

particular with Section 17A of the Act<sup>4</sup> 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-98-10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>5</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-41456; File No. SR-OCC-99-05]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Regarding Joint Back Office Participants

May 26, 1999.

On March 3, 1999, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-OCC-99-05) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice of the proposal was published in the **Federal Register** on April 23, 1999.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

The rule change amends OCC's rules and by-laws to allow clearing members to maintain joint back office accounts ("JBO accounts") for the broker-dealers with whom the clearing members have joint back office arrangements ("JBO participants") in which long positions can be used to offset short positions in options.

Under the rule change, a broker-dealer registered with the Commission is considered a JBO participant if it: (1) Maintains a joint back office arrangement that satisfies the requirements of Regulation T<sup>3</sup> with an

OCC clearing member, (2) meets the applicable requirements as specified in the applicable exchange rules, and (3) consents to having its exchange transactions cleared and its positions carried in a JBO participant account.

OCC will treat JBO participants like market makers and specialists and will treat JBO participants' accounts like market maker's accounts and specialist's accounts. For example, long positions in a JBO participant account will be treated as unsegregated long positions. The exception to this treatment relates to Chapter IV of OCC's Rules, which pertains to the submission of matched trade reports from exchanges to OCC. OCC does not anticipate that its participant exchanges will report JBO transactions as market maker or specialist transactions for purposes of reporting matched trades. Accordingly, JBO participants will be not be included within the term "market maker" or "specialist" for the purposes of the rules in Chapter IV.

In addition, the rule change amends Article I, section 1 of OCC's By-laws to add definitions for "JBO participant" and "JBO participants' account" and amends the definition of "unsegregated long position" to include long positions in JBO participants' accounts. The rule change also amends Interpretation .03 to Article V, section 1 of the By-laws, which provides that applicants for clearing membership must agree to seek approval from the membership/margin committee to clear types of transactions for which approval was not initially sought in the membership application, by adding JBO participant transactions to the list of transactions. Finally, the rule change amends Article VI, section 3 of the By-laws to add a JBO participants' account to the list of permissible accounts clearing members may maintain with OCC.

#### II. Discussion

Section 17A(b)(3)(F) of the Act<sup>4</sup> requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible. The Commission believes that the rule change is consistent with OCC's obligations under section 17A(b)(3)(F) because while it should result in OCC collecting less margin for positions which will be carried in JBO accounts, it has been designed to not impair OCC's protection against member default.

#### 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 with section 17A of the Act<sup>5</sup> 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-99-05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 99-14115 Filed 6-3-99; 8:45 am]

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## TENNESSEE VALLEY AUTHORITY

### Shoreline Management Initiative (SMI), Reservoirs in Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia

**AGENCY:** Tennessee Valley Authority (TVA).

**ACTION:** Issuance of record of decision.

**SUMMARY:** This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1508) and TVA's procedures implementing the National Environmental Policy Act. On April 21, 1999, the TVA Board of Directors decided to adopt the preferred alternative (Blended Alternative) identified in its Final Environmental Impact Statement (EIS), Shoreline Management Initiative: An Assessment of Residential Shoreline Development Impacts in the Tennessee Valley. The Board's decision modified the Blended Alternative by increasing the shoreline management zone (SMZ) from 25 to 50 feet. The Final EIS was made available to the public in November 1998. A Notice of Availability of the Final EIS was published in the **Federal Register** on December 11, 1998. Under the Blended Alternative, TVA seeks to balance residential shoreline development, recreation use, and resource conservation needs in a way that maintains the quality of life and other important values provided by its reservoir system. TVA has decided to adopt a strategy of "maintaining and gaining" public shoreline, continue to allow docks and other alterations along shorelines now available for residential

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

<sup>6</sup>17 CFR 200.30-3(a)(12).

<sup>4</sup>15 U.S.C. 78q-1.

<sup>5</sup>17 CFR 200.30-3(a)(12).

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

<sup>2</sup>Securities Exchange Act Release No. 41298 (April 16, 1999), 64 FR 20043.

<sup>3</sup>Joint back office arrangements are authorized under Section 220.7 of Regulation T of the Board of Governors of the Federal Reserve System and permit non-clearing broker-dealers to be deemed self-clearing for credit extension purposes if the non-clearing broker-dealer has an ownership interest in the clearing firm.

<sup>4</sup>15 U.S.C. 78q-1(b)(3)(F).

access and establish uniform standards for these alterations, and ensure that sensitive natural and cultural resources are conserved for future generations.

**FOR FURTHER INFORMATION CONTACT:** Harold M. Draper, NEPA Specialist, Environmental Management, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 8C, Knoxville, Tennessee 37902-1499; telephone (423) 632-6889 or e-mail hmdraper@tva.gov.

