

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-[64982]; File No. SR-OCC-2011-08)

July 28, 2011

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Filing of Proposed Rule Change to Provide Specific Authority to Use an Auction Process As One of the Means to Liquidate a Defaulting Clearing Member's Accounts

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder² notice is hereby given that on July 14, 2011, 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. 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 provide OCC specific authority to use an auction process as one of the means to liquidate a defaulting clearing member's accounts.

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.³

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 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 purpose of this rule change is to revise OCC's rules to provide specific authority for OCC to use an auction process as one of the possible means by which OCC may liquidate a defaulting clearing member's accounts. An auction is likely to be the most efficient and orderly procedure practicable for closing out clearing member portfolios in some circumstances.

The liquidation of open long and short positions through exchange transactions is an obvious means of closing out the positions of a defaulting member. However, auctions are increasingly viewed as an efficient and cost effective alternative for liquidating some or all of a clearing member's positions and collateral, especially where the positions are very large or in unstable market conditions. As compared to liquidating positions through exchange transactions, an auction may usually be expected to result in a shorter liquidation period and reduced execution risk. During Lehman Brothers Holdings Inc.'s liquidation, clearinghouses such as LCH.Clearnet and CME Clearing liquidated certain derivatives positions through auctions.

Chapter XI of OCC's Rules, which governs the liquidation of a clearing member's accounts in the event of an insolvency, provides that open positions of a clearing member must be closed by OCC "in the most orderly manner practicable." While OCC and its counsel believe that this language is broad enough to authorize a private auction, i.e., an auction limited to selected bidders, as a means of closing out open positions, OCC also believes that explicit authorization for a private auction procedure could reduce the likelihood of a legal challenge should such a procedure be utilized.

The proposed change to OCC's rules is consistent with Section 17A of the Act, as amended (the "Exchange Act"), because it is designed to promote the prompt and accurate

clearance and settlement of security transactions, and generally protect investors and the public interest, by making more explicit OCC's ability to use an auction procedure to liquidate a defaulting clearing member's accounts. 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 relating to the proposed rule change have not been solicited or received. OCC will notify the Commission of any written comments received by OCC.

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 and with respect to the following:

- The Commission requests comment regarding the types of circumstances in which an auction would or would not be the most orderly procedure practicable for closing out clearing member portfolios. For example, in what circumstances would a private auction be a more or less orderly procedure than liquidating the defaulting member's positions on a national securities exchange?
- The Commission requests comment on whether a private auction limited to selected bidders could impose any burden on competition. In what ways, if any, would the effects on competition vary based the types of firms that are allowed to participate in an auction and the method used to select such participants?

Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commissions 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-2011-08 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-2011-08. 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 Section, 100 F Street, N.E., Washington, D.C. 20549, on official business days between the hours of 10:00 a.m. and 3:00 pm. Copies of such filings will also be available for inspection and copying at the principal office of OCC and on OCC's website at http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_11_08.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-2011-08 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.⁴

Elizabeth M. Murphy
Secretary

⁴ 17 CFR 200.30-3(a)(12).