

Chairman, President, and all governors who have already served on the Initial Determination Panel or Hearing Panel convened in connection with a disciplinary matter to be reviewed. Two of the five members of the Judiciary Committee will be non-member (public) governors. The proposed rule change also amends Article VII, Rule 5(a) in order to clarify that the President's power of emergency suspension extends to persons associated with members, in addition to members and member organizations. The Exchange believes that this change codifies the Exchange's authority, as set forth in Section 6(b)(6) of the Act, in CHX rules.

The Exchange proposes that the proposed rule change become effective sixty days after approval by the Commission. This time period will give the Exchange adequate time to implement the new procedures and appoint a Hearing Pool. The Exchange proposes that, in general, if a disciplinary action has commenced and is pending as of the date of effectiveness of the proposed rule change, all of the new rules and procedures should apply. However, if a Hearing Officer has already been appointed pursuant to the old rules then the old hearing rules should apply. In any event, so long as no appeal has been filed by the date of effectiveness of the proposal, the new appellate rules and procedures shall apply except that, if a Hearing Officer presided at the hearing, references in the appeal rules to decisions of the Initial Determination panel or Hearing Panel, as the case may be, should be changed to "hearing officer and final judgment of the President."

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act⁸ in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating securities transactions, 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 proposed rule change is also consistent with Section 6(b)(7) of the Act⁹ in that it provides a fair procedure for the disciplining of members and persons associated with members.

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

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

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

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

Within 35 days of the 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 the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CHX-96-31 and should be submitted by April 22, 1997.

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

Margaret H. McFarland,
Deputy Secretary.

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[Release No. 34-38421; File No. SR-OCC-97-03]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Modifying The Options Clearing Corporation's Restated Certificate of Incorporation and By-Laws

March 19, 1997.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on February 18, 1997, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments from interested persons on the proposed rule change and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change modifies OCC's Restated Certificate of Incorporation and By-Laws to extend each public director's term on OCC's Board of Directors ("Board") from a maximum of four consecutive years to a maximum of six consecutive years.

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 modify OCC's Restated Certificate of Incorporation and By-Laws in order to provide greater continuity of leadership and more meaningful representation on OCC's Board by

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified the text of the summaries prepared by OCC.

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78f(b)(7).

extending each public director's term on the Board from a maximum of four consecutive years to a maximum of six consecutive years. Under the proposed rule change, public directors elected prior to 1999 shall serve a maximum of three consecutive two-year terms, and public directors elected in 1999 or thereafter shall serve a maximum of two consecutive three-year terms. On October 16, 1992, the Commission approved a proposed rule change extending a public director's term from one two-year term to two consecutive two-year terms.³ OCC believes that the reasons supporting Commission approval of that proposed rule change are very similar to the reasons for the present proposed rule change. In particular, OCC's business has been and continues to be increasingly complex. A public director may find that two two-year terms are still insufficient time to prepare for meaningful administration and interpretation of OCC's rules, operations, and policies and for input of meaningful guidance once the public director has gained the necessary knowledge and expertise. Because each public director's term would be limited to a total of six consecutive years, diversity in that position will still be preserved.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act⁴ and the rules and regulations thereunder because the proposed rule change enhances the ability of public directors to have meaningful input on the Board and contributes to the fair representation of OCC's members in the selection of its directors and administration of its affairs.

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

OCC does not believe that the proposed rule change will 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 comment 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

Section 17A(b)(3)(C) of the Act states that the rules of a clearing agency must

assure a fair representation of its shareholders and participants in the selection of its directors and administration of its affairs.⁵ The Commission believes that the proposed modification to OCC's Restated Certificate of Incorporation and By-Laws to extend each public director's term on the Board from a maximum of four consecutive years to a maximum of six consecutive years is consistent with OCC's obligations under Section 17A of the Act. The proposed rule change should result in OCC's Board having greater continuity of leadership and more meaningful representation. Due to the increasing complexity of OCC's business, continuity of leadership has become more important to the proper functioning of OCC. Allowing a public director's maximum tenure to extend to six consecutive years will enhance the continuity of leadership on OCC's Board and still preserve the requirement of fair representation under the Act.

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing because accelerated approval will allow OCC to implement the new term structure without disrupting the current composition of the OCC Board.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should

refer to File No. SR-OCC-97-03 and should be submitted by June 22, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-97-03) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Statement of Policy on the Rights of Small Entities in OST Enforcement Cases

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Statement of policy on the rights of small entities in OST enforcement cases.

SUMMARY: This is the Office of the Secretary's statement of policy with respect to the reduction and waiver of civil penalties for small entities in OST enforcement cases.

DATES: This policy is effective on March 29, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Holmstrup, Office of the General Counsel, Department of Transportation, (202) 366-9342, 400 7th Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Section 223 of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) requires agencies to establish a policy with respect to the reduction and waiver of civil penalties for small entities in OST enforcement cases. This policy statement closely tracks the requirements of Section 223, and will apply to the Office of the Secretary's (OST) enforcement of (a) the Department's aviation economic requirements contained in 49 U.S.C. Subtitle VII and 14 CFR Parts 200-399, as well as the orders, certificates, and permits issued thereunder; and (b) the Program Fraud Civil Remedies Act (31 U.S.C. 3801-3812) and the Department's implementing regulations (49 CFR Part 31).

The Policy

The following shall apply in assessing the need for and the amount of any civil

³ Securities Exchange Act Release No. 31329 (October 16, 1992), 57 FR 48414.

⁴ 15 U.S.C. 78q-1.

⁵ 15 U.S.C. 78q-1(b)(3)(C).

⁶ 17 CFR 200.30-3(a)(12).