**SUPPLEMENTARY INFORMATION:** Residential shoreline development along TVA reservoirs continues to increase. Currently, the amount of residential shoreline development on individual TVA reservoirs ranges from none to 51 percent of the shoreline length. Of the 11,000 miles of total shoreline, 13 percent have been developed for residential uses. From 1988 to 1997, TVA approved almost 19,000 applications for residential shoreline alterations, such as docks, piers, boathouses, retaining walls, and vegetation management. Residential shoreline use requests substantially dominate all requests for other uses (e.g., commercial, industrial) combined. During this period, the number of permits increased at a rate of six percent per year. If these trends and current shoreline management practices continue, TVA estimates that over half the shoreline could be developed within the next 25 years. This level of shoreline development could have unacceptable adverse impacts on shoreline and aquatic ecology, water quality, scenic beauty, and other valuable resources. TVA initiated the SMI project to review existing permitting practices and establish a policy to better protect shoreline and aquatic resources, while allowing adjacent residents reasonable access to the water.

On May 27, 1994, TVA issued a Notice of Intent to prepare an EIS on alternatives for management of TVA shoreline residential uses. Public scoping meetings were held in 13 locations throughout the Tennessee River Watershed in June and July of 1994. The Notice of Availability for the Draft EIS was published on June 28, 1996. TVA subsequently held 16 public meetings throughout the Tennessee River Watershed and in nearby major cities (Nashville and Memphis) in July, August, and September 1996 to receive comments. Almost 10,000 written and oral comments were recorded. The Notice of Availability for the Final EIS was published on December 11, 1998.

#### Alternatives Considered

TVA initially considered six alternatives to respond to continuing

residential shoreline development along TVA shorelines. In response to public comments on the Draft EIS, TVA developed a seventh alternative, designated the Blended Alternative because it included features of several of the previous alternatives. The alternatives were designed to vary in the standards envisioned for residential shoreline alterations. In addition, the alternatives varied in whether additional shoreline could be opened for residential access.

Under *Alternative A: Limited TVA Role Along Open Shoreline and Additional Areas*, there would be no predefined standards for facility design or appearance, vegetation removal, or other shoreline alterations. TVA would, however, review permit applications for compliance with federal laws.

Under *Alternative B1: Existing Guidelines Along Open Shoreline and Additional Areas*, TVA would continue approving docks and other shoreline alterations using existing guidelines. These guidelines limit the amount and type of vegetation that can be removed, limit the size of boat dock construction and riprap, and open additional shoreline for residential access on a case-by-case basis. These guidelines do not define parameters for channel excavation and do not define a maximum land/water surface area per lot. This is the No Action alternative.

Under *Alternative B2: Existing Guidelines Along Open Shoreline Only*, residential shoreline alterations would be subject to the same standards as with Alternative B1. However, TVA would limit consideration of new applications for residential shoreline alterations to the 38 percent of the shoreline where private access rights currently exist.

Under *Alternative C1: Managed Development Along Open Shoreline and Additional Areas*, TVA would enhance land management plans that are prepared for each reservoir with a shoreline inventory and categorization system and replace existing permitting guidelines with new standards. In these plans, TVA would identify additional areas to make available for residential access. The standards would maintain a 100-foot deep vegetative shoreline management zone on TVA property and define the maximum land/water surface area that could be disturbed per lot. Individual boat channels involving less than 150 cubic yards of dredging would be considered. It was estimated that up to 48 percent of the shoreline could be developed under this alternative. This was identified as TVA's preferred alternative in the Draft EIS.

Under *Alternative C2: Managed Development Along Open Shoreline*

*Only*, residential shoreline alterations would be subject to the same standards as with Alternative C1. However, TVA would limit considerations of new applications to the 38 percent of the shoreline where private access rights currently exist.

Under *Alternative D: Minimum Disturbance Along Open Shoreline Only*, TVA would limit consideration of applications for residential shoreline alterations to the 38 percent of the shoreline where access rights currently exist. In addition, a shoreline categorization system would be added to the reservoir land management plans prepared for individual reservoirs. A comprehensive set of shoreline development standards would be implemented, including a minimal access path, minimal vegetation clearing within a 100-foot shoreline management zone, and a low profile dock covering less than 300 square feet of surface area. Channel excavation would be prohibited.

Under the *Blended Alternative*, TVA would adopt a shoreline management policy that allows environmentally responsible development of shorelands where residential access rights exist and preserves public benefits along shorelines where residential access rights do not exist. In addition, TVA would encourage voluntary conservation commitments across some areas with outstanding residential access rights. Standards under the Blended Alternative would include a 25-foot-deep shoreline vegetation management (protection) zone with a 20-foot access/visual corridor, limited vegetation disturbance outside of the SMZ, and boat channels with 150 cubic yards of dredging or less. For TVA residential access shoreland further than 25 feet from the reservoir, TVA would only permit limited cutting of small trees and selective removal of certain plants like poison ivy and invasive exotic plants such as honeysuckle. Existing development and uses established prior to the implementation date of the new alternative would be grandfathered. Also, waivers could be requested by owners of property within preexisting developments.

