

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55047; File No. SR-OCC-2006-21)

January 5, 2007

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a
Proposed Rule Change Relating to Membership Requirements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,¹ notice is hereby given that on November 15, 2006, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission the proposed rule change as 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 persons.

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

The proposed rule change would modify certain OCC By-Laws and Rules relating to membership requirements.

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 such statements.²

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 certain By-Laws and Rules relating to

¹ 15 U.S.C. 78s(b)(1).

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

membership requirements in order to improve their effectiveness or otherwise clarify their meaning.

1. Interpretation and Policy .03

Interpretation and Policy .03 to Article V, Section 1, of OCC's By-Laws currently requires applicants for membership to employ two key operations employees on a full-time basis. This requirement is intended to ensure that an applicant maintains sufficient staff to fulfill its obligations as a clearing member. However, several recent applicants for clearing membership have had difficulty meeting this requirement because their entire staff was employed by an affiliate of the applicant (i.e., a parent or related organization) rather than by the applicant itself. While these applicants entered into employee leasing arrangements in order to comply with OCC's policy, OCC decided to reevaluate the policy in light of the fact that it had proved burdensome to a number of applicants.

OCC understands that it is not uncommon for some entities of an affiliated corporate group to outsource certain or all functions to another entity of the corporate group and let the latter be the sole employer of the people who perform those functions. In situations of that nature, OCC has concluded that there is not the same reason to be concerned about whether the applicant will have adequate staffing as in cases where the applicant relies on an unaffiliated third party for staffing. OCC therefore wishes to modify its policy in order to provide greater flexibility to recognize this alternative employment structure. Accordingly, OCC proposes to amend Interpretation and Policy .03 to Article V, Section 1, to permit the Membership/Risk Committee ("Committee") to waive the requirement that an applicant employ two key operations employees on a full-time basis if the daily operations of the applicant are conducted by staff employed on a full-time basis by an entity affiliated with such applicant. OCC believes that the

Committee’s authority to waive such requirement is consistent with its existing authority to waive the requirement that an applicant employ at least one full-time person who is registered as a “Limited Principal – Financial and Operations” or comparable registration requirement, as applicable.

2. Rule 309

OCC proposes to amend Rule 309 to clarify that if an operationally capable clearing member proposes to become a managed clearing member (i.e., outsource certain of its obligations as a clearing member to another clearing member [“managing clearing member”]), the applicant must obtain prior approval from the Committee. Currently, Interpretation and Policy .04 primarily contemplates the use of facilities management agreements by applicants for membership rather than existing clearing members. Nonetheless, OCC has always interpreted its By-Laws and Rules as requiring prior Committee review and approval of all facilities management agreements, including those proposed to be entered into by operationally capable clearing members. The proposed amendment to Rule 309 makes this interpretation explicit.

3. Rule 901

OCC proposes to amend Rule 901 to provide that a clearing member’s appointment of another clearing member or CDS Clearing and Depository Services Inc. (“CDS”)³, as applicable, for purposes of effecting settlements of exercised or matured cleared securities may not be terminated until after the 30th calendar day following notice to OCC of such termination.⁴

³ CDS is the successor organization to Canadian Depository for Securities Ltd. The By-Law definition of CDS has been amended to reflect this organizational change.

⁴ OCC surveyed appointed clearing members that effect NSCC settlements for nonaffiliated clearing members as well as CDS to ascertain their views regarding the proposed change in the notice period for terminating such appointments. There were no objections to the proposed change.

Currently, clearing members are required to provide three business days notice of terminating such appointments. However, three business days might be insufficient for OCC to determine whether or not the clearing member has made appropriate alternative settlement arrangements. Accordingly, OCC proposes to change the notice period to be consistent with the notice period required to advise OCC of the termination of a facilities management agreement.⁵

OCC believes that the proposed change is consistent with Section 17A of the Act⁶ because it amends certain rule provisions relating to membership requirements in order to improve their effectiveness or otherwise clarify their meaning and thereby promotes the prompt and accurate clearance and settlement of derivative contracts and transactions.

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

OCC has not solicited or received written comments with respect to the proposed rule change.

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

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

⁵ Conforming changes have been made to the related appointment forms, which are attached as Exhibits 5A and 5B to the proposed rule filing.

⁶ 15 U.S.C. 78q-1.

- (A) by order approve such proposed rule change or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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 No. SR-OCC-2006-21 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 20549-1090.

All submissions should refer to File No. SR-OCC-2006-21. 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 filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at <http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jsp>. 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 submission should refer to File No. SR-OCC-2006-21 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.⁷

Florence E. Harmon
Deputy Secretary

⁷ 17 CFR 200.30-3(a)(12).