

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

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Form 19b-4 Information

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 19b-4

Proposed Rule Change
by

THE OPTIONS CLEARING CORPORATION

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

Item 1. Text of the Proposed Rule Change

The Options Clearing Corporation (“OCC” or the “Corporation”) proposes to amend the Third Amended and Restated Options Exercise Settlement Agreement between OCC and National Securities Clearing Corporation (“NSCC”) as set forth in Amendment No. 2 thereto, attached hereto as Exhibit 5.

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved on November 14, 2008 by OCC’s Membership/Risk Committee and by its Chairman and Chief Executive Officer.

Questions regarding the Amendment should be addressed to Jean M. Cawley, Senior Vice President and Deputy General Counsel, at (312)322-6269.

Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to reduce the burden on clearing members of OCC that are also members of NSCC that results from duplicative margin requirements relating to option exercises and assignments, and to allow clearing members to use stock deposited as margin with OCC to meet settlement obligations at NSCC.

OCC and NSCC are parties to a Third Amended and Restated Options Exercise Settlement Agreement dated as of February 16, 1995, as amended (the “OCC/NSCC Accord”), which provides for a two-way guaranty between OCC and NSCC of the mark-to-market amounts for which NSCC has guaranteed settlement. Through this rule change, OCC seeks approval for

an Amendment No. 2 to the OCC/NSCC Accord (the “Amendment”) that would address the matters stated above.

Under the OCC/NSCC Accord as currently in effect, OCC guarantees to NSCC the performance by NSCC members of settlement obligations resulting from E&A positions, with the amount guaranteed by OCC in respect of the performance of an NSCC member’s settlement obligation equal to the smaller of the “Net Member Debit to NSCC” and the “Calculated Margin Requirement” in respect of the NSCC member. OCC can make this guarantee because it continues to margin E&A activity through the settlement date. (In the case of E&A activity resulting from exercises at expiration (“Expiration E&A Activity”), the settlement date is normally the Wednesday after expiration.) Similarly, NSCC guarantees to OCC the smaller of the “Net Member Debit to OCC” and the “Calculated Margin Credit.” NSCC can make this guarantee because it collects risk-based margin on the member’s entire portfolio of E&A activity.¹

Both OCC and NSCC collect margin in respect of E&A positions through settlement, calculated utilizing risk-based margining methodologies, which include volatility charges. OCC collects risk margin to cover (i) the risk that NSCC might decline to settle a defaulting member’s pending E&A activity,² thereby forcing OCC to guarantee buy-ins and sell-outs, and (ii) the risk that the market might move against E&A positions accepted by NSCC for settlement, thereby increasing OCC’s potential liability to NSCC under the OCC/NSCC Accord. NSCC collects a

¹ Because OCC marks E&A activity to the market, and guarantees that amount to NSCC, NSCC does not mark E&A positions to the market. However, it does collect VAR margin to cover potential losses in liquidating E&A positions.

² Under its rules, NSCC’s guaranty does not attach until midnight on T+1. (For exercises on expiration weekend, T+1 is normally the following Monday.)

volatility charge because OCC's liability under the OCC/NSCC Accord is limited to the negative mark-to-market value of E&A positions as of the close on the day before the member was suspended. To a considerable degree, NSCC's VAR margin and OCC's risk margin overlap, covering the same risk.

This dual obligation to OCC and NSCC in respect of E&A positions may constitute a significant temporary financial burden on NSCC members and OCC clearing members, particularly during the three business days following options expiration each calendar month. This burden has significantly grown as recent market conditions have caused an increase in the volatility charges of both clearing corporations. The Amendment addresses this problem in two ways. First, it accelerates NSCC's guarantee of Expiration E&A Activity to the time on T+1 when the member meets its morning NSCC clearing fund requirement instead of midnight.

Second, it provides that in calculating OCC's obligations to NSCC, Expiration E&A Activity would be marked to the previous day's close only: (i) on T+1 (because even if the member failed to settle with OCC on T+1, OCC would be holding risk margin collected on T to cover that risk), and (ii) on T+2 and T+3 if, and only if, OCC had collected that morning's mark-to-market payment. If the member failed before OCC collected that morning's mark, pending Expiration E&A Activity would be marked to the second previous day's close. (See the example at the end of paragraph 3 of the Amendment.)

