

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-49554; File No. SR-OCC-2004-05)

April 12, 2004

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Modifying the Definition of “Premium” with Respect to Foreign Currency and Cross-Rate Currency Options

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

The purpose of the proposed rule change is to amend OCC’s By-Laws and Rules to modify the definition of “premium” with respect to foreign currency and cross-rate currency 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

¹ 15 U.S.C. 78s(b)(1).

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

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

Background

OCC’s By-Laws and Rules currently define “premium” for foreign currency options and cross-rate foreign currency options with reference to units of the relevant trading currency. “Trading currency” is defined in Article I of OCC’s By-Laws as “the currency in which premium and/or exercise prices are denominated for a class of foreign currency options or cross-rate foreign currency options.” Normally, premium and exercise prices are expressed in the same currency. However, the Philadelphia Stock Exchange (“Phlx”), which trades both foreign currency options and cross-rate foreign currency options, permits premiums to be quoted both in units of the trading currency and as a percentage of the underlying currency.³

Presently, the method of quoting premiums as a percentage of the underlying currency occurs only with “flexibly structured options” as defined in Article I of the By-Laws (“flex options”). Nevertheless, OCC wishes to amend the relevant definitions of “premium” in order to make clear that quotation of premiums as a percentage of an

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

³ For example, the premium of a USD/EUR contract could be expressed in U.S. cents per euro (a quote of 1.05 = $\$.0105 \times 62,500$ (the standard EUR contract size) = \$656.25), or as a percentage of euro (a quote of 2.05 = $\text{EUR}.0205 \times 62,500 = \text{EUR } 1281.25$). When premiums are quoted as a percentage of the underlying currency, premiums are also paid in the underlying currency. In that case, for purposes of premium quotation and settlement only, the “trading currency” is the same as the underlying currency (EUR in the above example). Nevertheless, the exercise price for such options would continue to be stated in terms of a trading currency other than the underlying currency (USD, in the example).

underlying foreign currency will be permitted with foreign currency options and cross-rate options in addition to flex options.

Proposed Rule Changes

As noted above, “Trading Currency” is presently defined to mean “the currency in which premiums and/or exercise prices are denominated for a class of foreign currency options or cross-rate foreign currency options.” OCC proposes to expand the meaning of the term where, as described above, the premium is quoted in the underlying currency and the exercise price is quoted in a different currency. Generally, the context in which the term “Trading Currency” is used will dictate whether it is a reference to the premium currency or the currency in which the exercise price is denominated (the “exercise currency”). Where the context is unclear, OCC is proposing to insert parenthetical language to expressly state which reference is intended. For this purpose, changes are proposed in the introduction to Article XV of the By-Laws and Chapter XVI of the Rules and to the definitions of “Class of Options” and “Settlement Time” in both Article XV and Article XX of the By-Laws.

OCC proposes to amend the definitions of “Premium” in Article XV, “Foreign Currency Options” and Article XX, “Cross-Rate Foreign Currency Options” by adding a new sentence to each to make clear that such premiums may be quoted as a percentage of the relevant underlying currency to the extent permitted under SEC rules. The definitions have also been amended to expressly provide that premiums quoted in units of a trading currency may be quoted in any of (a) fractions, (b) decimals, or (c) multiples of units of the relevant trading currency. Further, OCC proposes to correct an inconsistency between the current Article XX definition of “premium,” which specifically mentions

multiples and fractions of the unit of trading currency and the current Article XV definition of “premium” which is silent on the point.

(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 Act⁴ and Rule 19b-4(f)(4)⁵ thereunder because the proposed rule effects a change in an existing service of OCC that does not adversely affect the safeguarding of securities 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. 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.

⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵ 17 CFR 240.19b-4(f)(4).

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. All comment letters should refer to File No. SR-OCC-2004-05. 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-2004-05 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.⁶

Margaret H. McFarland
Deputy Secretary

⁶ 17 CFR 200.30-3(a)(12).