

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-53812; No. SR-OCC-2006-03)

May 16, 2006

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Effect Certain Fee Changes to Ancillary Services Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> notice is hereby given that on April 13, 2006, 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. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>2</sup> and Rule 19b-4(f)(2)<sup>3</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

The principal purpose of the rule change is to effect certain fee changes to OCC’s ancillary services program.

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

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>3</sup> 17 CFR 240.19b-4(f)(2).

below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.<sup>4</sup>

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

The principal purpose of the rule change is to effect certain fee changes with respect to OCC's ancillary services program.

In addition to clearance and settlement services, OCC provides its clearing members with a number of ancillary services ranging from on-line access to OCC systems to report and data distribution offerings. Hardware and communication lines support these ancillary service offerings. In August, 2002, OCC implemented a four-tiered fee structure for its ancillary services with a different bundle of services offered at a fixed cost for each tier.<sup>5</sup>

In September, 2005, OCC's board of directors authorized a plan to eliminate the requirement that clearing members use OCC-supplied equipment and dial-up interface system ("EMCI platform") as the primary approved means to access ENCORE, OCC's clearing system, which is available on the Internet.<sup>6</sup> In connection with completing plan details, OCC reviewed its ancillary services program and decided to make certain fee adjustments. A detailed listing of these changes to OCC's ancillary fees can be found at [http://www.theocc.com/publications/rules/proposed\\_changes/sr\\_occ\\_06\\_03.pdf](http://www.theocc.com/publications/rules/proposed_changes/sr_occ_06_03.pdf).

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<sup>4</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>5</sup> Securities Exchange Act Release No. 34-46339 (August 12, 2002), 67 FR 53828-01 (August 19, 2002) [File No. SR-OCC-2002-17]. The ancillary services associated with each membership tier are described later in this filing.

<sup>6</sup> Clearing members will be required to use an OCC approved alternative to access ENCORE through the Internet.

Accordingly, effective April, 2006, OCC will reduce the fixed monthly ancillary fees charged to Tier I, II, and III clearing members by \$300.00/month and the cost of maintaining an additional clearing member number by \$100.00/month. These fee reductions reflect the elimination of the ECMI platform and are further intended to offset additional costs that will be incurred by clearing members in deploying the required Internet access. OCC intends to increase the ancillary service fee charged to Tier IV members by \$150.00/month to reflect the cost of supporting secure web-based access to the Stock Loan system by Tier IV clearing members.

Finally, OCC intends to reduce the fee charged to subscribing clearing members for OCC-provided leased lines (which provide for secure point-to-point communications) by \$1,000/month in order to pass on the lower line charges OCC has negotiated with its telephone providers.<sup>7</sup>

OCC believes the proposed rule change is consistent with Section 17A of the Act,<sup>8</sup> as amended, because it clarifies and updates OCC's fee schedule. As such, it provides for the equitable allocation of fees among its participants and aligns fees for services with the associated cost to deliver the service.

(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.

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<sup>7</sup> In addition, OCC intends to make conforming changes to the Supplement to the Agreement for OCC Services: Ancillary Services and the Supplement to the Agreement for OCC Services: Communication Options. C/MACS references are eliminated because that system is no longer used. 56.0 kb line references are eliminated because that line speed is no longer supported.

<sup>8</sup> 15 U.S.C. 78q-1.

(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 proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>9</sup> and Rule 19b-4(f)(2)<sup>10</sup> thereunder because the rule establishes a due, fee, or other charge. At any time within sixty days of the filing of the proposed 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

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<sup>9</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>10</sup> 17 CFR 240.19b-4(f)(2).

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2006-03 on the subject line.

Paper comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-9303.

All submissions should refer to File Number SR-OCC-2006-03. 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, 100 F Street, NE, Washington, DC 20549. Copies of such filings also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at [www.optionsclearing.com](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-2006-03 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.<sup>11</sup>

Nancy M. Morris  
Secretary

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<sup>11</sup> 17 CFR 200.30-3(a)(12).