

believes that the proposed rule change will provide additional flexibility in structuring IFSs or PDRs listed or traded pursuant to unlisted trading privileges under Rule 19b-4(e) by permitting the dissemination of underlying index values over any of the networks associated with the Consolidated Tape Association.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act⁵ in general, and with Section 6(b)(5) in particular,⁶ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition 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

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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. Please include File Number SR-Amex-2004-83 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

Associate General Counsel, Amex, and Natasha Cowen, Attorney, Division of Market Regulation ("Division"), Commission, on October 7, 2004.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

All submissions should refer to File Number SR-Amex-2004-83. 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 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. Copies of the filing also will be available for inspection and copying at the principal offices of the Amex. 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-Amex-2004-83 and should be submitted on or before November 8, 2004.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁷ In particular, the commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁸ which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national securities system, and protect investors and the public interest.

The Commission notes that the proposed rule change is similar to another proposed rule change that previously has been subject of a full comment period pursuant to Section 19b of the Act.⁹ The Commission does

⁷ In approving this proposal, the Commission has considered its impact of efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b). See Securities Exchange Act Release No. 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000) (SR-NYSE-00-46).

not believe that proposed rule change raises any new regulatory issues.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,¹⁰ for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-Amex-2004-83), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-2701 Filed 10-15-04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50491; File No. SR-MSRB-2004-05]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board To Offer New Historical Data Product

October 5, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 16, 2004, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. 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 MSRB proposes to offer a new transparency product containing historical trade data obtained through the MSRB's Transaction Reporting System (the "Historical Data Product"). The Historical Data Product will include information for each inter-dealer trade reported since January 24, 1995, and for

¹⁰ 15 U.S.C. 78s(b)(2).

¹¹ *Id.*

¹² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

each customer and inter-dealer trade reported since August 25, 1998, regardless of the number of times a particular issue traded (*i.e.*, the data will not be limited to “frequently traded” issues). The transaction information will be the same as that currently provided in the MSRB’s Comprehensive Transaction Report (“CT Report”), including the trade date, the CUSIP number of the issue traded, a short description of the issue, the size of the transaction (including the exact par amount reported to the MSRB on transactions in amounts greater than one million dollars), the time of trade as reported by the dealer, the price of the transaction, the dealer-reported yield (if any), and a designation as to whether the transaction is a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade.³ The MSRB proposes to charge \$600 for a one-year collection of historical data to cover the administrative costs associated with providing this data. The Historical Data Product will be available, at the purchaser’s option, either on CD-ROM or by download over the Internet.

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

In its filing with the Commission, the MSRB 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. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

In October 2000, the MSRB began offering its Comprehensive Transaction Report to provide historical information on all municipal securities transactions that were effected from August 2000 forward. The information in the CT Report is a comprehensive listing of

³ Currently, the CT Report is produced daily and provides historical transaction information on a one-week delayed basis. The information in the CT Report is derived from information submitted to the MSRB by brokers, dealers and municipal securities dealers pursuant to Rule G-14, on reports of sales and purchases, and each CT Report includes transactions reported by dealers as having been executed on a single day one week before the CT Report is produced. The MSRB will continue to produce the CT Report and will continue to offer it under its current subscription terms and rate.

trades derived from information that dealers are required to submit to the MSRB pursuant to Rule G-14, on reports of sales and purchases.⁴ Prior MSRB transparency products provided information only on “frequently traded” issues—that is, issues in which multiple transactions occurred on a given trade date. Since the implementation of the first CT Report, the MSRB has enhanced the Report by making it available online and by making the data available more quickly after trade date.

The current CT Report is made available as a one-year subscription whereby data is delivered daily (with a one-week delay). The MSRB will continue to produce the CT Report on a one-week delayed basis with details about all transactions traded one-week prior, and will continue to offer it under its current subscription terms and rate. The proposed Historical Data Product would provide the same data as the CT Report but would make it available in another package; rather than having to subscribe to the CT Report, the Historical Data Product will enable a data user to make a one-time purchase of all available trade data for a specified time period in one-year increments. In contrast to the CT Report, the Historical Data Product will not provide a continuous (daily) stream of data and will not be available on a subscription basis. The MSRB proposes to charge \$600 for a one-year collection of historical data to cover the administrative costs associated with providing this data. The Historical Data Product will be available, at the purchaser’s option, either on CD-ROM or by download over the Internet.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with section 15B(b)(2)(C) of the Act,⁵ which requires that the rules of the MSRB shall “be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and

⁴ Rule G-14 requires dealers to, among other things, report all inter-dealer and customer transactions in municipal securities to the MSRB by midnight of trade date. The CT Report contains both trades reported within this deadline as well as trades reported late or corrected by dealers after the initial report. The data elements included for each trade are the trade date, the CUSIP number of the issue traded, a short description of the issue, the size of the transaction (including the exact par amount reported to the MSRB on transactions in amounts greater than one million dollars), the time of trade as reported by the dealer, the price of the transaction, the dealer-reported yield (if any), and a designation as to whether the transaction is a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade.

⁵ 15 U.S.C. 78o-4(b)(2)(C).

coordination with persons engaged in regulating * * * transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest * * *⁶ The MSRB has a long-standing policy to increase price transparency in the municipal securities market, with the ultimate goal of disseminating comprehensive and contemporaneous pricing data. Since 1995, the Board has expanded the scope of its public transparency reports in several steps, and each step has provided industry participants and the public with more information about municipal securities transactions. By providing more information on infrequently traded issues, the Historical Data Product represents another step in the Board’s efforts to increase transparency and facilitate the fair pricing of municipal securities transactions. The MSRB encourages the redistribution of the data contained in the Historical Data Product and believes that achieving the widest possible dissemination of transaction information will help ensure the fairest and most accurate pricing of municipal securities transactions.

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

The MSRB does not believe that the proposed rule change will result in any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization’s Statement on Comments Received From Members, Participants, or Others

Written comments were neither solicited nor received.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

⁶ *Id.*

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. Please include File Number SR-MSRB-2004-05 on the subject line.

Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to File Number SR-MSRB-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, please use only one method. The Commission will post all comments on the Commission's 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. Copies of such filing also will be available for inspection and copying at the MSRB's offices. 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-MSRB-2004-05 and should be submitted on or before November 8, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,
Deputy Secretary.

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⁷ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50518; File No. SR-OCC-2004-16]

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

October 12, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on September 20, 2004, 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 amends the definition of the term "approved depositories"² to give the authority to approve depositories to designated officers.

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.³

(A) 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 permit the Chairman, the Management Vice Chairman, or the President of OCC to approve depositories which may hold

¹ 15 U.S.C. 78s(b)(1).

² As modified, Article I, Section 1.A. (12) of OCC's By-Laws states, "the term 'approved depository' means a bank or trust company approved by the Chairman, the Management Vice Chairman or the President."

³ The Commission has modified parts of these statements.

Government or other securities pledged by clearing members to meet their clearing fund and margin requirements. The rule change will avoid unnecessarily burdening the Board of Directors in the future and will permit more timely decisionmaking on whether a new depository should be an approved depository in response to requests by clearing members or prospective depositories.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act, as amended, because they are designed to assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.

(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 pursuant to Section 19(b)(3)(A)(iii) of the Act⁴ and Rule 19b-4(f)(4)⁵ promulgated thereunder because the proposal effects a change in an existing service of OCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and (B) 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 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 proposed rule change is consistent with the Act.

⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

⁵ 17 CFR 240.19b-4(f)(4).