Committee or of any adjustment panel. In the event of such designation, the designee shall, for the purposes of such meeting, have all of the powers and duties under this Section 11 of the person designating him. Neither the Corporation nor any Exchange shall designate to serve on any adjustment panel (i) any Exchange member or Clearing Member, or any director, officer, partner, or employee of any Exchange member or Clearing Member, or (ii) any person who, to the knowledge of the self-regulatory organization designating such person, is the beneficial holder of a long or short position in [option contracts or BOUNDS] the cleared contracts as to which such adjustment panel is to make a determination.

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### **Adjustments for Stock Option Contracts**

**Section 11A.** (a) Whenever there is a dividend, stock dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization,

recapitalization, reclassification or similar event in respect of any underlying security, or a merger, consolidation, dissolution or liquidation of the issuer of any underlying security, the number of option contracts, the unit of trading, the exercise price, and the underlying security, or any of them, with respect to all outstanding option contracts open for trading in that underlying security may be adjusted in accordance with this Section 11A.

(b) All adjustments hereunder shall be made by the Securities Committee in accordance with the policies and procedures set forth in Section 11. [The Securities Committee shall determine whether to make adjustments to reflect particular events in respect of an underlying security, and the nature and extent of any adjustment, based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers of option contracts on the underlying security, the maintenance of a fair and orderly market in options on the underlying security, consistency of interpretation and practice, efficiency of exercise settlement procedures, and the coordination with other clearing agencies of the clearance and settlement of transactions in the underlying security. The Securities Committee may, in addition to determining adjustments on a case-by-case basis, adopt statements of policy or interpretations having general application to specified types of events. Every determination by the Securities Committee pursuant to this Section 11 shall be within the sole discretion of the Securities Committee and shall be conclusive and binding on all investors and not subject to review. If the Securities Committee does not learn, or does not learn in a timely manner, of an event for which the Securities Committee would have otherwise made an adjustment, neither the Corporation nor the Securities Committee shall be liable for any failure to make such adjustment or delay in making such adjustment. In making any adjustment determination, the Securities Committee shall apply the factors set forth in this Section 11 in light of the circumstances known to it at the time such determination is made.]<sup>2</sup>

(c) [unchanged from existing paragraph 11(c)]

(d) Subject to paragraph (c) of this Section 11A, it shall be the general rule that in the case of a stock dividend, stock distribution or stock split whereby one or more whole numbers of shares of the underlying security are issued with respect to each outstanding share, each option contract covering that underlying security shall be increased by the same number of additional option contracts as the number of shares issued with respect to each share of the underlying security, the exercise price per share in effect immediately prior to such event shall be proportionately reduced, and the unit of trading shall remain the same.

(e) Subject to paragraph (c) of this Section 11A, it shall be the general rule that in the case of a stock dividend, stock distribution or stock split whereby other than a whole number

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<sup>2</sup> Although existing Section 11(b) is shown here as being deleted, most of the text of existing Section 11(b) has been incorporated into proposed Section 11(a) and (b) above, which have been marked to show changes from the text of existing Section 11(b).

of shares of the underlying security is issued in respect of each outstanding share, the exercise price in effect immediately prior to such event shall be proportionately reduced, and conversely, in the case of a reverse stock split or combination of shares, the exercise price in effect immediately prior to such event shall be proportionately increased. Whenever the exercise price with respect to an option contract has been reduced or increased in accordance with this paragraph (e), the unit of trading shall be proportionately increased or reduced, as the case may be.

(f) It shall be the general rule that in the case of any distribution made with respect to shares of an underlying security, other than ordinary distributions and other than distributions for which adjustments are provided in paragraph (d) or (e) of this Section 11A, if an adjustment is determined by the Securities Commission to be appropriate, (i) the exercise price in effect immediately prior to such event shall be reduced by the value per share of the distributed property, in which event the unit of trading shall not be adjusted, or (ii) the unit of trading in effect immediately prior to such event shall be adjusted so as to include the amount of property distributed with respect to the number of shares of the underlying security represented by the unit of trading in effect prior to such adjustment, in which event the exercise price shall not be adjusted. The Securities Committee shall, with respect to adjustments under this paragraph or any other paragraph of this Section 11A, have the authority to determine the value of distributed property.

