

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-49477; File No. SR-OCC-2003-12)

March 25, 2004

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Clearing Agreement

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 31, 2003, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("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 consists of the Futures Agreement for Clearing and Settlement Services ("PBOT Agreement"), dated October 23, 2003, between OCC and the Philadelphia Board of Trade ("PBOT").

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.<sup>2</sup>

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

<sup>2</sup> The Commission has modified parts of these statements.

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

PBOT intends to commence trading in cash-settled foreign currency futures. PBOT and OCC have entered into the PBOT Agreement pursuant to which OCC will provide clearing and settlement services for such contracts.<sup>3</sup> The PBOT Agreement is substantially similar to other futures related clearing agreements that were previously filed with the Commission, but it provides only for the clearance and settlement of cash-settled foreign currency futures.<sup>4</sup> To the extent that any terms of the PBOT Agreement are not traceable to one of OCC's other futures related clearing agreements, those terms are immaterial.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it will foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.

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

OCC does not believe that the proposed rule change will 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.

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<sup>3</sup> OCC already changed its by-laws and rules to accommodate the introduction of cash-settled foreign currency futures. Securities Exchange Act No. 49126 (January 25, 2004), 69 FR 04552 (January 30, 2004) [File No. SR-2003-07].

<sup>4</sup> Securities Exchange Act Release Nos. 46722 (October 25, 2002), 67 FR 67230 (November 4, 2002) File No. [SR-OCC-2002-13] (amended and restated clearing agreement with NQLX), 46058 (June 10, 2002), 67 FR 41287 (June 17, 2002) File No. [SR-OCC-2002-08] (security futures clearing agreement with IFX), and 46653 (October 11, 2002), 67 FR 64689 (October 21, 2002) File No. [SR-OCC-2002-07] (security futures clearing agreement with ONE).

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>5</sup> and Rule 19b-4(f)(4)<sup>6</sup> thereunder because it effects a change in an existing service of OCC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of OCC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission could have summarily abrogated 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 address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-OCC-2003-12. 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 either in 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

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<sup>5</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>6</sup> 17 CFR 240.19b-4(f)(4).

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 will also 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 the File No. SR-OCC-2003-12 and should be submitted by [insert date 21 days after date of publication in the Federal Register].

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Margaret H. McFarland  
Deputy Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(12).