

earlier in the night. Due to the many technical improvements implemented by the exchanges in recent years, the exchanges now send daily trading data to OCC much earlier. Thus, there are many nights when OCC could begin critical processing by 9:00 p.m. To accommodate the requests by clearing members for earlier data distribution, OCC has decided to advance the late exercise cut-off times by one hour and to eliminate the volume conditions affecting the cut-off times.

The volume conditions were initially incorporated into Rule 801(e) to ensure that clearing members had adequate time to reconcile their records with exchange trade comparison reports. Since that time, the exchanges have continued to improve their systems and operations in the trade matching process, particularly with respect to intraday trade matching. These technological improvements have enabled the exchanges to send daily trade data to OCC and its clearing members much earlier in the day. Accordingly, OCC is eliminating any references to volume in the revised Rule 801(e). OCC does not believe removing the volume considerations will have any negative affect on its clearing members.

The proposed rule change also amends OCC's late exercise fee schedule. The time at which a \$500 fee will be imposed is being changed from between 7:00 p.m. to 9:00 p.m. to between 7:00 p.m. to 8:00 p.m. The late exercise cut-off time associated with a \$2000 fee will be changed from between 9:01 p.m. and the start of critical processing to between 8:01 p.m. and the start of critical processing.

In addition to the changes described above, Rule 801(a) is being revised to provide expressly for the submission of exercise instructions through electronic means.

II. Discussion

Section 17A(b)(3)(F) ⁶ of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes OCC's proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) because the proposal advances the late exercise cut-off times by one hour without regard to volume restrictions. This should allow clearing members to obtain earlier data distribution from OCC thus promoting the prompt and accurate clearance and settlement of securities transactions.

Because the exchanges' improvements to their intraday trade matching processes enable them to send daily trade comparison reports to clearing members much earlier in the day, the Commission believes that clearing members should continue to have adequate time to reconcile their records with exchange trade comparison reports and should not be negatively effected by the removal of volume restrictions or the earlier cut-off times for late exercise notices. These changes also should enable OCC to begin its critical processing earlier in the evening and, in turn, provide earlier distribution of data from nightly processing to its clearing members thus facilitating the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A of the Act.

III. 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-95-14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁷

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-3132 Filed 2-12-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36819; File No. SR-OCC-95-12]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Amending the Agreements Governing Non-Proprietary Cross-Margining Accounts of Market Professionals in Cross-Margining Programs

February 7, 1996.

On August 15, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-95-12) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").¹ On September 12, 1995, and on October 11, 1995, OCC filed amendments to the proposed rule change to include, in addition to

proposed changes to the agreements governing non-proprietary cross-margining ("XM") accounts in the XM program among OCC, The Intermarket Clearing Corporation ("ICC"), and the Chicago Mercantile Exchange ("CME"), proposed changes to the agreements governing non-proprietary XM accounts in the XM program between OCC and ICC and in the XM program between OCC and the Kansas City Board of Trade Clearing Corporation ("KCC"), respectively.² On January 11, 1996, OCC filed an amendment to the proposed rule change to correct minor typographical errors in two of the agreements that are the subject of the proposed rule change.³ Notice of the proposal was published in the Federal Register on December 11, 1995.⁴ No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description of the Proposal

OCC is amending the agreements governing non-proprietary XM accounts of market professionals in the OCC/ICC/CME XM program, in the OCC/ICC XM program, and in the OCC/KCC XM program in order to make the agreements correspond with the revised distributional scheme adopted by the Commodity Futures Trading Commission ("CFTC") in the new appendix to the CFTC's bankruptcy rules.⁵ The proposed rule change also conforms the terms of the agreements governing the proprietary and non-proprietary XM accounts in the OCC/KCC XM program with the terms of the agreements used in the OCC/ICC/CME XM program and in the OCC/ICC XM program.

The Commission and the CFTC approved non-proprietary cross-margining in November 1991.⁶ As part

² Letters from Jean M. Cawley, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (September 11, 1995, and October 10, 1995).

³ Letter from Jean M. Cawley, OCC, to Jerry W. Carpenter, Assistant Director, Division, Commission (January 8, 1996).

⁴ Securities Exchange Act Release No. 36551, (December 4, 1995), 60 FR 63558.

⁵ The CFTC's distributional requirements are set forth in Appendix B to Part 190 of the CFTC's General Regulations, 17 CFR 190. The CFTC's distributional framework was adopted in April 1994. 59 FR 17468 (April 13, 1994).

⁶ Securities Exchange Act Release Nos. 29991 (November 26, 1991), 56 FR 61458 (order approving OCC/CME non-proprietary XM program); 56 FR 61404 (CFTC 1991) (order approving OCC/CME non-proprietary XM program); 30041 (December 5, 1991) 56 FR 64824 [File Nos. SR-OCC-90-04 and SR-ICC-90-03] (order approving OCC/ICC non-proprietary, market professional cross-margin program); and 56 FR 61406 (CFTC 1991) (order approving OCC/ICC non-proprietary cross-margin

⁶ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

⁷ 17 CFR 200.20-3(a)(12) (1995).