(g) In the case of any event for which adjustment is not provided in any of the foregoing paragraphs of this Section 11A, the Securities Committee may make such adjustments, if any, with respect to the option contracts affected by such event as the Securities Committee determines.

(h) Adjustments pursuant to this Section 11A shall as a general rule become effective in respect of option contracts outstanding on the "ex-date" established by the primary market for the underlying security.

(i) [unchanged from existing Section 11(i)]

(j) Notwithstanding the general rules set forth in paragraphs (c) through (i) of this Section 11A or which may be set forth as interpretations and policies under this Section 11A, the Securities Committee shall have the power to make exceptions in those cases or groups of cases (which may include making exceptions for one or more series of flexibly structured options) in which, in applying the standards set forth in Section 11(a)[paragraph (b)] hereof, the Securities Committee shall determine such exceptions to be appropriate. However, the general rules shall be applied unless the Securities Committee affirmatively determines to make an exception in a particular case or group of cases.

[(k) The Securities Committee shall consist of one designated representative of each Exchange and the Chairman of the Corporation. In making a determination regarding the adjustment of outstanding option contracts or on a particular underlying security or outstanding index option contracts, the action of an adjustment panel consisting of two designated representatives of each Exchange on which such option contracts or BOUNDS are open for trading (one of whom shall be such Exchange's representative on the Securities Committee) and the Chairman of the Corporation shall constitute the action of the Securities Committee. The vote of a majority of the voting members of the Securities Committee, or of any adjustment panel, shall constitute the determination of the Securities Committee or such panel. The Chairman of the Corporation shall not be a voting member of the Committee or of any adjustment panel except in the case of a tie vote, in which case the Chairman shall have the right to cast a vote to break the tie and shall, for such purpose, be deemed to be a voting member. The Securities Committee or any adjustment panel may transact its business by telephone. Notwithstanding the foregoing provisions of this paragraph, the Chairman of the Corporation may designate any other officer of the Corporation, and any representative of an Exchange may designate any other representative of such Exchange, to serve in his place at any meeting of the Securities Committee or of any adjustment panel. In the event of such designation, the designee shall, for the purposes of such meeting, have all of the powers and duties under this Section 11 of the person designating him. Neither the Corporation nor any Exchange shall designate to serve on any adjustment panel (i) any Exchange member or Clearing Member, or any director, officer, partner, or employee of any Exchange member or Clearing Member, or (ii) any person who, to the knowledge of the self-regulatory organization designating such person, is the beneficial holder of a long or short position in option contracts or BOUNDS as to which such adjustment panel is to make a determination.]<sup>3</sup>

...Interpretations and Policies:

.01 Dividends or distributions by the issuer of the underlying security in an aggregate amount per dividend or distribution which does not exceed 10% of the market value (as of the close of trading on the declaration date) of the underlying security outstanding will, as a general rule, be deemed to be "ordinary dividends or distributions" within the meaning of paragraph (c) of Section 11A. Stock dividends or distributions by the issuer of the underlying security (i) in an aggregate amount per dividend or distribution which does not exceed 10% of the number of shares or other units of the underlying security outstanding as of the close of trading on the declaration date, and (ii) which the Securities Committee believes to have been declared pursuant to a policy or practice of paying such dividends or distributions on a quarterly basis, will, as a general rule, be deemed to be "ordinary stock dividends or distributions" within the meaning of paragraph (c) of Section 11A. The Securities Committee will determine on a

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<sup>3</sup> Although existing Section 11(k) is shown here as being deleted, the text of existing Section 11(k) has been incorporated into proposed Section 11(c) above, which has been marked to show minor changes from the text of existing Section 11(k).

case-by-case basis whether other dividends or distributions are “ordinary distributions” or whether they are dividends or distributions for which an adjustment should be made. Where the Securities Committee determines to adjust for a dividend or distribution, the adjustment shall be made in accordance with paragraph (f) of Section 11A.

