

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49436; File No. SR-OCC-2004-01)

March 17, 2004

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Clearing Fees for Securities Option Contracts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on February 23, 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

The purpose of the proposed rule change is to reduce certain clearing fees for securities option contracts, effective April 1, 2004.

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 principal purpose of this rule change is to reduce OCC's clearing fees for securities option contracts, effective April 1, 2004, as follows:

Contracts Per Trade	Current Per Contract Per Trade Fee	April 1, 2004 Contract Per Trade Fee
0 – 500	\$0.09	\$0.0825
501 – 1,000	\$0.07	\$0.0675
1,001 – 2,000	\$0.06	\$0.0575
> 2,000	\$110.00 (capped)	\$110.00 (capped)

In addition to the foregoing, OCC will expand what is considered to be a “market maker scratch trade.” Currently, OCC considers market maker scratch trades to be the same day purchase and sale of identical option contracts in the same quantity and price by a market maker on a single exchange. Such trades are subject to a reduced clearing fee of \$.02 per contract in recognition of a market maker's obligation to continuously maintain a fair and orderly market, which often may result in near simultaneous breakeven purchase and sale transactions. Effective April 1, 2004, OCC will no longer require that the condition that the purchase and sale transactions take place on a single exchange in order to be treated as a market maker scratch trade. As a result of this change, a greater number of contracts will be eligible for clearance at the \$.02 per contract rate.

OCC believes that the foregoing changes will financially benefit clearing members without adversely affecting OCC's ability to meet its expenses and maintain an acceptable level of retained earnings.

(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)(ii) of the Act³ and Rule 19b-4(f)(2)⁴ thereunder because the proposed rule establishes or changes a due, fee, or other charge. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

address: rule-comments@sec.gov. All comment letters should refer to File No. SR-OCC-2004-01. 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, comments should be sent in either hardcopy or by e-mail but not by both methods. 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 20549-0609. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <http://www.optionsclearing.com>. All submissions should refer to File No. SR-OCC-2004-01 and should be submitted by [insert date 21 days from the date of publication in the Federal Register].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland
Deputy Secretary

⁵ 17 CFR 200.30-3(a)(12).