¹ 15 U.S.C. § 78s(b)(1) (1988).

of the CFTC's approval, it required each futures commission merchant ("FCM") participating in cross-margining to agree that all funds and property in a non-proprietary XM account would be treated as customer property subject to the segregation requirements of the Commodity Exchange Act⁷ and to agree to segregate such funds and property from that of non-XM customers. The CFTC also required each market professional to subordinate its XM related claims to customer claims based on non-XM positions.

Pursuant to that subordination requirement, if a clearing member became insolvent, all non-XM customers of the FCM would be paid their pro rata share of the combined segregated funds pool, including funds of XM market professionals, before the XM market professionals received any portion of their claims. The subordination was intended to insulate non-XM customers from losses arising from XM accounts and to ensure that the XM accounts of market professionals would not be treated as accounts of securities customers subject to liquidation under the Securities Investor Protection Act of 1970 ("SIP")⁸ or the stock broker liquidation provisions of the Bankruptcy Code.⁹ As a result, the accounts would be liquidated as accounts of commodity customers under the commodity broker liquidation provisions of the Bankruptcy Code¹⁰ and the CFTC's bankruptcy rules,¹¹ and both the Commission's order and the CFTC's order approving non-proprietary XM provide for such result.

The revised distribution rules adopted by the CFTC continue the concept of subordination for the purpose of ensuring that the market professionals' securities included in a XM account will be subject to commodity broker liquidation rules but modify the method for property distribution in the event of the liquidation of the firm(s) carrying the non-proprietary XM account.¹² Under the revised distributional scheme, FCMs will continue to make separate calculations for non-XM customers and XM market professionals, and funds deposited pursuant to those calculations will continue to be

separately maintained. However, in the event of the failure of the firm(s) carrying the non-proprietary XM accounts, the respective shortfalls, if any, of the pools of funds would be determined as a percentage of the segregation requirement for each pool.

In the event of (i) No shortfall in either pool, (ii) an equal percentage of shortfall in both pools, (iii) a shortfall in the non-XM pool only, or (iv) a greater percentage of shortfall in the non-XM pool than in the XM pool, then the two pools of segregated funds would be combined and non-XM customers and XM market professionals would share pro rata in the combined pool. In the event of (i) A shortfall in the XM pool only or (ii) a greater percentage shortfall in the XM pool than in the non-XM pool, then the two pools of segregated funds would not be combined. Instead, XM market professionals would share pro rata in the pool of XM segregated funds while non-XM customers would share pro rata in the pool of non-XM segregated funds.

In order to implement the CFTC's new distributional requirements, the clearing organizations operating non-proprietary XM programs must submit amended agreements to the respective regulatory authorities deleting the subordination requirement and substituting a reference to the CFTC's distribution rules. Accordingly, OCC is making those and other conforming changes¹³ to the agreements governing non-proprietary XM accounts for the XM program among OCC, CME, and ICC, the XM program between OCC and ICC, and the XM program between OCC and KCC.

In addition, pursuant to the amendment filed on October 11, 1995, OCC is revising the agreements governing the proprietary XM accounts in the OCC/KCC XM program to conform the terms of those agreements to the terms of the agreements used in the OCC/ICC/CME and OCC/ICC XM programs. These revisions primarily consist of the use of uniform definitions under the agreements.

II. Discussion

Section 17A(b)(3)(F)¹⁴ of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions, to

assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes OCC's proposed rule change amending the agreements governing the OCC/ICC/CME XM program, the OCC/ICC XM program, and the OCC/KCC XM program to correspond with the revised bankruptcy distribution scheme adopted by the CFTC is consistent with the requirements of Section 17A(b)(3)(F).

The Commission previously has noted the widespread belief that XM systems can provide (i) A more accurate measure of intermarket risk exposure for clearing organizations, (ii) added liquidity and depth to markets by reducing cash flow levels for clearing members and by reducing potential for financial gridlock, particularly during volatile markets when clearing organizations may demand additional clearing margin from their members, (iii) more efficient use of broker-dealer capital due to a more accurate measure of market risk, (iv) reduced clearing costs by the integration of clearing functions and the centralization of asset management, and (v) safer broker-dealer liquidation mechanisms by simplifying and clarifying the unwinding of each side of an intermarket hedge.¹⁵ The Commission believes that by conforming the terms of OCC's agreements governing the OCC/ICC/CME XM program, the OCC/ICC XM program, and the OCC/KCC XM program with the CFTC's new distributional framework, the proposal should help facilitate the continued benefits derived from the operation of OCC's XM programs. The agreements also should provide that any claim asserted by an XM market professional arising out of or based upon an XM non-proprietary account will be subordinated to the claims of all other customers, as defined in Subchapter III of Chapter 7 of the Bankruptcy Code¹⁶ or SIPA,¹⁷ to the extent that such a claim would otherwise be a claim against customer property. The Commission believes the foregoing amendments to the agreements should ensure that XM accounts of market professionals will continue to be treated as non-customer accounts for purposes

program. In August 1993, the Commission approved expansion of the OCC/KCC XM program established in February of 1992 to include non-proprietary positions. Securities Exchange Act Release No. 32708 (August 2, 1993), 58 FR 42586 [File No. SR-OCC-93-13] (order approving OCC/KCC non-proprietary XM program).