**.02 - .07** [unchanged from the interpretations under existing Section 11]

**.08** Notwithstanding Interpretation and Policy .01 under Section 11A of Article VI of the By-Laws, distributions of short-term and long-term capital gains in respect of fund shares by the issuer thereof shall not, as a general rule, be deemed to be “ordinary dividends or distributions” within the meaning of paragraph (c) of Section 11A, and adjustments of the terms of options on such fund shares for such distributions shall be made in accordance with paragraph (f) of Section 11A, unless the Securities Committee determines, on a case-by-case basis, not to adjust for such a distribution.

**.09** [unchanged from the interpretation under existing Section 11]

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## Article XI

### Amendment of the By-Laws and the Rules

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#### Amendment of the By-Laws

**Section 1.** The By-Laws may be amended at any time by the Board of Directors upon the affirmative vote of two-thirds of the directors then in office (but not less than a majority of the number of directors fixed by these By-Laws); provided that Sections 2, 3 and 5 of Article II, Article III, the second sentence of Section 1 of Article IV, the first two sentences of Section 1 of Article V, the first sentence of Section 10 of Article VI, Sections 11 and 11A of Article VI, Article VIIA, Article VIIB, Section 9 of Article IX, and this Section 1 of Article XI may not be amended by action of the Board of Directors without the approval of the holders of all of the outstanding Common Stock of the Corporation. For purposes of this Section, the affirmative vote or consent of an Exchange Director then in office shall be deemed to constitute the approval of the stockholder that elected such Exchange Director; provided, however, that if the Exchange Director announces prior to voting in favor of an amendment, or notes on a written consent of directors approving an amendment, that such Exchange Director's vote or consent does not constitute the action of such stockholder, then the amendment shall require the written approval of such stockholder [of such Common Stock].



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## Article XII

### Futures and Futures Options

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#### Adjustments to Futures and Futures Options

**Section 3.** (a) Section 11 of Article VI of the By-Laws shall not apply to futures or futures options. Determinations as to whether and how to adjust the terms of futures and futures options to reflect events affecting underlying interests shall be made by the Corporation based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to the buyers and sellers of such futures and futures options, the maintenance of a fair and orderly market in futures on the underlying interest and options on such futures, consistency of interpretation and practice (including consistency with the actions of the Securities Committee in making adjustments to options on the same underlying interest), efficiency of settlement of delivery obligations arising from physically-settled stock futures, and the coordination with other clearing agencies of the clearance and settlement of transactions in the underlying interest. The Corporation may, in addition to determining adjustments to futures and futures options on a case-by-case basis, adopt statements of policy or interpretations having general application to specified types of events. Every determination by the Corporation in respect of futures or futures options pursuant to this Section 3, or pursuant to Section 4 or Section 4A of this Article shall be within the sole discretion of the Corporation and shall be conclusive and binding on all investors and not subject to review. The following paragraphs of this Section 3 apply to stock futures only. Special rules for adjustment of index futures and futures options and variance futures and futures options are set out in Section 4. Special rules for adjustment of cash-settled foreign currency futures are set out in Section 4A.

(b) – (j) [unchanged]

...Interpretations and Policies:

.01-.09 [unchanged]

[Section 3 of this Article replaces Article VI, Section 11A of the By-Laws.]