The combined effect of these two changes is to enable OCC to stop collecting risk margin on Expiration E&A Activity after the morning of T+1. Once the member met its morning clearing fund requirement at NSCC on T+1, NSCC would be responsible for settling those positions, and OCC could not be liable to NSCC under the Accord for more than the mark-

to-market that OCC had already collected, so there would be no risk to be margined. NSCC's risk in this regard would be covered by its collection of margin.

OCC estimates that if this arrangement had been in place during recent months, it would have reduced daily margins for OCC clearing members during the week after expiration by \$2 billion in August (affecting 89 members), \$3.7 billion in September (93 members), and \$3 billion in October (95 members). The Amendment is intended to mitigate burdens on NSCC and OCC members while retaining adequate margin to protect both OCC and NSCC.

In order to further mitigate financial burden and facilitate the settlement, on any exercise settlement date, of the settlement obligations relating to assigned short positions, OCC and NSCC, together with DTC, have established a program to permit an NSCC member that has a security deliver obligation on an exercise settlement date with respect to an assigned short position to request OCC to release underlying securities pledged to it at DTC by the NSCC member to meet the NSCC member's OCC margin or cover requirement, so that the NSCC member may fully or partially complete its continuous net settlement security deliver obligation at NSCC on such exercise settlement date. Some OCC members use stock held at DTC and pledged to OCC as a "specific deposit" to cover short positions. However, if the short position is assigned, the member has to obtain other stock to deliver to NSCC. OCC will release the specific deposit once the member settles with NSCC, but obtaining stock to deliver to NSCC can strain the member's liquidity. Until recently, clearing members expressed little or no interest in using systems designed to allow members to use deposited stock to meet settlement obligations at NSCC if covered positions were assigned. However, clearing members have

expressed increased interest given current demands on member liquidity. For OCC to be able to activate these systems, the Amendment will exclude positions settled by the delivery of specific deposits from the calculation of OCC's guarantee exposure. OCC also needs to do some minor coding and testing. In order to avoid the need for a separate amendment when that work is completed, the necessary amendment is included in Section 4 of the Amendment attached hereto as Exhibit 5. Section 4 will become effective when NSCC and OCC jointly announce that the systems are ready for use.

The Amendment recites that it will be in effect until November 1, 2009 unless further extended by mutual agreement. The reason for this "sunset" provision is that OCC and NSCC intend to restate the OCC/NSCC Accord in its entirety in order to address and clarify various issues.

* * *

The Amendment is consistent with the purposes and requirements of Section 17A of the Exchange Act because it is designed to promote the prompt and accurate clearance and settlement of options exercises and assignments, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. It accomplishes this purpose by eliminating duplicative margin requirements and providing more efficient stock settlement procedures where stock required to be delivered to NSCC is pledged to OCC. The Amendment is not inconsistent with the existing By-Laws and Rules of OCC.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the Amendment would impose any material burden on competition.

Item 5. 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 Amendment, and none have been received.

Item 6. Extension of Time Period for Commission Action

OCC does not consent to an extension of the time period for Commission action on the Amendment.

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2)

OCC hereby requests accelerated effectiveness pursuant to Section 19(b)(2) because of the importance of having this relief in place for the week following the November expiration on November 22, 2008.

Item 8. Proposed Rule Change Based on Rules of Another Regulatory Organization or of the Commission

The Amendment is not based on a rule change of another self-regulatory organization or of the Commission except to the extent that the Amendment attached hereto as Exhibit 5 constitutes "rules," for purposes of Commission Rule 19b-4, of NSCC.

Item 9. Exhibits

Exhibit 1 Completed notice of the Amendment for publication in the Federal

Register.

Exhibit 5 Amendment No. 2 to Third Amended and Restated Options

Exercise Settlement Agreement between OCC and NSCC.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

THE OPTIONS CLEARING CORPORATION

By: William H Navin
William H. Navin
Executive Vice President
and General Counsel

Amendment No. 2
to
Third
Amended and Restated
Options Exercise Settlement Agreement

This Amendment No. 2 to Third Amended and Restated Options Exercise Settlement Agreement (this “**Amendment**”), dated as of November __, 2008, by and between THE OPTIONS CLEARING CORPORATION, a Delaware corporation (“**OCC**”), and NATIONAL SECURITIES CLEARING CORPORATION, a New York corporation (“**NSCC**”).