⁷ 17 U.S.C. § 6d(2) (1988) and 17 CFR 1.20 (1991).

⁸ 15 U.S.C. §§ 78aaa-78lll (1988).

⁹ 11 U.S.C. §§ 741-752 (1988).

¹⁰ 11 U.S.C. §§ 761-766 (1988).

¹¹ 17 CFR 190.1-190.10.

¹² *Supra* note 5.

¹³ The conforming changes include provisions that ensure that non-broker-dealer XM market professional will not be treated as "customers" for purposes of Rule 15c3-3 under the Act pursuant to the conditions set forth in the Commission's no-action letter from Michael Macchiaroli, Associate Director, Division of Market Regulation, Commission, to Jean Cawley, OCC (July 31, 1995).

¹⁴ 15 U.S.C. § 78q-1(b)(3)(F) (1988).

¹⁵ Securities Exchange Act Release No. 30041 (December 5, 1991), 56 FR 64824 [File Nos. SR-OCC-90-04 and SR-ICC-90-03] (order approving OCC/ICC non-proprietary, market professional cross-margining program).

¹⁶ 11 U.S.C. §§ 741-752.

¹⁷ 15 U.S.C. §§ 78aaa-78lll.

of Rule 15c3-3 under the Act.¹⁸ The amendments to the agreements facilitating the treatment of XM accounts in this manner foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by helping to assure that the liquidation of a FCM can be done in accordance with the CFTC's distribution framework, thus helping to assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.

III. 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-95-12) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁹

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-3131 Filed 2-12-96; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice No. 2327]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Radiocommunications and Search and Rescue; Notice of Meetings

The Working Group on Radiocommunications and Search and Rescue of the Subcommittee on Safety of Life at Sea will conduct open meetings at 9:30 a.m. on Wednesday, March 20, and Friday, May 17, 1996. The March 20 meeting will be held in the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC 20950. The May 17 meeting will be held at the Radio Technical Commission for Maritime Services Assembly, in the Princess Hotel, 1404 West Vacation Road, San Diego, CA 92109. The purpose of these meetings is to discuss the results of the 1st Session and prepare for the 2nd Session of the International Maritime Organization (IMO) Subcommittee on

Radiocommunications and Search and Rescue which is scheduled for early 1997, at the IMO headquarters in London, England.

Among other things, the items of particular interest are:

—The implementation of the Global Maritime Distress and Safety System (GMDSS)

—Maritime Search and Rescue matters

Further information, including meeting agendas with meeting room numbers, minutes, and input papers, can be obtained from the Coast Guard Navigation Information Center computer bulletin board, accessible by modem by dialing: (703) 313-5910. This information is also accessible through Internet World Wide Web by entering: "http://www.navcen.uscg.mil/marcomms/imo.htm"

Members of the public may attend these meetings up to the seating capacity of the rooms. Interested persons may seek information, including meeting room numbers, by writing: Mr. Ronald J. Grandmaison, U.S. Coast Guard Headquarters, Commandant (G-TTM), Room 6306, 2100 Second Street, SW., Washington, DC 20593-0001, by calling: (202) 267-1389, or by sending Internet electronic mail to r.grandmaison/g-t07@cgsmtt.uscg.mil.

Dated: February 2, 1996.

Charles A. Mast,

Chairman, Shipping Coordinating Committee.

[FR Doc. 96-3098 Filed 2-12-96; 8:45 am]

BILLING CODE 4710-7-M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 17, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST-95-839.

Date filed: November 16, 1995.

Due Date for Answers, Conforming Applications, or Motion To Modify Scope: December 14, 1995.

Description: Application of Northwest Territorial Airways Limited pursuant to 49 U.S.C. 41304, and Subpart Q of the Regulations, applies for amendment of its foreign air carrier permit to authorize it to provide scheduled and charter foreign air transportation of persons, property, and mail from any point or points in Canada to any point or points in the United States.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96-3200 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-62-P

[Docket 37554]

Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80-2-69 established the first interim SFFL, and Order 95-12-23 established the currently effective two-month SFFL applicable through January 31, 1996.

In establishing the SFFL for the two-month period beginning February 1, 1996, we have projected non-fuel costs based on the year ended September 30, 1995 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 96-2-11 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic—1.4152

Latin America—1.4549

Pacific—1.4462

For further information contact: Keith A. Shangraw (202) 366-2439.

By the Department of Transportation:

Dated: February 7, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96-3114 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-62-P

Federal Aviation Administration

Availability of Solicitation for Aviation Research Grants and Cooperative Agreements Proposals

AGENCY: Federal Aviation Administration, DOT.

¹⁸ 17 CFR 240.15c3-3.

¹⁹ 17 CFR 200.30-3(a)(12) (1995).