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## Article XV

### Foreign Currency Options

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#### Adjustments

**Section 4.** In the event that (i) a trading or an underlying currency is replaced by a new currency, or (ii) the exchange rate or exchange characteristics of a trading or underlying currency with respect to other currencies are officially altered, an adjustment panel [consisting of two designated representatives of each Exchange on which affected foreign currency option contracts are open for trading (one of whom shall be such Exchange's representative on the Securities Committee provided for in Article VI, Section 11 of the By-Laws) and the Chairman of the Corporation] may adjust the exercise price, unit of trading, number of contracts of underlying currency, or other terms of option contracts affected by such event. The provisions of Article VI, Section 11 of the By-Laws shall apply equally to adjustment panels convened pursuant to this Article XV, Section 4. [The adjustment panel shall determine whether to make adjustments to reflect particular events, and the nature and extent of any such adjustment, based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers of affected option contracts, the maintenance of a fair and orderly market in such options, consistency of interpretation and practice, and efficiency of exercise settlement procedures. The provisions of Article VI, Section 11(k) of the By-Laws with respect to the vote required to constitute the determination of an adjustment panel, the voting rights of members of adjustment panels, the ability of such panels to conduct their business by telephone, and the ability of the Chairman of the Corporation and Exchange representatives to designate others to serve in their place on such panels shall apply equally to adjustment panels convened pursuant to this Section. Every determination of an adjustment panel pursuant to this Section shall be within the sole discretion of such panel and shall be conclusive and binding on all investors and not subject to review, other than review by the Securities and Exchange Commission pursuant to applicable provisions of the Securities Exchange Act of 1934, as amended. Notwithstanding the foregoing, no adjustment will be made in the terms of options having the ECU as either the trading currency or the underlying currency to reflect changes in the weighting or identity of constituent currencies except in extraordinary circumstances where the Corporation, in its discretion, determines that fairness to holders and writers of such options requires such an adjustment.]

[Section 4 of this Article replaces Section 11[(a)-(j)]A, and the Interpretations and Policies promulgated thereunder, of Article VI of the By-Laws.]

...Interpretations and Policies:

**.01** [unchanged]

**[.02** For purposes of this by-Law, the ECU shall be deemed to be replaced by the euro on the EMU Transition Date and legacy currencies shall be deemed to be replaced by the euro on the EMU Effective Date; but from and after the EMU transition Date, a Clearing Member that is obligated to deliver a legacy currency to the Corporation 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 the Rules to the Corporation's correspondent bank in the country of origin of the legacy currency.]

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## Article XVII

### Index Options

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### Adjustments

**Section 3. (a)** [Except as provided in this Section 3, ]Section 11A of Article VI of the By-Laws shall not apply to index option contracts.

(b) - (d) [unchanged]

(e) Determinations with respect to adjustments pursuant to this Section shall be made by an adjustment panel consisting of two designated representatives of each Exchange on which affected index option contracts are open for trading (one of whom shall be such Exchange's representative on the Securities Committee provided for in Article VI, Section 11 of the By-Laws) and the Chairman of the Corporation. The adjustment panel shall determine whether to make adjustments to reflect particular events, and the nature and extent of any such adjustment, based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers of affected option contracts, the maintenance of a fair and orderly market in such options, consistency of

interpretation and practice, and efficiency of premium and exercise settlement procedures. The provisions of Article VI, Section 11(k) of the By-Laws with respect to the vote required to constitute the determination of an adjustment panel, the voting rights of members of adjustment panels, the ability of such panels to conduct their business by telephone, and the ability of the Chairman of the Corporation and Exchange representatives to designate others to serve in their place on such panels shall apply equally to adjustment panels convened pursuant to this Section. Every determination of an adjustment panel pursuant to this Section shall be within the sole discretion of such panel and shall be conclusive and binding on all investors and not subject to review]. The provisions of Article VI, Section 11 of the By-Laws shall apply equally to adjustment panels convened pursuant to this Article XVII, Section 3(e).

[Section 3 of this Article [supplements]replaces Section 11A of Article VI of the By-Laws.]

