non-clearing member subscribers, is not approved by the Commission by October, 2006, OCC will defer implementing the surcharge to clearing members until the Commission has approved this filing.[6]

OCC believes that the proposed change is consistent with Section 17A of the Act, as amended, because it involves a fee, due or charge applicable to non-clearing member subscribers of DDS that provides for the reasonable allocation of costs to support a legacy system. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(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

Written comments 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

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety 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 such 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, 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–OCC–2006–07 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–OCC–2006–07. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.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–OCC–2006–07 and should be submitted on or before July 31, 2006.

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

Nancy M. Morris,

Secretary.

[FR Doc. E6–10720 Filed 7–7–06; 8:45 am]

BILLING CODE 8010–01–P

[6] OCC's amended Schedule of Fees is attached to the proposed rule filing.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54059; File No. SR–OCC–2006–06]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to a Surcharge for Clearing Member Subscribers That Have Not Met the Mandated Conversion Date for Data Distribution Service

June 28, 2006.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 15, 2006, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change 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)(ii) of the Act[2] and Rule 19b–4(f)(2) thereunder[3] 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 parties.

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

The proposed rule change would implement a surcharge to the monthly ancillary service fee for clearing member subscribers that have not converted to the new Data Distribution Service (''DDS'') format by the revised mandated conversion date of September 29, 2006.

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 these statements.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(ii).

[3] 17 CFR 240.19b–4(f)(2).

[4] The Commission has modified the text of the summaries prepared by OCC.

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

The proposed rule change would implement a surcharge to the monthly ancillary service fee for clearing member subscribers that have not converted to the new DDS [5] format by the revised mandated conversion date of September 29, 2006. [6]

Background

Both clearing members and non-clearing members may subscribe to DDS. A clearing member may subscribe to DDS in order to receive in a machine readable format data processed by OCC that is proprietary to such clearing member (*e.g.*, position and post-trade entries) as well as non-proprietary data (*i.e.*, data not specific to the clearing member) produced by OCC (*e.g.*, options, series and prices). Non-clearing members may subscribe to DDS in order to receive certain non-proprietary data.

Discussion

In December, 2004, OCC informed all DDS subscribers that OCC was requiring them to convert to the new ENCORE [7] DDS format by February 28, 2006. Although OCC diligently worked with subscribers to facilitate their implementation of the new DDS format, it became apparent that subscribers needed additional time in order to complete their systems work. Accordingly, in December, 2005, OCC announced an extension of the mandated conversion date to September 29, 2006.

After the mandated conversion date, OCC will continue to support the legacy data service distribution system. However, for subscribers that do not meet the revised conversion date of September 29, 2006, OCC proposes to charge a monthly surcharge of $1,000 per month in order to reasonably allocate the costs of continuing to support the legacy data distribution system. The surcharge will be imposed starting with the October, 2006, billing cycle and will continue until the subscriber converts to the new DDS format and ceases to receive any legacy data service distribution transmissions.

By a separate proposed rule change, File No. SR–OCC–2006–07, OCC is similarly proposing to apply the $1,000 per month surcharge to non-clearing member subscribers to DDS that likewise fail to convert to the new format. If that filing is not approved by the Commission by October, 2006, OCC will defer implementing the surcharge to clearing members until the Commission has approved File No. SR–OCC–2006–07. [8]

OCC believes that the proposed change is consistent with section 17A of the Act, as amended, because it involves a fee, due, or charge applicable to clearing member subscribers of DDS that provides for the reasonable allocation of costs to support a legacy system. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(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

Written comments 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

The foregoing rule change has become effective upon filing pursuant to section 19(b)(3)(A)(ii) of the Act [9] and Rule 19b–4(f)(2) [10] thereunder because the proposed rule establishes or changes a due, fee, or other charge. At any time within sixty days of the filing of such 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–OCC–2006–06 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–OCC–2006–06. 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 Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at *http://www.optionsclearing.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–OCC–2006–06 and should be submitted on or before July 31, 2006.

For the Commission by the Division of Market Regulation, pursuant to delegated authority. [11]

Nancy M. Morris,

Secretary.

[FR Doc. E6–10722 Filed 7–7–06; 8:45 am]

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[5] For a description of the services, including DDS, offered through OCC's ancillary services program, see Securities Exchange Act File Nos. 53400 (March 2, 2006), 71 FR 12226 (March 9, 2006) [File No. SR–OCC–2006–01] and 52125 (July 26, 2005), 70 FR 44414 (August 2, 2005) [File No. SR–OCC–2005–09].

[6] By a separate proposed rule change, OCC will apply the same surcharge to non-clearing member DDS subscribers that likewise do not convert to the new DSS format by the mandated date. File No. SR–OCC–2006–07.

[7] ENCORE is OCC's clearing system.

[8] OCC's amended Schedule of Fees is attached to the proposed rule filing.

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] 17 CFR 200.30–3(a)(12).