

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-73497; File No. SR-OCC-2014-18)

November 3, 2014

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change to Provide that The Options Clearing Corporation's President Will be its Chief Operating Officer, and that the President Will Not be a Management Director

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 31, 2014, 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 by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

This proposed rule change by OCC would revise OCC's By-Laws to provide that OCC's President will be its Chief Operating Officer, rather than its Chief Executive Officer, and that the President will not be a Management Director. Conforming amendments are also proposed to OCC's Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others.

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

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

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

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

The purpose of this proposed rule change is to provide that OCC's President will be its Chief Operating Officer, rather than its Chief Executive Officer, and that the President will not be a Management Director. These changes are proposed to be made in connection with the resignation of OCC's former President and Chief Executive Officer, a transition plan that includes the election of OCC's current Chief Operating Officer as President and Chief Operating Officer, and the appointment of an Ad Hoc Search Committee to identify an appropriate candidate to become OCC's Chief Executive Officer (collectively, the "Transition Plan"). OCC's Board of Directors has determined that in light of the resignation of the former President and Chief Executive Officer and the election of the current Chief Operating Officer as President, the positions of President and Chief Executive Officer should be separated and the position of President should instead be combined with the position of Chief Operating Officer. To reflect this change, OCC is proposing to revise Section 8 of Article IV of its By-Laws to state that the President will be OCC's Chief Operating Officer, rather than its Chief Executive Officer.

While OCC's existing By-Laws provide that the President, who is also the Chief Executive Officer, serves as a Management Director on OCC's Board of Directors, given the separation of the President and Chief Executive Officer positions and the pending search for a new Chief Executive Officer, OCC's Board of Directors has also determined

that the President should not be a Management Director. Accordingly, OCC proposes to amend its By-Laws such that the President is not a Management Director. To reflect this change, OCC is proposing to revise Section 7 of Article III of its By-Laws to refer only to the Executive Chairman, and not the President, as a Management Director. OCC also proposes to make a conforming revision to Section 8 of Article IV of its By-Laws to state that the President will not preside at meetings of the Board of Directors or the stockholders in the absence or disability of the Executive Chairman and the Management Vice Chairman because the President will no longer serve as a Management Director.

OCC is also proposing amendments to its Stockholder Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. In each case, conforming changes would be made to provide that only the Executive Chairman, not the President, will serve as a Management Director.

Once a replacement Chief Executive Officer has been elected by the Board of Directors, OCC intends to reconsider the appropriate number of Management Directors. The currently proposed rule change represents a short-term measure to implement the Transition Plan, and OCC does not intend a permanent change in the composition of the Board of Directors. Therefore, once OCC's Board of Directors has elected a Chief Executive Officer, OCC would propose further changes to its By-Laws, Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. OCC believes that the short-term flexibility reflected in the foregoing changes will assist OCC and its Board of Directors in implementing the Transition Plan efficiently and governing OCC effectively.

## 2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>3</sup> because the proposed rule change would remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. As described above, recent changes at OCC have prompted initiation of the Transition Plan. This proposed rule change will promote transparency with respect to the Transition Plan because it will clarify who may and who may not be a Board member from a senior management perspective. In addition, the proposed rule change is consistent with Section 17A(b)(3)(I)<sup>4</sup> of the Act because it will not impose a burden on competition. The Transition Plan will allow OCC to continue to provide clearance and settlement service without affecting competition between clearing members, clearing agencies and market participants because the Transition Plan will facilitate uninterrupted, ongoing, operations at OCC notwithstanding the above described change at OCC. The proposed rule change is not inconsistent with the existing rules of OCC, including any other 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.<sup>5</sup> Changes to the rules of a clearing agency may have an impact on the participants in a clearing agency and the markets that the clearing agency serves. This proposed rule change primarily affects OCC in that it amends certain By-Laws governing

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

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

<sup>5</sup> 15 U.S.C. 78q-1(b)(3)(I).

OCC's management structure. The proposed modifications would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because they relate to OCC governance issues and would not impose any additional substantive burden on clearing members or other OCC participants.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies and would not impose a burden on competition.

(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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove the 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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2014-18 on the subject line.

Paper Comments:

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

All submissions should refer to File Number SR-OCC-2014-18. 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 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 Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's website

[http://www.theocc.com/components/docs/legal/rules\\_and\\_bylaws/sr\\_occ\\_14\\_18.pdf](http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_18.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-2014-18 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>6</sup>

Kevin M. O'Neill  
Deputy Secretary

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