

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and subparagraph (f)(2) of Rule 19b-4 thereunder,¹⁵ because the proposal establishes or changes a due, fee, or other charge. At any time within 60 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 proposal 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. 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to file number SR-NASD-2002-68 and should be submitted by July 29, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁶

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46152; File No. SR-OCC-2001-09]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Regarding Access to The Option Clearing Corporation's Information and Data Systems Via Electronic Means

July 1, 2002.

On August 1, 2001, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ a proposed rule change (File No. OCC-2001-09). On April 23, 2002, OCC filed an amendment to the proposed rule change. Notice of the proposal was published in the **Federal Register** on June 7, 2002.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

I. Description

The proposed rule change amends OCC's rules regarding access to its information and data systems via electronic means. OCC rules currently support on-line data entry and data retrieval, but these provisions are limited solely to direct access via on-line terminals. OCC is in the process of developing a new clearance and settlement system to replace its existing system.³ The new system will support internet access at a clearing member's election. The proposed rule change adds the definition of "electronic data entry,"

which is broken down into "electronic data entry" and "electronic data retrieval," to Rule 101 to provide a more flexible and broader description of the electronic means by which OCC and its clearing members can communicate.⁴

The proposed rule change also eliminates outdated provisions that require clearing members to send representatives to access lock boxes to obtain papers and documents distributed by OCC and clarifies the manner by which clearing members exchange information with OCC. Under the proposed rule change, Rules 205 ("Submission of Items to Corporation [OCC]") and 206 ("Retrieval of Items from Corporation [OCC]") require that a clearing member submit and retrieve instructions, notices, reports, data, and other items via electronic data entry or electronic data retrieval unless otherwise prescribed by OCC. Rules 205 and 206 also provide that such electronic transmissions constitute valid "writings" for purposes of applicable law. In the event unusual or unforeseen conditions prevent a clearing member from submitting or retrieving such items electronically, OCC has the discretion to designate alternative means or to extend any applicable cutoff times as may be deemed reasonable, practicable, and equitable under the circumstances. The proposed rule change amends Rule 208 ("Reports by the Corporation [OCC]") to provide clearing members with the ability to notify OCC via facsimile or e-mail of any errors contained in reports made available by OCC.

Under the proposed rule change, a new Rule 212 ("Security Measures") sets forth the obligations of clearing members to comply with security measures implemented by OCC, including access codes and authorization stamps. Under Rule 212, a clearing member would be bound by submissions made using a current access code or authorization stamp.

Finally, the proposed rule change makes conforming changes to Interpretations and Policies under Rules 801 ("Exercise of Options") and 1606A ("Alternative Settlement Procedures") to delete references to "on-line data entry" and to replace those references with the newly defined term "electronic data entry." Interpretations and Policies .01 under Rule 801 also is amended to

¹⁶ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 46005 (May 30, 2002), 67 FR 39460.

³ As previously reported to the Commission, OCC is developing a new clearance and settlement system known as ENCORE to replace its existing system, INTRACS. OCC's implementation strategy is to replace INTRACS on a modular basis with new development code modules replacing targeted pieces of INTRACS, which pieces will then be "decommissioned." Newly developed and installed code will interface with remaining portions of INTRACS until the old system is completely replaced.

⁴ Under the proposal, "electronic data entry" is defined as the transmission by a clearing member to OCC via electronic means of reports, notices, instructions, data, or other items. "Electronic data retrieval" is defined as the retrieval by a clearing member via electronic means of reports, notices, instructions, data, and other items made available by OCC.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(3).

accurately reference Rule 205 instead of Rule 206.

OCC also submitted as a part of the proposed rule change the "Supplement to the Agreement for OCC Services for Internet Access" that will be entered into between OCC and its clearing members. OCC is developing a front-end portal called MyOCC that will provide a unified access point from which clearing members will be able to obtain information from various applications contained within MyOCC for which the clearing member is authorized to have access. Access to MyOCC will be available to clearing members through the internet, existing enhanced clearing member interface terminals, or dedicated leased lines. To the extent clearing members elect to access OCC's information and data systems through internet connections, the Supplement specifies requirements relating to access codes, registration, authorization, and security.

The Supplement is structured to fit within OCC's existing framework of the "Agreement for OCC Services."⁵ Provisions of the Supplement, which are generally self-explanatory, describe the respective responsibilities of the clearing member and OCC. Section 1 describes the scope of information and data systems that will be made available through the internet. Section 2 creates a requirement on the part of the clearing member to maintain a backup communication channel as a means to obtain access to OCC's information and data systems. Sections 3 and 4 set forth criteria relating to the right to use internet access. Section 5 allocates responsibility relating to the confidentiality and security of access codes. That section also requires the clearing member to provide information as may be necessary to register its authorized users for internet access and to maintain its own equipment. Section 5 also requires the clearing member if it is acting as a "managing clearing member" to represent and warrant that it is authorized to obtain internet access on behalf of the "managed clearing member." Sections 6 through 9 set forth further rights and responsibilities of the parties including limitations on liability, indemnification, and termination provisions. Section 10 discloses that OCC may monitor the use of internet access to ensure compliance with the Supplement. Section 11 contains general terms including

interpretation, severability, waiver, survival, and governing law.

II. Conclusion

In Section 17A(a)(1)(A) of the Act, Congress set forth its finding that new data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement. Section 17A(b)(3)(A) and (b)(3)(F) require that a clearing agency be organized, have the capacity, and have rules designed to promote the prompt and accurate clearance and settlement of securities transactions. By amending its rules so that OCC and its clearing members can use a wider range of electronic means by which to communicate with each other, OCC is fulfilling this statutory obligation of providing for the prompt and accurate clearance and settlement of securities transactions. Therefore, the Commission finds that the proposal is consistent with the Act and in particular with Section 17A of the Act and the rules and regulations thereunder.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing. Internet access to clearing reports is a key feature of OCC's new clearing system, and OCC wants to implement this feature as soon as possible. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because such approval will allow OCC to implement internet access to reports consistent with its systems implementation schedule.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2001-09) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Jill M. Peterson,
Assistant Secretary.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3422]

State of Indiana; Amendment # 1

In accordance with a notice received from the Federal Emergency

Management Agency, dated June 26, 2002, the above numbered declaration is hereby amended to include Clay, Greene, Jefferson, Johnson, Knox, Montgomery, Owen, Parke, Perry, Putnam and Washington Counties in the State of Indiana as disaster areas due to damages caused by severe storms, tornadoes and flooding occurring April 28, 2002 through June 7, 2002.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Bartholomew, Brown, Clark, Floyd, Fountain, Harrison, Jackson, Jennings, Monroe, Ripley, Scott, Switzerland and Tippecanoe Counties in Indiana; Breckinridge, Carroll, Hancock, Meade and Timble Counties in Kentucky; and Crawford and Lawrence Counties in Illinois. All other contiguous counties have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 12, 2002, and for economic injury the deadline is March 13, 2003.

Dated: June 28, 2002.
(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

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SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3425]

State of Iowa; Amendment #1

In accordance with a notice received from the Federal Emergency Management Agency, dated June 25, 2002, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on June 3, 2002 and continuing through June 25, 2002.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 18, 2002, and for economic injury the deadline is March 19, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: June 28, 2002.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

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⁵ See Securities Exchange Act Release No. 21015, 49 FR 23971 (June 4, 1984) [File No. SR-OCC-84-7] for the text of the Agreement for OCC Services.

⁶ 17 CFR 200.30-3(a)(12).