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#### **Unavailability or Inaccuracy of Current Index Value**

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#### **Effective for Series of Options Opened for Trading After September 16, 2000**

**Section 4.** (a) If the Corporation shall determine that the primary market(s) (as determined by the Corporation) for one or more component securities of an index did not open or remain open for trading (or that any such security or securities did not open or remain open for trading on such market(s)) on a trading day at or before the time when the current index value for that trading day would ordinarily be determined, or that a current index value or other value or price to be used as, or to determine, the exercise settlement amount (a "required value") for a trading day is otherwise unreported, inaccurate, unreliable, unavailable or inappropriate for purposes of calculating the exercise settlement amount, then, in addition to any other actions that the Corporation may be entitled to take under the By-Laws and Rules, the Corporation shall be empowered to do any or all of the following with respect to any series of options on such index ("affected series"):

(1) [unchanged]

(2) The Corporation may fix the exercise settlement amount for exercised contracts of an affected series. The exercise settlement amount shall be fixed by a panel consisting of two designated representatives of each Exchange on which the affected series is open for trading (one of whom shall be such Exchange's representative on the Securities Committee provided for in Article VI, Section 11 of the By-Laws) and the Chairman of the

Corporation. The panel shall fix the exercise settlement amount based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers of options of the affected series, the maintenance of a fair and orderly market in such affected series of options, consistency of interpretation and practice, and consistency with actions taken in related futures or other markets. Without limiting the generality of the foregoing, the panel may fix the exercise settlement amount using: (i) the reported price or value for the relevant security or securities or index at the close of regular trading hours (as determined by the Corporation) on the last preceding trading day for which such a price or value was reported by the reporting authority; (ii) the reported price or value for the relevant security or securities or index at the opening of regular trading hours (as determined by the Corporation) on the next trading day for which such an opening price or value is reported by the reporting authority; or (iii) a price or value for the relevant security or securities or index at such other time, or representing a combination or average of prices or values at such time or times, as the Corporation deems appropriate. The provisions of Article VI, Section 11[(k)](c) of the By-Laws with respect to the vote required to constitute the determination of an adjustment panel, the voting rights of members of adjustment panels, the ability of such panels to conduct their business by telephone, and the ability of the Chairman of the Corporation and Exchange representatives to designate others to serve in their place on such panels shall apply equally to panels convened pursuant to this Section. Every determination of a panel convened pursuant to this Section shall be within the sole discretion of such panel and shall be conclusive and binding on all investors and not subject to review.

(3) [unchanged]

Interpretations and Policies:

.01 - .03 [unchanged]

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## Article XX

### Cross-Rate Foreign Currency Options

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#### Adjustments

**Section 4.** (a) In the event that (i) origin of an underlying foreign currency or a trading currency is replaced by a new currency, or (ii) the exchange rate or exchange characteristics of an underlying foreign or trading currency with respect to other currencies are officially altered, an adjustment panel [consisting of two designated representatives of each

Exchange on which affected cross-rate foreign currency option contracts are open for trading (one of whom shall be such Exchange's representative on the Securities Committee provided for in Article VI, Section 11 of the By-Laws) and the Chairman of the Corporation] may adjust the exercise price, unit of trading, number of contracts, underlying foreign currency or trading currency, or other terms of option contracts affected by such event. The provisions of Article VI, Section 11 of the By-Laws shall apply equally to adjustment panels convened pursuant to this Article XX, Section 4. [The adjustment panel shall determine whether to make adjustments to reflect particular events, and the nature and extent of any such adjustment, based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers of affected option contracts, the maintenance of a fair and orderly market in such options, consistency of interpretation and practice, and efficiency of premium and exercise settlement procedures. The provisions of Article VI, Section 11(k) of the By-Laws with respect to the vote required to constitute the determination of an adjustment panel, the voting rights of members of adjustment panels, the ability of such panels to conduct their business by telephone, and the ability of the Chairman of the Corporation and Exchange representatives to designate others to serve in their place on such panels shall apply equally to adjustment panels convened pursuant to this Section. Every determination of an adjustment panel pursuant to this Section shall be within the sole discretion of such panel and shall be conclusive and binding on all investors and not subject to review, other than review by the Securities and Exchange Commission pursuant to applicable provisions of the Securities Exchange Act of 1934, as amended. Notwithstanding the foregoing, no adjustment will be made in the terms of options having the ECU as either the trading currency or the underlying currency to reflect changes in the weighting or identity of constituent currencies except in extraordinary circumstances where the Corporation, in its discretion, determines that fairness to holders and writers of such options requires such an adjustment.]

