

The Commission finds good cause for approving the proposed rule change, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that the Notes will provide investors with an additional investment choice and that accelerated approval of the proposal will allow investors to begin trading the Notes promptly. In addition, the Commission notes that it has previously approved the listing and trading of similar Notes and other hybrid securities based on the Index.³¹ Accordingly, the Commission believes that there is good cause, consistent with sections (6)(b)(5) and 19(b)(2) of the Act,³² to approve the proposal, on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,³³ that the proposed rule change (SR-NASD-2003-70) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.³⁴

Jill M. Peterson,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47707; File No. SR-OCC-2002-04]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Amended, Relating to Money Market Funds as Margin Collateral

April 21, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on January 29, 2002, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2002-04. Notice of the proposal was published in the **Federal Register** on January 16, 2003.² No comment letters were received. The Commission granted approval of the

proposed rule change on March 31, 2003.³

OCC filed Amendment I to the proposed rule change on November 19, 2002. The changes made by Amendment I were inadvertently omitted from the notice and order approving the proposed rule change. Accordingly, the Commission is publishing this notice to solicit comments on Amendment I from interested persons.

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

Amendment I modified SR-OCC-2002-04 which expanded the acceptable forms of margin collateral to include shares of money market funds meeting specified criteria.

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.⁴

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC filed Amendment I after discussions with its clearing members and fund issuers caused OCC to identify several areas in which SR-OCC-2002-04 needed to be clarified or modified. Amendment I made the following changes to SR-OCC-2002-04:

- Notification of Noncompliance with Requirements. SR-OCC-2002-04 as originally filed required a fund to immediately notify OCC of any noncompliance with the requirements of rule 604(b)(3)(i). Amendment I amended the filing to provide additional details as to when, to whom, and how such notice should be given. This additional detail will help ensure that OCC receives appropriate and timely notice of noncompliance in order to take such action as it deems necessary to respond to the event causing the noncompliance.

- Valuation of Deposited Shares. SR-OCC-2002-04 as originally filed

provided that money market fund shares would be valued at 98% of current net asset value unless a lower valuation was prescribed by OCC's Membership/Margin Committee. While the funds that will qualify for deposit under rule 604 are designed to maintain a stable net asset value of \$1.00, net asset value at any point in time may be slightly greater or less than \$1.00. Accordingly, OCC filed Amendment I to provide that deposited shares would be valued at 98% of current market value. In addition, Amendment I provided that OCC may prescribe a lower valuation in the event OCC receives notice from a fund that it no longer meets the qualification standards applicable to accept the fund's shares.

- Concentration Requirements. SR-OCC-2002-04 as originally filed required that no single registered shareholder have an interest of 10% or more in a fund. This standard was intended to limit the possibility that a redemption decision by a single shareholder could adversely affect the fund's ability to redeem shares in an orderly manner. Fund sponsors have advised OCC that this requirement may severely restrict their ability to construct a fund tailored to meet OCC's qualification standards as it requires a minimum of at least 10 registered shareholders before the fund meets OCC's eligibility standards. As a result, in Amendment I OCC revised its concentration restriction to provide that no more than 5% of the total number of outstanding shares of any one fund may be deposited by a single clearing member with OCC. OCC believes that this standard reasonably addresses concentration concerns because it limits OCC's exposure to a single fund on the default of the depositing clearing member.

- Compliance with CFTC Regulation 1.25. SR-OCC-2002-04 as originally filed required a fund to comply with CFTC Regulation 1.25, which sets forth the terms and conditions applicable to a futures commission merchant's or a derivatives clearing organization's investment of futures customer funds in permitted instruments. CFTC Regulation 1.25(c) specifies requirements for investments in money market mutual funds. This requirement was intended to ensure that shares in all approved funds could be deposited by clearing members registered as FCMs in their segregated futures account at OCC to the extent such shares were acquired with futures customer funds. CFTC Regulation 1.25(c), however, would not apply to money market fund shares deposited as margin for OCC accounts other than for segregated futures

³¹ See note 8, *supra*.

³² 15 U.S.C. 78o-3(b)(6) and 78s(b)(2).

³³ 15 U.S.C. 78s(b)(2).

³⁴ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 47146 (January 9, 2003), 68 FR 2385.

³ Securities Exchange Act Release No. 47599, 68 FR 16849 (April 7, 2003).

⁴ The Commission has modified parts of these statements.