

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-61911; File No. SR-OCC-2010-06)

April 15, 2010

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Revise Certain By-Laws and Rules Related to the Stock Loan/Hedge and Market Loan Programs

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on March 26, 2010, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. OCC filed the proposal pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4)³ thereunder 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 persons.

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

The purpose of the proposed rule change is to revise certain by-laws and rules related to the Stock Loan/Hedge and Market Loan Programs.

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.

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(iii).

³ 17 CFR 240.19b-4(f)(4).

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 proposes three changes to certain by-laws and rules related to its stock lending programs known as Stock Loan/Hedge and Market Loan.⁵ First, OCC would amend the existing definition of “marking price” used in connection with “loaned stock”. Marking price for a loaned stock is currently defined as the closing price on the primary market for a loaned stock on the preceding trading day or if the loaned stock did not trade on the previous trading day the highest reported asked quotation for such stock at or about the close of trading on the preceding trading day. OCC however recently determined that its pricing vendor for marking prices does not provide the highest reported asked quotation for stocks that did not trade on the previous trading day.⁶ To reconcile the difference between the vendor’s reporting practice and the current marking price definition, as well as to address other potentially related price reporting issues, OCC proposes applying its general definition of marking price that is found in Article I, Section 1 of its By-laws.⁷

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

⁵ The proposed changes to OCC’s By-laws and Rules can be found in Exhibit 5 to proposed rule change SR-OCC-2010-06 at http://www.dtcc.com/downloads/legal/rule_filings/2010/nsc/2010-02.pdf

⁶ The vendor provides a marking price that is the mid-point between the bid and ask for such stocks.

⁷ Article I, Section 1 of OCC’s By-laws states, “[t]he term ‘marking price’ ...means the most recent market value reasonably ascertainable (or the most recent reasonably ascertainable contract price, in the case of a future), as determined by [OCC] in its discretion...”.

Second, with respect to OCC's Market Loan Program, Automated Equity Finance Markets, Inc. ("AQS")⁸ asked OCC to develop functionality to accept instructions from AQS to cancel Market Loan transactions that are pending settlement at The Depository Trust Company ("DTC"). AQS advised that this functionality would address situations of obvious error and facilitate its market operations. OCC would amend Rule 2204A to allow it to accept instruction from a Loan Market to cancel a previously-reported transaction that is pending settlement at DTC. When so instructed by a Loan Market, OCC already has authority to unwind settled Market Loan transactions that were erroneously executed.⁹ OCC therefore believes this proposed ability to cancel pending transactions would be a minor extension of existing authority.

Finally, and also with respect to the Market Loan Program, AQS asked OCC to process dividend equivalent payments that are not covered by DTC's automatic dividend tracking services ("Dividend Service") and to do so without removing a Market Loan from the Dividend Service. In October, 2009, OCC amended its rules so that dividend equivalent payments are principally effected through DTC's Dividend Service. However, OCC retained authority to effect such payments through its cash settlement system if a Market Loan is removed by OCC from the Dividend Service.¹⁰

Since the time of that rule change by OCC, AQS determined that certain dividend equivalent payments are not tracked by DTC and therefore are not covered by its Dividend Service. In such situations, AQS requested that OCC allow a Loan Market to instruct OCC to use its cash settlement system to transfer these "non-tracked" dividend equivalent payments from

⁸ AQS is a Loan Market as defined in the OCC's Market Loan Program rules.

⁹ OCC Rule 2207A.

¹⁰ Securities Exchange Act Release No. 34-60881 (October 26, 2009), 74 FR 56253 (October 30, 2009) File No. SR-OCC-2009-16.

a borrower to a lender without removing a Market Loan from the Dividend Service. OCC would amend Rule 2206A to accommodate this request. Guaranty of dividend equivalent payments by OCC would remain limited to the amount of margin OCC collects prior to the expected dividend payment date from any responsible Borrowing Clearing Member.

OCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act¹¹ and the rules and regulations thereunder applicable to OCC because the proposed rule change promotes efficiencies in the clearance and settlement of securities transactions by modifying OCC's by-laws and rules to (i) revise the definition of the term "marking price" used in its Stock Loan/Hedge and Market Loan programs, (ii) permit cancellation of Market Loan transactions prior to settlement at DTC, and (iii) permit OCC to settle dividend equivalent payments that are not tracked through DTC's Dividend Service without removing a Market Loan from the Dividend Service.

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

OCC does not believe that the proposed rule change will have any impact or 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 relating to the proposed rule change have not yet been solicited or received. OCC will notify the Commission of any written comments received by OCC.

¹¹ 15 U.S.C. 78q-1.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act¹² and Rule 19b-4(f)(4)¹³ thereunder because the proposed rule change effects a change in an existing service of a registered clearing agency that: (i) does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. 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:

- Electronic comments may be submitted by using 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 No. SR-OCC-2010-06 on the subject line.

¹² 15 U.S.C. 78s(b)(3)(A)(iii).

¹³ 17 CFR 240.19b-4(f)(4).

Paper comments:

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

All submissions should refer to File Number SR-OCC-2010-06. 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE, Washington DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filings 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/components/docs/legal/rules_and_bylaws/sr_occ_10_06.pdf

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-2010-06 and should be submitted on or before [insert 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Florence E. Harmon
Deputy Secretary

¹⁴ 17 CFR 200.30-3(a)(12).