

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49834; File No. SR-OCC-2004-06)

June 8, 2004

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Index Option Expiration Date Exercise Procedures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on April 19, 2004, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

OCC is seeking to amend its Rule 1804, which governs expiration date exercise procedures for index options.

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

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.²

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by OCC.

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

The purpose of this rule change is to modify OCC's Rule 1804, which governs expiration date exercise procedures for index options, to enable OCC to clear and settle European-style options on various volatility indexes ("VIX Options") proposed to be listed by the Chicago Board Options Exchange ("CBOE") that will expire on Wednesdays rather than on Saturdays. OCC is also amending Rule 1804 to simplify its structure.

CBOE's rule filing with respect to VIX Options provide that VIX Options will expire on Wednesdays.³ However, as currently drafted, OCC Rule 1804 contemplates that only quarterly index options ("QIX Options") and flexibly structured index options ("Flex Options") will expire on a business day. This proposed rule change would accommodate VIX Options by amending Rule 1804 to remove descriptions of the day of the week on which certain options expire and make clear that all index options other than Flex Options have the same expiration date exercise procedure regardless of their expiration date.

OCC Rule 1804(b) governs QIX Options "expiring on a business day." Rule 1804(b) was adopted in April 1993.⁴ At that time, OCC ran both a preliminary and a final report for clearing members to use in exercise-by-exception ("ex-by-ex") processing with respect to all options except for European-style treasury options that expired on a business day. Under OCC Rule 806, clearing members received only one expiration exercise report for European-style treasury options with business day expirations because OCC was not able to process both a preliminary and a final expiration exercise report on a business day. Because QIX Options also

³ Securities Exchange Act Release No. 49563 (April 14, 2004), 69 FR 21589 [File No. SR-CBOE-2003-40].

⁴ Securities Exchange Act Release No. 32244 (April 29, 1993), 58 FR 27005 [File No. SR-CBOE-92-27].

expire on a business day, Rule 1804(b) was adopted to state that QIX Options would be settled pursuant to the single expiration exercise report procedures set forth in OCC Rule 806, as modified by Rule 1804(b).

In 1995, OCC revised its expiration date exercise procedures to do away with the preliminary and final expiration exercise reports and instead to provide only one expiration exercise report for all expiring options.⁵ As part of that change, OCC eliminated Rule 806, as it was no longer necessary to provide separately for a single expiration report for certain options expiring on a business day because all options were to have a single expiration exercise report. With the move from two expiration exercise reports to one, Rule 1804(b) became the same in substance to Rule 1804(a).

The changes OCC now proposes to Rule 1804 would eliminate the redundancies in that rule and eliminate references to Saturday versus business day expirations. Current Rule 1804(a) is eliminated as redundant because revised Rules 1804(b) and (c) clearly establish the ex-by-ex thresholds for index options. It is unnecessary to retain the definition of the term “closing price” in Rule 1804(a)(2) with respect to index options because revised Rule 1804(a)(1) relies instead on the term “exercise settlement amount.” Exercise settlement amount is defined in Article XVII of OCC’s By-Laws. Furthermore, the procedures that may be followed by OCC in the event of the unavailability of an index value are being eliminated from current Rule 1804(a)(2) because they are set forth in more detail in Article XVII, Section 4 of the By-Laws, which is cross-referenced in new Interpretation and Policy .02. Existing Rule 1804(c), which provides for “true” automatic exercise (i.e., no exception procedure) for Flex Options is retained without

⁵ Securities Exchange Act Release No. 36385 (October 24, 1995), 60 FR 54557 [File No. SR-OCC-95-10].

substantive modification. Finally, simplifying and conforming changes are being made in Rule 801 and the Interpretations and Policies to Rule 1804.

The proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Act⁶ and the rules and regulations thereunder applicable to OCC because they are designed to promote the prompt and accurate clearance and settlement of securities transactions, to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, to remove impediments and to perfect the mechanisms of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

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

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

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

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act⁷ and Rule 19b-4(f)(4)⁸ thereunder because the proposed rule effects a change in an existing service of OCC that does not adversely affect the safeguarding of securities

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(4).

or funds in the custody or control of OCC or for which OCC is responsible and does not significantly affect the respective rights or obligations of OCC or persons using the service. OCC currently uses the same expiration date procedures for options that expire on business days and on Saturdays. This proposed rule change merely clarifies this point, eliminates certain redundancies in Rule 1804, and removes language stating that only QIX Options and FLEX Options expire on a business day. The proposed rule change does not substantively affect the manner in which OCC safeguards funds or securities or the rights and obligations of its clearing members. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2004-06 on the subject line.

Paper comments:

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609.

All submissions should refer to File Number SR-OCC-2004-06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at <http://www.optionsclearing.com>. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2004-06 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Margaret H. McFarland
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).