(b) If an Exchange shall decrease the unit of trading for any cross-rate foreign currency option contract and the decreased unit of trading is evenly divisible into the original unit of trading, the Corporation shall proportionately subdivide each affected cross-rate foreign currency option contract outstanding prior to the change or shall make such other adjustments as the Corporation in its sole discretion deems fair to both the holders and the writers of such contracts. Determinations with respect to adjustments pursuant to this paragraph (b) shall be made by the [Securities Committee] adjustment panel provided for in paragraph (a) of th[e]is Section.

...Interpretations and Policies:

.01 [unchanged]

[.02 For purposes of this By-Law, the ECU shall be deemed to be replaced by the euro on the EMU Transition Date and legacy currencies shall be deemed to be

replaced by the euro on the EMU Effective Date; but from and after the EMU Transition Date, a Clearing Member that is obligated to deliver a legacy currency to the Corporation 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 the Rules to the Corporations correspondent bank in the country of origin of the legacy currency.]

[Section 4 of this Article replaces Section 11[(a) - (j)]A, and the Interpretations and Policies promulgated thereunder, of Article VI of the By-Laws.]

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## Article XXII

### Cash-Settled Foreign Currency Options

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#### Adjustments

**Section 3.** In the event that (i) a trading or an underlying currency is replaced by a new currency, or (ii) the exchange rate or exchange characteristics of a trading or underlying currency with respect to other currencies are officially altered, an adjustment panel [consisting of two designated representatives of each Exchange on which affected cash-settled foreign currency option contracts are open for trading (one of whom shall be such Exchange's representative on the Securities Committee provided for in Article VI, Section 11 of the By-Laws) and the Chairman of the Corporation] may adjust the exercise price, unit of trading, number of contracts, underlying currency, or other terms of option contracts affected by such event. The provisions of Article VI, Section 11 of the By-Laws shall apply equally to adjustment panels convened pursuant to this Article XXII, Section 4. [The adjustment panel shall determine whether to make adjustments to reflect particular events, and the nature and extent of any such adjustment based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers of affected option contracts, the maintenance of a fair and orderly market in such options, consistency of interpretation and practice, and efficiency of exercise settlement procedures. The provisions of Article VI, Section 11(k) of the By-Laws with respect to the vote required to constitute the determination of an adjustment panel, the voting rights of members of adjustment panels, the ability of such panels to conduct their business by telephone, and the ability of the Chairman of the Corporation and Exchange representatives to designate others to serve in their place on such panels shall apply equally to adjustment panels convened pursuant to this Section. Every determination of an adjustment panel pursuant to this Section shall be within the sole discretion of such panel and

shall be conclusive and binding on all investors and not subject to review, other than review by the Securities and Exchange Commission pursuant to applicable provisions of the Securities Exchange Act of 1934, as amended. Notwithstanding the foregoing, no adjustment will be made in the terms of options having the ECU as either the trading currency or the underlying currency to reflect changes in the weighting or identity of constituent currencies except in extraordinary circumstances where the Corporation, in its discretion, determines that fairness to holders and writers of such options requires such an adjustment.]

[Section 3 of this Article replaces Section 11[(a)-(j)]A, and the Interpretations and Policies promulgated thereunder, of Article VI of the By-Laws.]

