

• adjudicated by Nasdaq under its motion pursuant to Rule 11890(b) as part of a large market event.

While Nasdaq may incur some cost in reviewing complaints for timeliness and prior to withdrawal, this exception will allow firms to withdraw or correct mistaken complaints without such filings counting towards their monthly allotment. While Nasdaq incurs considerable expense in processing clearly erroneous events under Rule 11890(b), such large systemic events often impact multiple filers and may not easily be billed to a particular party. Therefore, Nasdaq will continue to absorb costs related to Rule 11890(b) adjudications. Any filer with trades included in such events will not be charged and the filing will not count towards calculation of a member's unsuccessful complaints.

Finally, the proposal reorganizes Rule 11890 to consolidate the fee-related provisions in one section, Rule 11890(e), titled "Clearly Erroneous Fees." Nasdaq believes this will make it easier for readers to locate these provisions in the rule. No substantive change has been made to the existing fee for appeal of clearly erroneous decisions or the provisions enabling Nasdaq to pass through to members charges it is assessed by other markets for requesting erroneous review by that venue on behalf of members.

## 2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>15</sup> in general, and with Section 6(b)(4) of the Act,<sup>16</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using any facility or system which Nasdaq operates or controls. Nasdaq believes that the fees will be reasonably allocated to members that file unsuccessful complaints under Rule 11890, thereby allowing Nasdaq to recoup a portion of the costs associated with filings that lack merit.

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

Nasdaq does not believe that the proposed rule change will 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 foregoing proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>17</sup> and Rule 19b-4(f)(2)<sup>18</sup> thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member.

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.<sup>19</sup>

### **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](mailto:rule-comments@sec.gov). Please include File Number SR-NASDAQ-2008-015 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 Number SR-NASDAQ-2008-015. 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

<sup>17</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>18</sup> 17 CFR 240.19b-4(f)(2).

<sup>19</sup> See 15 U.S.C. 78s(b)(3)(C). For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on March 18, 2008, the date on which Nasdaq submitted Amendment No. 1.

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 Room, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of Nasdaq. 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 submissions should refer to File Number SR-NASDAQ-2008-015 and should be submitted on or before April 16, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>20</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-6127 Filed 3-25-08; 8:45 am]

BILLING CODE 8011-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-57535; File No. SR-OCC-2008-01]

### **Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to its Facilities Management Agreements**

March 20, 2008.

#### **I. Introduction**

On January 9, 2008, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on February 19, 2008.<sup>2</sup> No comment letters were received. This

<sup>20</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 57304 (February 11, 2008), 73 FR 9155.

<sup>15</sup> 15 U.S.C. 78f.

<sup>16</sup> 15 U.S.C. 78f(b)(4).

order approves the proposed rule change.

## II. Description

The purpose of the proposed rule change is to provide an expedited process for reviewing a facilities management agreement proposed to be entered into by an operationally capable clearing member that desires to become a managed clearing member. A managed clearing member is one that outsources certain of its obligations as a clearing member to another clearing member ("managing clearing member").

Currently, Rule 309 prohibits a clearing member that proposes to enter into an outsourcing agreement with a managing clearing member from implementing the agreement without the prior approval of the Membership/Risk Committee ("Committee").<sup>3</sup> In 2006 and 2007, the Committee reviewed three requests to approve such outsourcing arrangements. However, none of the three clearing member's desired time frame for implementing its facilities management arrangement coincided with a regularly scheduled meeting of the Committee, and each firm was required to defer executing its outsourcing plans until after a meeting occurred.

To provide for a more timely review of certain outsourcing agreements, OCC is modifying Rule 309. As amended, Rule 309 will provide that a managed clearing member is permitted to request an expedited review of its outsourcing agreement, and if OCC consents to an expedited review, the Chairman, the Management Vice Chairman, or the President will be authorized to determine whether the agreement meets applicable requirements and to approve or disapprove the agreement. At the next regularly scheduled Committee meeting, the Committee would independently review the outsourcing agreement and would determine de novo whether to approve or disapprove it. In the event the Committee's decision would result in a modification or a reversal of the action taken by the Chairman, the Management Vice Chairman, or President, no actions previously taken by OCC or the clearing member prior to the modification or reversal would be invalidated and no rights of any person arising out of such previous actions would be affected. In the unlikely event that the Committee disapproved an agreement previously approved by OCC, the clearing member would be given a reasonable time either

to enter into an appropriately revised outsourcing agreement or to cease to be a Managed Clearing Member.

This process is comparable to the process used when clearing members request expedited approval to clear a new type or kind of transaction.<sup>4</sup> OCC believes that the proposed expedited review process strikes a reasonable balance between meeting the business requirements of clearing members and continuing to ensure appropriate review of the operational and financial aspects of outsourcing arrangements.

The expedited review process is set forth in Interpretation & Policy .01 under Rule 309. The existing Interpretation and Policy .01, which required managing clearing members as of October 1, 2003, to meet revised capital requirements by October 1, 2004, is no longer applicable and is therefore being deleted. In addition, a technical change is being made to paragraph (f) of Rule 309 so that the language more closely parallels the language used in a cross-referenced By-law provision.

## III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.<sup>5</sup> The Commission finds the proposed rule change to be consistent with this requirement because the actions of senior management to approve an outsourcing agreement prior to a scheduled Committee meeting are subject to the Committee's subsequent review and approval.

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2008-01) be and hereby is approved.<sup>6</sup>

<sup>4</sup> Article V, Section 1, Interpretation & Policy .03e. See also Securities Exchange Act Release No. 30169 (January 8, 1992) 57 FR 1776 [SR-OCC-91-06].

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>6</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E8-6128 Filed 3-25-08; 8:45 am]

BILLING CODE 8011-01-P

## SOCIAL SECURITY ADMINISTRATION

### Agency Information Collection Activities: Proposed Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes new information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the Agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, e-mail, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and the SSA Reports Clearance Officer to the addresses or fax numbers listed below.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202-395-6974, e-mail address: [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov).

(SSA) Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400, e-mail address: [OPLM.RCO@ssa.gov](mailto:OPLM.RCO@ssa.gov).

The information collections listed below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. Therefore, submit your comments to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410-965-0454 or by writing to the address listed above.

1. *Authorization to Obtain Earnings Data from the Social Security Administration—0960-0602*. A wage earner or an organization may request

<sup>3</sup> Rule 309(f). See also Securities Exchange Act Release No. 55686 (May 1, 2007), 72 FR 26191 (May 8, 2007) [SR-OCC-2006-21].

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