

not exceed 150 across all of the repo brokers, but one or more repo brokers have each received 40 or more requests. Such a large number of requests was and continues to be extremely burdensome on repo brokers, and with such large numbers, they are not able to timely submit the information to FICC. Therefore, FICC believes the receipt of 40 or more notifications by any one repo broker should also be a trigger for a high volume day.

The proposed rule change is consistent with Section 17A of the Act⁶ and the rules and regulations thereunder because it is designed to promote the prompt and accurate clearance and settlement of securities transactions by setting forth more practical and less burdensome operating standards for the repo service.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change will have any impact or 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 relating to the proposed rule change have not yet been solicited or received. FICC will notify the Commission of any written comments received by FICC.

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

FICC has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act⁷ and subparagraph (f)(6) of Rule 19b-4 thereunder.⁸ Because the foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest, (2) does not impose any significant burden on competition, and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6) thereunder.

Rule 19b-4(f)(6)(iii) also requires a self-regulatory organization to provide the Commission with written notice of its intent to file a proposed rule change pursuant to Rule 19b-4(f)(6) along with a brief description and text of the

proposed rule change at least five business days prior to filing the proposed rule change, or such shorter time as the Commission designates. FICC complied with this requirement.

A proposed rule change filed under Rule 19b-4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Commission is waiving the 30-day operative delay to allow FICC and its members to immediately benefit from the rule change. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest.⁹

At any time within 60 days of the filing of such 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. 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-FICC-2004-12 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-FICC-2004-12. 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/>

⁹ For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of FICC and on FICC's Web site at <http://www.ficc.com>. 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-FICC-2004-12 and should be submitted on or before August 5, 2004.

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

Margaret H. McFarland,
Deputy Secretary.

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BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49988; File No. SR-NYSE-2004-07]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to the Listed Company Manual's Requirement That Companies Make Certain Paper Filings

July 8, 2004.

On February 10, 2004, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the NYSE *Listed Company Manual* to clarify that the Exchange will no longer require issuers to submit hard copies of Commission

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78s(b)(3)(A).

⁸ 17 CFR 240.19b-4(f)(6).

Form 8-K³ filings. Accordingly, the NYSE proposes only to require issuers to file, pursuant to the NYSE *Listed Company Manual*, hard copies of materials that are necessary to support a listing application and proxy materials. In addition, the NYSE proposes to amend the NYSE *Listed Company Manual* to require issuers to file paper versions of SEC Form 6-K⁴ that are not required to be filed through the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system. On May 10, 2004, NYSE submitted Amendment No. 1 to the proposed rule change.⁵

The proposed rule change, as amended, was published for comment in the **Federal Register** on May 24, 2004.⁶ The Commission received no comments on the proposal.

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 and, in particular, the requirements of Section 6 of the Act⁸ and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with Section 6(b)(5) of the Act⁹ in that the proposal 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.

The Commission believes that the proposal should streamline filing requirements and eliminate duplicative filings. The Commission notes that the Exchange currently accepts and accesses all materials filed by issuers with the Commission on the Commission's EDGAR system except materials necessary to support a listing application, proxy materials, and SEC Form 8-K¹⁰ filings.¹¹ Since the

Exchange currently accepts and accesses other materials filed by issuers on the EDGAR system and has recently implemented a system that provides electronic notification that an issuer has filed a Form 8-K¹² or Form 6-K¹³ and flags and routes such filings to the appropriate NYSE representative, the Commission believes the Exchange will be able to continue to fulfill its regulatory responsibilities with regard to its issuers.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁴ that the proposed rule change (File No. SR-NYSE-2004-07), as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁵

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-16047 Filed 7-14-04; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49987; File No. SR-OCC-2004-07]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating To Settlements of Exercises and Assignments of Foreign Currency Options

July 8, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on May 10, 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 updates OCC's By-laws and Rules pertaining to

Krauskopf, Special Counsel, Division of Corporation Finance, and Howard L. Kramer, Senior Associate Director, Division, Commission, dated July 22, 1998 (providing no-action relief from certain requirements to file paper copies).

¹² 17 CFR 249.308.

¹³ 17 CFR 249.306.

¹⁴ 15 U.S.C. 78s(b)(2).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

the settlement of exercised foreign currency options in anticipation of the installation of the portion of OCC's new ENCORE clearing system that will process those settlements.

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.²

(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 update OCC's By-laws and Rules pertaining to the settlement of exercised foreign currency options in anticipation of the installation of the portion of OCC's new ENCORE clearing system that will process those settlements. This installation, which was scheduled for May 7, 2004, will convert existing processing to the ENCORE technology with only a few variations. Nevertheless, OCC wishes to take this occasion to update its Rules by eliminating details that now seems more appropriately included in operational procedures than in its rulebook and by making a few other changes, as described below, that are appropriate to reflect experience that OCC has gained and certain developments that have occurred since OCC's Rules were initially adopted. These amendments are equally applicable before and after the planned conversion to the ENCORE system. The specific changes are described below.

Overview of Exercise Settlement Process for Foreign Currency Options

As set forth in Rules 1605, 1606, and 1606A, the gross settlement obligations for all accounts are netted down to a single amount for each currency pair following the assignment of exercise notices with respect to foreign currency options for all accounts within a particular clearing number. Netting occurs within a currency pair so that an obligation to deliver a specific foreign currency against the receipt of U.S.

² The Commission has modified parts of these statements.

³ 17 CFR 249.308.

⁴ 17 CFR 249.306.

⁵ See Letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy J. Sanow, Assistant Director, Division of Market Regulation ("Division"), Commission, dated May 7, 2004 ("Amendment No. 1"). Amendment No. 1 replaced and superseded the original filing in its entirety.

⁶ See Securities Exchange Act Release No. 49714 (May 17, 2004), 69 FR 29608.

⁷ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁸ 15 U.S.C. 78f.

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ 17 CFR 249.308.

¹¹ See NYSE Listed Company Manual, Section 204.00(B); see also Letter to NYSE from Ann M.