#### Response to Comments on Final EIS

Volume II of the Final EIS contains summaries of and responses to the comments TVA received during the Draft EIS process. TVA received almost 9,500 separate comments. Although not required, TVA gave the public the opportunity to provide comments about the Final EIS and the Blended Alternative. To facilitate this, TVA held 15 public information sessions about the

Final EIS and the Blended Alternative and met with and briefed numerous stakeholders including elected officials, lake associations, and conservation and environmental groups.

A total of 215 comment forms and 27 letters were received on the Final EIS. Most of these comments were similar to the comments that TVA received on the Draft EIS, except for those that commented specifically on the Blended Alternative. In general, the public supported the Blended Alternative and viewed it as a substantial improvement over TVA's earlier preferred alternative, Alternative C1. A number of commenters suggested modifications to some of the Blended Alternative standards (e.g., increasing the width of the SMZ), but these were within the range of alternatives previously considered.

### Decision

The TVA Board decided to modify the Blended Alternative to include a 50-foot SMZ (an increase from 25 feet in the Final EIS). Other components of the Blended Alternative were adopted. The Blended Alternative appropriately balances residential shoreline development, recreation use, and resource conservation needs in a way that maintains the quality of life and other important values provided by the reservoir system. It recognizes the reality that previous decisions have already opened up 38 percent of TVA's shorelands to access, but commits to holding the line at this level and possibly "gaining" back some of the already opened lands in a way that would heighten their protection. The Blended Alternative also responds well to the public comments TVA received during the EIS process because it combines features from other alternatives that were generally supported, while not incorporating features that were controversial and highly objectionable to some segments of the public. During the period following publication of the Final EIS, a number of organizations questioned the adequacy of the 25-foot SMZ. These included the Department of the Interior, Kentucky Department for Fish and Wildlife Resources, Tennessee Wildlife Resources Agency, Tennessee Conservation League, and Tennessee Citizens for Wilderness Planning. In response to these comments, the Board decided to increase the size of the SMZ to 50 feet in order to further protect the Tennessee River system.

TVA will include the Blended Alternative standards in its permitting regulations. The standards and policies identified in the Blended Alternative, as

modified by the April 21, 1999, Board of Directors decision, apply to all TVA reservoirs and become effective November 1, 1999.

### Environmentally Preferable Alternative

TVA has concluded that Alternative D, which seeks minimum disturbance along shoreline available for residential access and does not allow additional shoreland to be opened, is the environmentally preferable alternative. However, the purpose of SMI is to better protect the environment while allowing reasonable access to the shoreline by adjacent residents who hold outstanding access rights. The Blended Alternative better addresses the broader objectives of SMI and is also substantially better environmentally than current practices.

### Environmental Consequences and Commitments

The Blended Alternative advances TVA's commitment to resource stewardship and habitat protection through strong conservation approaches, including a shoreline inventory and categorization system designed to protect certain significant habitats. By limiting future residential access to shorelines where private access rights already exist and emphasizing the need to "maintain and gain" public shoreline, TVA is offering a much higher degree of protection to public shorelines than it has offered in the past. The Blended Alternative was formulated using environmentally protective measures. These measures include:

- Protection of sensitive natural and cultural resources through a shoreline inventory and categorization system designating residential access shorelines into protection, mitigation, and managed categories.
- Promotion of conservation easements across shorelands to protect scenic landscapes, encourage clustered development, or to provide other public benefits.
- Promotion of best management practices for the construction of docks, management of vegetation, stabilization of shoreline erosion, and other shoreline alterations.
- Emphasis on education activities and incentives as important components of shoreline management.

With the implementation of the above environmental protection measures, TVA has determined that adverse environmental impacts of future residential shoreline uses would be substantially reduced. These protective measures represent all of the practicable measures to avoid or minimize environmental harm that are associated with this alternative. Alternative D has

associated with it additional protective measures such as a lower dock profile, less vegetation clearing, and a prohibition on channel excavation. This alternative was rejected for the reasons given above.

As the components of TVA's new shoreline management policy are implemented, TVA will continue to work with all affected interests to promote environmentally sound stewardship of public shorelands. TVA will also monitor shoreline development trends in order to identify any actions that may become necessary in the future.

Dated: May 24, 1999.

**Ruben O. Hernandez,**

*Vice President, Resource Stewardship.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Request for Comments Concerning Compliance by Germany With Telecommunications Trade Agreements

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of request for public comment.

**SUMMARY:** Pursuant to section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3107), the Office of the United States Trade Representative (USTR) is reviewing, and requests comments on, compliance by Germany with its commitments under the World Trade Organization (WTO) Basic Telecommunications Agreement.

**DATES:** Comments are due by noon on Wednesday, June 16, 1999.

**ADDRESSES:** Comments must be submitted to Gloria Blue, Executive Secretary, Trade Policy Staff Committee, ATTN: Section 1377 Comments, Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** William Corbett, Office of Industry, (202) 395-9586; or Demetrios Marantis, Office of the General Counsel, (202) 395-3581.

**SUPPLEMENTARY INFORMATION:** Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 requires the USTR to review annually, by March 31, the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services of the United States that are in