

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-58349; File No. SR-OCC-2008-15)

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

August 12, 2008

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on July 23, 2008, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act<sup>2</sup> and 19b-4(f)(1) thereunder<sup>3</sup> so that the proposal was effective upon filing with the Commission. 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 the Substance of the Proposed Rule Change

The proposed rule change would clarify how a listing exchange may define the exercise settlement amount for binary options and that escrow deposits are not permitted in lieu of margin with respect to binary options on any underlying interest.

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

<sup>2</sup> 15 U.S.C. 78s(b)((3)(A)(i).

<sup>3</sup> 17 CFR 240.19b-4(f)(1).

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.

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 clarify, in two respects, the application of OCC's By-Laws and Rules to certain binary options. OCC currently clears the following types of binary options: credit default options, credit default basket options, and "other binary options."<sup>4</sup> "Other binary options" include "fixed return options" traded on the American Stock Exchange LLC ("Amex") and binary options on broad-based indexes traded on the Chicago Board Options Exchange, Incorporated ("CBOE"). "Other binary options" are European-style options that will be automatically exercised if the value of the underlying interest at expiration when measured against its exercise price is determined to meet the criteria for automatic exercise as specified in the rules of the listing exchange. All binary options, when automatically exercised, have a fixed exercise settlement amount that does not vary depending upon how much

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<sup>4</sup> In June 2007 and August 2007, the Commission approved changes to OCC's Rules designed to accommodate credit default options and credit default basket options, respectively. Securities Exchange Act Release Nos. 55872 (June 6, 2007), 72 FR 32693 (June 13, 2007) [SR-OCC-2007-01] and 56288 (Aug. 20, 2007), 72 FR 49034 (Aug. 27, 2007) [SR-OCC-2007-06]. In November 2007, the Commission approved additional changes to OCC's Rules designed to accommodate binary options, including fixed return options and binary options on broad-based indexes. Securities Exchange Act Release No. 56875 (Nov. 30, 2007), 72 FR 69274 (Dec. 7, 2007) [SR-OCC-2007-08].

the option is in the money. The present rule filing addresses two unrelated points concerning “other binary options.”

The first issue addressed in this filing relates to the description of the fixed exercise settlement amount. CBOE’s proposed rules for binary options on broad-based indexes define the fixed exercise settlement amount as the product of the multiplier for that option and another fixed value, both established by CBOE at or before the opening of trading in a series of binary options. In contrast, the fixed exercise settlement amount for binary options currently traded on Amex is defined without reference to a multiplier. Since “multiplier” is defined in Section I of Article XIV of OCC’s By-Laws only with respect to premiums and not exercise settlement amounts, OCC wishes to clarify through a new interpretation to Article XIV, Section 2B of OCC’s By-Laws that some exchanges are permitted to describe the fixed exercise settlement amount as being the product of a multiplier times another fixed value.

Secondly, OCC proposes to clarify through an amendment to Rule 1506 that escrow deposits, like other deposits in lieu of margin, are not permitted with respect to binary options. The clarification will state that neither Rule 610 and Rule 613 shall not apply to binary options.

OCC states that the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>5</sup> because it will promote the prompt and accurate clearance and settlement of transactions in binary options by clarifying the consistent application of OCC’s By-Laws and Rules to binary options notwithstanding differences in the manner in which different listing exchanges define the exercise settlement amount for these options. OCC further states that the proposed rule change is not inconsistent with the rules of OCC, including those proposed to be amended.

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<sup>5</sup> 15 U.S.C. 78q-1.

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

OCC did not solicit or receive written comments with respect to the proposed rule change.

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) of the Act<sup>6</sup> and Rule 19b-4(f)(1)<sup>7</sup> thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty 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

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<sup>6</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>7</sup> 17 CFR 240.19b-4(f)(1).

- Send an e-mail to [rule-comment@sec.gov](mailto:rule-comment@sec.gov). Please include File No. SR-OCC-2008-15 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File No. SR-OCC-2008-15. 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, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. to 3:00 p.m. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at [http://www.theocc.com/publications/rules/proposed\\_changes/proposed\\_changes.jsp](http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jsp). 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 No. OCC-2008-15 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>8</sup>

Florence E. Harmon  
Acting Secretary

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<sup>8</sup> 17 CFR 200.30-3(a)(12).