

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-70838; File No. SR-OCC-2013-19)

November 8, 2013

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning an Amendment to the Amended and Restated Clearing and Services Agreement between The Options Clearing Corporation and NYSE Liffe US LLC in Connection with NYSE Liffe US LLC's Transition to Electronic Vault Receipts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that, on October 29, 2013, 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)(iii)<sup>3</sup> of the Act and Rule 19b-4(f)(4)(ii)<sup>4</sup> thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

OCC is proposing to execute an amendment ("Amendment") to the Amended and Restated Clearing and Services Agreement ("Clearing Agreement") between OCC and NYSE Liffe US LLC ("NYSE Liffe US") to make changes to the Clearing Agreement in connection with NYSE Liffe US' transition to electronic vault receipts, from physical vault receipts, to

---

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

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(4)(ii).

represent metals underlying physically-settled precious metal futures contracts (“Precious Metals Futures”). The Amendment makes certain clarifying and non-material technical changes to the Clearing Agreement.

II. Clearing Agency’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.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose of the Proposed Rule Change*

OCC provides clearance and settlement services to NYSE Liffe US pursuant to the Clearing Agreement. OCC and NYSE Liffe US have been working together on an initiative that will transition the vault receipts that represent metals underlying Precious Metals Futures to electronic vault receipts, instead of physical vault receipts (“Initiative”).<sup>5</sup> The purpose of this rule filing is to amend the Clearing Agreement so that OCC and NYSE Liffe US may complete the Initiative and begin using electronic vault receipts.

In connection with the Initiative, NYSE Liffe US has entered into bailment agreements with five vaults that will provide depository and transfer services (each such agreement is hereinafter referred to as a “Bailment Agreement”) for the electronic vault receipts of NYSE Liffe US members that trade Precious Metals Futures (who are also OCC clearing members).

---

<sup>5</sup> See Securities Exchange Act Release No. 34-69595 (May 16, 2013), 78 FR 30364 (May 22, 2013) (SR-OCC-2013-06).

Each Bailment Agreement began as a “form” agreement, which was drafted collectively by NYSE Liffe US and OCC. NYSE Liffe US subsequently negotiated various terms of the form agreement with the five vaults and entered into executed Bailment Agreements with each vault. OCC has reviewed each Bailment Agreement and has determined that certain terms of the Bailment Agreement between NYSE Liffe US and Brink’s, Incorporated and Brink’s Global Services U.S.A., Inc. (collectively, “Brinks”) differ from the form agreement (i.e., Default Cures, Transfer of Metals and Audits) more than the other Bailment Agreements and, therefore, the parties have agreed to limit the amount of electronic vault receipts held at Brinks to no more than \$5 million at this time. Accordingly, OCC proposes to amend Section 6(c)(iv)(F) of the Clearing Agreement to reflect such limitation.

The Amendment will also make several other non-material technical changes to the Clearing Agreement, which include:

- An amendment to Section 6(c)(ii) of the Clearing Agreement that will clarify NYSE Liffe US’ right to pursue disciplinary action against sellers of Precious Metals Futures that do not adhere to time frames set forth by NYSE Liffe US regarding the issuance of vault receipts;
- An amendment to Section 6(c)(v) of the Clearing Agreement to clarify that vault receipts with a registration date of the first day of the Transition period or later must be in electronic form, and vault receipts with a registration date before the first day of the Transaction Period must be in paper form;
- A technical amendment to replace the reference to “Bailment Arrangement” in Section 26(a)(ii) of the Clearing Agreement with “Bailment Agreement;”

- Technical amendments to Schedules D and F of the Clearing Agreement to reflect an updated and current checklist and list of executed bailment arrangements; and
- A technical amendment to add a Schedule G to the Clearing Agreement, titled “Form of Declaration of Regularity (referred to as “Bailment Agreements” in the Clearing Agreement).”

## 2. *Statutory Basis for the Proposed Rule Change*

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>6</sup> and the rules and regulations thereunder, including Rule 17Ad-22,<sup>7</sup> because it is designed to permit OCC to perform clearance and settlement services for derivative products that are subject to the jurisdiction of the Commodity Futures Trading Commission (the “CFTC”) without adversely affecting OCC’s obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of securities investors and the public interest. The proposed rule change will permit OCC to make certain clarifying and technical amendments to its Clearing Agreement with NYSE Liffe US, a futures market. The proposed rule change is not inconsistent with any rules of OCC, including any rules proposed to be amended.

### (B) Clearing Agency’s Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the Act because it relates solely to a commodity futures product subject to the exclusive jurisdiction of the CFTC and therefore

---

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 17 CFR 240.17Ad-22.

will not have any impact, or impose any burden, on competition in securities markets or any other market governed by the Act.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change 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

This proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(4)(ii)<sup>9</sup> thereunder. Pursuant to Rule 19b-4(f)(4)(ii),<sup>10</sup> a rule change may take effect upon filing if it primarily affects the clearing operations of the clearing agency with respect to products that are not securities and does not significantly affect any securities clearing operations of the clearing agency or any rights or obligations of the clearing agency with respect to securities clearing or persons using such securities-clearing service. As described above, this rule proposed rule change concerns futures products that are subject to the exclusive jurisdiction of the CFTC and does not adversely affecting OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of securities investors and the public interest.

Notwithstanding the foregoing, OCC will delay its implementation of this rule change until it is deemed certified under Regulation §40.6 of the CFTC.<sup>11</sup>

---

<sup>8</sup> 15 U.S.C. § 78s(b)(3)(A)(iii).

<sup>9</sup> 17 CFR 240.19b-4(f)(4)(ii).

<sup>10</sup> *Id.*

<sup>11</sup> 17 CFR Part 40.6.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2013-19 on the subject line.

##### 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-2013-19. 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 of submission. The Commission will post all comments on the Commission's Internet website (<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 website viewing and printing in the Commission's Public Reference Section, 100 F Street, N.E., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of

OCC and on OCC's website at

[http://www.theocc.com/components/docs/legal/rules\\_and\\_bylaws/sr\\_occ\\_13\\_19.pdf](http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_13_19.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-2013-19 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated Authority.<sup>12</sup>

Kevin M. O'Neill  
Deputy Secretary

---

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