as a separate settlement obligation.[5] As is the case today, OCC will allocate a percentage of the exercise price or the final settlement price to each underlying security to be delivered.[6]

OCC will provide clearing members with Delivery Advices indicating whether settlements are to be effected through NSCC or on a BTB basis. Delivery Advices will specify settlement information for the clearing member including each underlying security to be delivered or received, the aggregate purchase price to be received or paid, the delivery date, the exercise price or final settlement price, the percentage of the exercise price allocated to the underlying security, the contra-clearing member to the settlement (for BTB settlements), and in the case of options, the activity (*i.e.*, exercise or assignment) giving rise to the settlement obligation.

OCC will normally require that BTB settlements be made on a DVP basis through the facilities of DTC in order to avoid the need for OCC to margin ''Herstatt risk'' (*i.e.*, the risk that a party may fail to make delivery or payment, as the case may be, after having itself received payment or delivery). However, the proposed rule change retains provisions for BTB settlements outside of DTC to provide for the rare case where an underlying security may not be DTC-eligible and reflects the enhanced ENCORE Release 4.0 system capabilities to process and monitor BTB settlements. For BTB settlements, the delivering clearing member will enter into ENCORE the number of units of the underlying security delivered (up to the total delivery requirement) and the amount received in respect thereof. The receiving clearing member will enter the number of units of the underlying security received and the amount paid. These entries can occur at different times. Only if the entries match (*i.e.*, the number of units delivered equals the number received or the amount received equals the amount paid, as the case may be) will the settlement obligation be discharged. In the event that the matched number of units or payment amounts is less than the total settlement obligation, only the deficiency will be treated as unsettled. An entry for which no response has been given by the second business day after its posting will be deemed settled provided that the specified delivery date has passed. Contradictory entries will be treated as unmatched items and will be deemed unsettled. All unsettled obligations will be margined.[7] Partial deliveries will be permitted but only in round lots except where an adjustment has resulted in a unit of trading other than a round lot, in which case partial deliveries will also be permitted in the odd lot component or multiples thereof.[8]

Chapter IX of OCC's Rules sets forth the delivery and payment rules for stock options and stock futures. Those Rules are being restructured to reflect that settlement normally occurs through NSCC with BTB settlement as the backup. Consistent with other OCC Rule Chapters, an introductory section has been added to Chapter IX of the Rules. This introductory section sets forth OCC's authority to designate a settlement method with regard to exercised stock options and matured stock futures, OCC's general policy to effect such settlement through NSCC, and OCC's authority to alter a previous designation of a settlement method. Former Rule 913, which concerns settlements through NSCC, has been renumbered as Rule 901. Other conforming changes have been made to the Rule to reflect the general policy that settlement will occur through NSCC.

Former Rules 901 through 907, which pertain to BTB settlements, have been renumbered as Rules 902 through 908. These Rules, along with Rule 909, have been modified to reflect the enhanced system for monitoring and tracking BTB settlements described above. Rules 910 and 911, which concern fails to deliver and receive, respectively, and 910A, which concerns protect procedures, have been modified to more closely parallel applicable provisions of NSCC's Rules. Obsolete rule references have been deleted, and conforming changes have been made to other By-Law and rule provisions as necessary.

III. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.[9] The Commission finds that OCC's proposed rule change is consistent with this requirement because it will promote the prompt and accurate clearance and settlement of securities transactions by clarifying its Rules and enhancing its procedures with respect to the physical settlement of exercised options and matured security futures.

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–2003–08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

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[5] If the underlying security includes a cash component (*e.g.*, cash in lieu amounts or the proceeds of a cash merger), the cash is settled through OCC's cash settlement system.

[6] An adjustment of a contract in response to a corporate action may result in more than one underlying security being deliverable upon exercise or maturity. OCC By-Laws, Article VI, section 11 and Article XIII, section 4.

[7] The total obligation will continue to be margined until the installation of the margin subsystem.

[8] For example, where the unit of trading for an adjusted contract is 133 shares, a writer of three assigned calls could deliver in increments of 100 shares, 200 shares, 300 shares, 33 shares, 66 shares, and/or 99 shares separately or in any combination up to a total of 399 shares.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #P020]

State of South Carolina (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective March 10, 2004, the above numbered declaration is hereby amended to include Cherokee, Chester, Darlington, Dillon, Fairfield, Lee, Oconee, Saluda and Union Counties for Public Assistance in the State of South Carolina as disaster areas due to damages caused by a severe ice storm occurring on January 26, 2004 and continuing through January 30, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is April 13, 2004.

(Catalog of Federal Domestic Assistance Program No. 59008)

Dated: March 16, 2004.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

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