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### Article XXIII

#### Flexibly Structured Index Options Denominated in a Foreign Currency

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#### Adjustments

##### Section 4. (a) – (d) [unchanged]

(e) Determinations with respect to adjustments pursuant to this Section shall be made by an adjustment panel [consisting of two designated representatives of each Exchange on which affected FX Index Option contracts are open for trading (one of whom shall be such Exchange's representative on the Securities Committee provided for in Article VI, Section 11 of the By-Laws) and the Chairman of the Corporation. The adjustment panel shall determine whether to make adjustments to reflect particular events, and the nature and extent of any such adjustment, based on its judgment as to what is appropriate for the protection of investors and the public interest, taking into account such factors as fairness to holders and writers of affected option contracts, the maintenance of a fair and orderly market in such options, consistency of interpretation and practice, and efficiency of premium and exercise settlement procedures. The provisions of Article VI, Section 11(k) of the By-Laws with respect to the vote required to constitute the determination of an adjustment panel, the voting rights of members of adjustment panels, the ability of such panels to conduct their business by telephone, and the ability of the Chairman of the Corporation and Exchange representatives to designate others to serve in their place on such panels shall apply equally to adjustment panels convened pursuant to this Section. Every determination of an adjustment panel pursuant to this Section shall be within the sole



discretion of such panel and shall be conclusive and binding on all investors and not subject to review, other than review by the Securities and Exchange Commission pursuant to applicable provisions of the Securities Exchange Act of 1934, as amended.] The provisions of Article VI, Section 11 of the By-Laws shall apply equally to adjustment panels convened pursuant to this Article XXIII, Section 4(e).

...Interpretations and Policies: [unchanged]

[Section 4 of this Article [supplements Section 11(k) and] replaces Section 11[(a) - (j)]A, and the Interpretations and Policies promulgated thereunder, of Article VI of the By-Laws.]

\* \* \*

#### Article XXIV

#### BOUNDs

\* \* \*

#### Adjustments

**Section 4.** (a) The provisions of Section 11 and Section 11A of Article VI of the By-Laws, and the Interpretations and Policies following Section 11A, shall apply to BOUNDs, subject to the provisions of this Section 4. For that purpose, the term “option contract” or “option” as used therein shall mean a BOUND, the term “exercise price” shall mean the “strike price” of a BOUND and the term “exercise settlement procedures” shall mean the expiration settlement procedures for BOUNDs. In addition to the actions provided for in paragraph (a) of Article VI, Section 11A, the expiration date of a BOUND contract may be adjusted as provided in paragraph (e) of this Section 4.

(b) – (c) [unchanged]

(d) If a distribution governed by the provisions of paragraph (f) of Section 11A of Article VI of the By-Laws is made with respect to shares of an underlying security, and BOUNDs of the affected class are adjusted by including the distributed property within the unit of trading covered by such BOUNDs, the “Closing Price” for such BOUND contract at expiration shall also include the value of the distributed property. If such distributed property is a security that is traded on a national securities exchange or through the facilities of a national association of securities dealers, then the value of the distributed security shall be determined in the same way that the Closing Price of any other underlying security would ordinarily be

determined. In other cases, the Securities Committee shall use its discretion to determine how the current market value of the distributed property is to be fixed.

(e) [unchanged]

(f) The foregoing are general rules, and the Securities Committee shall have the same discretionary authority with respect to the adjustment of BOUNDS as it has with respect to adjustments of option contracts under Article VI, Section 11 and Section 11A of the By-Laws.

[Section 4 of this Article supplements Section 11A of Article VI of the By-Laws.]

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

The proposed rule change was approved by the Board of Directors of OCC and by four of OCC's five stockholder exchanges at a meeting held on March 2-5, 2005. The fifth exchange added its consent at a Board meeting held on May 24, 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 Rule Change**

As currently in effect, Article VI, Section 11(b) of OCC's By-Laws provides that adjustments are to be made by OCC's Securities Committee, and describes factors to be taken into account by the Securities Committee in making adjustments. Under Article VI, Section 11(k) of the By-Laws, also as currently in effect, the authority of the Securities Committee to make adjustment determinations in particular cases is delegated to adjustment panels whose actions are deemed to