W I T N E S S E T H

WHEREAS, OCC and NSCC are parties to a Third Amended and Restated Options Exercise Settlement Agreement dated as of February 16, 1995, as amended (the “**Third Restated Agreement**”);

WHEREAS, pursuant to the Third Restated Agreement as currently in effect, OCC guarantees to NSCC the performance by NSCC Members of settlement obligations resulting from E&A Positions, with the amount guaranteed by OCC in respect of the performance of an NSCC Member’s settlement obligation equal to the smaller of the Net Member Debit to NSCC and the Calculated Margin Requirement in respect of the NSCC Member;

WHEREAS, pursuant to the Third Restated Agreement as currently in effect, NSCC guarantees to OCC the performance by OCC Members of settlement obligations resulting from E&A Positions, with the amount guaranteed by NSCC in respect of the performance of an OCC Clearing Member’s settlement obligation equal to the smaller of the Net Member Debit to OCC and the Calculated Margin Credit in respect of the OCC Member;

WHEREAS, both OCC and NSCC collect margin in respect of such E&A Positions through settlement, calculated utilizing risk-based margining methodologies, which include volatility charges.

WHEREAS, in order to preserve the availability to OCC of assets to enable OCC to make good on its guarantee to NSCC, OCC does not permit the release of margin in respect of E&A Positions until the morning of the business day after settlement is made (*i.e.*, securities are delivered or paid for, or a CNS mark-to-market payment is made) in respect of such E&A Positions at NSCC;

WHEREAS, an NSCC Member may accordingly have an obligation in respect of E&A Positions on their exercise date through settlement date both to OCC to maintain margin or cover in respect of the positions, and to NSCC to pay a margin amount in respect of, and settle, such positions (or pay the net of the Mark-to-Market Amounts in respect of the positions);

WHEREAS, this dual obligation to OCC and NSCC in respect of E&A Positions may constitute a significant interim financial burden on NSCC Members and OCC Clearing Members, particularly during the three business days following Options expiration each calendar month (the “**Expiration Settlement Days**”), and NSCC and OCC desire to mitigate this burden;

WHEREAS, an accelerated NSCC trade guaranty in respect of those E&A Positions that result from an Options exercise or assignment on an Option expiration date, together with a modified methodology for calculating the Calculated Margin Requirement or the Calculated Margin Credit if a Common Member becomes a Defaulting Member on an Expiration Settlement Day, would allow OCC to release duplicative margin on Expiration Settlement Days in respect of E&A Positions on a more expedited basis, and thus mitigate burdens on NSCC and OCC Members while retaining adequate margin to protect both OCC and NSCC;

WHEREAS, in order to further mitigate this financial burden and facilitate the settlement, on any exercise settlement date, of the settlement obligations relating to Assigned Short Positions, OCC and NSCC, together with The Depository Trust Company (“**DTC**”), have established a program to permit an NSCC Member that has a security deliver obligation on an exercise settlement date with respect to an Assigned Short Position to request OCC to release underlying securities pledged to it at DTC by the NSCC Member to meet the NSCC Member’s OCC margin or cover requirement, so that the NSCC Member may fully or partially complete its CNS security deliver obligation at NSCC on such exercise settlement date;

WHEREAS, this program will provide for the delivery of such released securities to NSCC’s settlement account at DTC (such securities referred to as “**Released and Delivered Securities**”); and

WHEREAS, OCC and NSCC therefore desire to amend the Third Restated Agreement to provide that (i) NSCC will accelerate its trade guaranty in respect of specified E&A Positions and therefore allow for OCC to release the volatility component of its margin at a point before settlement as appropriate, and (ii) the NSCC settlement obligations satisfied by the Released and Delivered Securities will be excluded from the computation of a Calculated Margin Requirement or Calculated Margin Credit, should any such amount have to be calculated for the Common Member pursuant to the Third Restated Agreement;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, terms and conditions herein set forth, and other valuable consideration, the

receipt and sufficiency of which are hereby acknowledged, OCC and NSCC hereby agree to amend the Third Restated Agreement as hereinafter provided:

1. **Defined Terms.** Any capitalized term used herein and not defined shall have the meaning specified in the Third Restated Agreement. For purposes of this Amendment and ease of reference, (i) the date of an exercise or assignment of an option processed for settlement by NSCC in accordance with the Third Restated Agreement and NSCC's Rules & Procedures shall be referred to as "**T**", and its scheduled settlement date as "**T+3**", and the intervening business days as "**T+1**" and "**T+2**"; and (ii) the exercise or assignment of an Option on an Option expiration date that is submitted by OCC to NSCC for settlement processing shall be referred to as an "**Expiration Position.**"

2. **Acceleration of Trade Guaranty.** NSCC agrees that with respect to (and only with respect to) the Expiration Positions of a Common Member, Appointed Clearing Member, Nominated Correspondent or CDS, the trade guaranty applicable under NSCC's Rules & Procedures to such transactions shall be accelerated and become effective at the time on T+1 (ordinarily the Monday following Option expiration) when NSCC collects from the Common Member (or Appointed Clearing Member, Nominated Correspondent or CDS, as applicable) its Clearing Fund requirement determined in accordance with NSCC's Rules & Procedures.

3. **Calculated Margin Requirement and Calculated Margin Credit.** Should any Common Member (or Appointed Clearing Member, Nominated Correspondent or CDS) become a Defaulting Member during an Expiration Settlement Day, then the parties agree that the Calculated Margin Requirement used in determining the amount of the OCC guaranty to NSCC, and/or the Calculated Margin Credit used in determining the amount of the NSCC guaranty to OCC, shall each be calculated with respect to the Defaulting Member pursuant to Paragraph 5(a) of the Third Restated Agreement using:

- (i) the Marking Price in effect on the date the entity became a Defaulting Member (if the Defaulting Member met its settlement obligations to OCC (if any) on such date and, if the default date is T+1, irrespective of whether the Defaulting Member met its settlement obligations to OCC (if any) on that day), and, in all other cases, the Marking Price in effect on the settlement day immediately preceding the date the entity became a Defaulting Member, and
- (ii) those E&A Positions (including any Expiration Positions) as to which NSCC had, at the time the entity became a Defaulting Member, become unconditionally obligated to settle, together with any such E&A Positions that NSCC has optionally agreed to settle.

So, for example, if a Common Member were to become a Defaulting Member on the Monday following an Option expiration, the Calculated Margin Requirement would be calculated using Friday night's closing price as the Marking Price (irrespective of whether or not the Defaulting Member made OCC settlement that day), and the

Expiration Positions would only be included in such calculations if NSCC had received the Defaulting Member's Clearing Fund payment on that day prior to such time or optionally agreed to settle those positions despite not having received such payment prior to such time. If the Common Member were to default on the Tuesday following an Option Expiration, the Marking Price would be Monday night's closing price if the Common Member made Tuesday's OCC settlement, but Friday night's closing price if the Common Member became a Defaulting Member without effecting OCC settlement on that day.

4. **Calculations.** OCC and NSCC hereby agree that if a Calculated Margin Requirement or Calculated Margin Credit should have to be calculated for any Common Member on any day, whether or not such day is an Expiration Settlement Day, the settlement obligations satisfied by the Released and Delivered Securities will be excluded from the calculation of such Calculated Margin Requirement or Calculated Margin Credit, as the case may be.

5. **Cooperation and Notification.** The parties' respective Risk Management departments shall contact each other via telephone on T+1 following each Option expiration (or the next business day if such Monday is a holiday) to advise each other if they have experienced any problems or delays in OCC settlement or NSCC Clearing Fund collection with respect to any Common Member, Appointed Clearing Member, Nominated Correspondent or CDS.

6. **Effective Date and Term.** This Amendment shall become effective (i) as to all provisions other than Section 4 hereof, on the date on which proposed rule changes filed by OCC and NSCC with the SEC that include this Amendment as an Exhibit shall have become effective pursuant to Section 19(b) of the Act, and (ii) as to Section 4, on the date jointly announced by the parties. It shall remain in effect until November 1, 2009, unless extended by mutual agreement.

7. Except as expressly changed hereby, the Third Restated Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as on the date first written above.

NATIONAL SECURITIES CLEARING
CORPORATION

THE OPTIONS CLEARING
CORPORATION

By: _____ By: _____

Its: _____ Its: _____

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