constitute actions by the Securities Committee. Article VI, Section 11(k) sets forth procedures governing matters such as adjustment panel composition and voting. Several other Articles of the By-Laws applicable to specific products other than stock options also provide for adjustment panels and incorporate certain provisions of the current Article VI, Section 11(k) by reference. Specifically, these other Articles and the relevant Sections are: Article XV, Section 4 (foreign currency options); Article XVII, Section 3 (index options); Article XX, Section 4 (cross-rate foreign currency options); Article XXII, Section 3 (cash-settled foreign currency options); Article XXIII, Section 4 (flexibly structured index options); and Article XXIV, Section 6 (BOUNDS). These adjustment provisions in other Articles, which are generally duplicative of Article VI, Section 11(k), inadvertently omit the conflict of interest provision of Article VI, Section 11(k), which prohibits persons with a financial interest in the adjustment from serving on an adjustment panel. Although these adjustment provisions governing products other than stock options incorporate some policies and procedures from Article VI, Section 11, they repeat other provisions instead of incorporating them by reference.

In order to (i) correct the inadvertent exclusion of the conflict of interest provision and (ii) eliminate repetitive language, thereby decreasing the potential for inadvertent inconsistencies between the adjustment provisions of the various Articles of the By-Laws if one or more of such provisions are amended in the future, the Corporation proposes to revise Section 11 of Article VI to be generally applicable to all adjustment panels regardless of the product type, and to insert cross-references to Section 11 in the other Articles where appropriate. In

addition, the Corporation is proposing to add Section 11A to Article VI, which preserves those paragraphs of the existing Section 11 that apply specifically to stock options.

#### **Proposed Changes to By-Laws**

Proposed Section 11(a)-(c) of Article VI is largely a restatement of policies and procedures currently applicable to the Securities Committee and adjustment panels acting on its behalf as found in existing Section 11(b) and (k) of Article VI. In proposed Article VI, Section 11(a), the list of factors which the Securities Committee may consider in making an adjustment determination is a comprehensive list of such factors, some of which may not be applicable to a particular cleared contract. In proposed Article VI, Section 11(c), the term “cleared contracts” replaces references to “option contracts and BOUNDS” in the corresponding sentences of existing Section 11(k).

Proposed Section 11A of Article VI is a restatement of existing Section 11(a) and (c)-(j) of Article VI, except for revisions to reflect proper references to Section 11A or Section 11, as applicable.

To preserve stockholder prerogatives, Article XI, Section 1, which requires stockholder approval for amendments to specified By-Laws, including existing Article VI, Section 11, is revised to include new Section 11A as well.

Minor technical changes are made to Article XII, Section 3(a). OCC is also proposing to delete references to ECU-based foreign currency options and their treatment by the adjustment panel in Article XV, Section 4 and Interpretation .02, Article XX, Section 4 and

Interpretation .02 and Article XXII, Section 3, as the transition from ECUs to the euro, which does not have constituent currencies, is complete, and references to ECUs and EMUs are obsolete.

The proposed changes to OCC's rules are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended, because such changes are designed to ensure uniform standards and procedures to the extent possible for adjustments to the terms of outstanding contracts cleared by the Corporation and thus to promote the prompt and accurate clearance and settlement of securities transactions. The proposed rule change is not inconsistent with the rules of OCC, including any rules proposed to be amended.<sup>4</sup>

**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.

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<sup>4</sup> The Corporation intends to file an amendment to File SR-OCC-2004-21, which proposes to add a new Article XIV to OCC's By-Laws in connection with the proposed trading of fixed return options, to make conforming changes to the adjustment provisions of new Article XIV.

**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 Act.

**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 is filing the proposed rule change for immediate effectiveness because it is essentially a restatement of existing policies, practices and rules. One effect of the proposed rule change is to correct an inadvertent omission from certain sections of OCC's By-Laws of a cross-reference to a conflict of interest provision applicable to adjustment panels, in accordance with OCC's existing practice. The only other effect of the proposed rule change is to consolidate certain procedural provisions relating to the Securities Committee and adjustment panels in respect of adjustments to cleared contracts into one section of OCC's By-Laws.

**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:** \_\_\_\_\_  
**Jean M. Cawley**  
**First Vice President and**  
**Deputy General Counsel**