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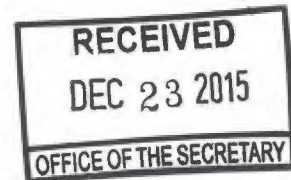
Direct phone: (202) 661-7028
Facsimile: (202) 661-7053
E-mail: jlombard@mmlawus.com

555 13th Street, N.W.
Suite 410 West
Washington, D.C. 20004

December 22, 2015

VIA COURIER AND FAX

Mr. Brent J. Fields
Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090



Re: File No. SR-OCC-2015-02

Dear Mr. Fields:

We write on behalf of Susquehanna International Group, LLP and its affiliated and related entities ("SIG," and together with the other petitioners in the referenced matter, the "Petitioners") to notify the Securities and Exchange Commission ("SEC" or the "Commission") of the Options Clearing Corporation ("OCC") recent press release announcing its imminent and extraordinary plans to distribute \$161 million in the form of rebates and dividends. This new information relates directly to the Commission's pending review of action taken by the staff of the Division of Trading and Markets by delegated authority that approved OCC's capital plan (the "Plan"), and to Petitioners' pending motions to reinstitute the automatic stay of the approval order and to refer this matter to a hearing officer and to direct discovery in advance of the hearing. For the Commission's convenience, a copy of the OCC press release issued on December 17, 2015 (the "Press Release") is enclosed.

As described below, the Press Release further underscores the pressing need for the Commission to reverse the staff's approval of the proposed Plan. The Press Release confirms Petitioners' arguments that the Plan is wholly unnecessary because OCC already has ample, less expensive capital, and repudiates many of OCC's arguments to justify the Plan. More specifically, the 2015 special distribution of \$72 million (which coincidentally matches exactly OCC's 2014 post-tax net income) coupled with the additional declared rebates and dividends exceed \$161 million. These distributions are designed to clear OCC's books of revenues amassed over the past 21 months and pave the way for OCC to "justify" borrowing \$150 million from its five stockholder exchange owners (the "Exchange Owners") at rates that will soon exceed 30%. There is no longer any doubt that the Exchange Owners' goal is to monetize OCC for their own benefit at the expense of public investors.

At a minimum, the Commission should prevent the harm that would result from OCC's proposed massive distributions by immediately reinstating the automatic stay of the staff's approval order pending its review. Additional evidence should also be developed through referral to a hearing officer to develop an adequate record for the Commission's review.

Background

The Commission is currently reviewing the March 6, 2015 order issued by the Division of Trading and Markets pursuant to delegated authority (the “Approval Order”) approving the Plan for OCC to raise \$150 million in capital contributions from its Exchange Owners. OCC claimed that the \$150 million in capital contributions was necessary to achieve its self-imposed \$247 million “target capital requirement”¹ because if it relied solely on fees, it could not achieve its target until 2017.² In exchange for their capital contributions, the Plan provides for the Exchange Owners to receive an estimated average annual return of more than 20% over the next decade and 30% thereafter, totaling several billion dollars in the next few decades.

The Approval Order was automatically stayed by operation of a longstanding provision of the Commission’s Rules of Practice following the Petitioners’ March 12-13, 2015 filings of timely notices of intention to petition for Commission review of the Approval Order. On September 10, 2015, the Commission granted the petitions for review, finding that the Petitioners “are aggrieved by the Approval Order.” Yet that same day, the Commission granted OCC’s motion to lift the automatic stay, thereby allowing OCC to move forward with implementing the Plan before the Commission completes its review.

On September 15, 2015, the Petitioners filed a motion to reinstitute the automatic stay, noting the incongruity of the lifting of the stay while simultaneously granting review of the Approval Order, and arguing that OCC would soon reach its target capital requirement without the Exchange Owners’ capital contributions. In short, Petitioners argued that OCC’s rapid accumulation of capital through fees had obviated the need for the Plan. The Petitioners also warned, presciently as is now apparent, that lifting the automatic administrative stay would render meaningful review by the Commission practically impossible because the Plan, if implemented, would become an irreversible *fait accompli*. The Petitioners’ motion to reinstitute the stay was briefed fully as of September 25, 2015, and remains pending.

On October 7, 2015, Petitioners submitted to the Commission their respective statements in support of reversing the Approval Order, and contemporaneously filed a joint motion to refer this matter to a hearing officer and to direct discovery in advance of the hearing to develop the record in this matter. That motion also is briefed fully, and remains pending. As set forth below, OCC’s Press Release makes plain the pressing need for the Commission to address promptly Petitioner’s Motion to Reinstitute the Automatic Stay, and to prevent OCC from cementing the controversial Plan while the Commission reviews the substantial and fundamental challenges to the Plan’s structure and legality.

The Press Release Confirms that the Plan is Wholly Unnecessary

Notably, OCC’s Press Release fails to mention that the Commission has decided to review the Approval Order based on the Petitioners’ contention that the Plan is inconsistent with

¹ As set forth in its Statement in Opposition to the Approval Order, SIG disputes OCC’s claimed need for \$247 million in capital. But even accepting that figure, OCC has already nearly achieved that requirement *without* implementing the Plan. See SIG Statement in Opposition to Approval Order at 9-13.

² OCC stated that, alternatively, it would have to increase transaction fees by 162% (on top of its previously imposed 70% fee hike) in order to raise the additional capital organically. This assertion was plainly false, as demonstrated by OCC’s current capital levels, which have risen to the point where OCC has determined to fund distributions of \$161 million.

the Exchange Act. The Exchange Owners apparently remain committed, despite the Commission's decision to review the adequacy of the Plan and the uniform opposition of industry commenters, to press forward with the unnecessary and self-serving Plan. Specifically, OCC's Press Release discloses that OCC proposes to pay out *more than \$161 million* in dividends and rebates – *\$11 million more than the \$150 million of capital contributions it claimed was so urgently needed under the Plan*. OCC proposes to pay:

- (i) a 2015 refund of \$39 million to clearing members in Q1 2016;
- (ii) a 2015 "special refund" of \$72 million to clearing members "as soon as practicable in 2016";
- (iii) a 2014 refund of \$33.3 million to clearing members "as soon as practicable in 2016"; and
- (iv) a \$17 million "dividend" to the Exchange Owners in Q1 2016.

OCC also says it is reducing clearing fees by 19% beginning March 1, 2016, thereby further reducing its earning power, but notably falling far short of re-installing pre-April 1, 2014 fees.

The Press Release confirms that the Plan and the Exchange Owners' resulting \$150 million capital contribution is wholly unnecessary because, just as the Petitioners predicted, OCC is able to timely achieve its target capital requirement as a result of its 70% fee increase that became effective as of April 1, 2014. But OCC still moved forward with accepting \$150 million in capital contributions from its Exchange Owners, only to now announce months later that it is paying out more than \$161 million. Again, just as Petitioners argued, OCC is essentially replacing what is cost-free capital to OCC with expensive capital that earns 20%-30% annually.

The Press Release demonstrates what Petitioners have contended all along: the Plan should be rejected because it is wholly unnecessary for OCC to reach its target capital requirement and it forever ends OCC's status as a not-for-profit utility acting for the benefit of all market participants. It is now painfully obvious that implementing the Plan would serve only a distinct, narrow, and self-serving purpose – to enable the Exchange Owners to monetize OCC's monopoly status and receive *billions* in dividends over the next few decades at the expense of OCC and the investing public. Indeed, the initial \$17 million dividend announced in the Press Release would be just the tip of the dividend iceberg that would provide the Exchange Owners with outsized returns in perpetuity. This extraordinary windfall simply cannot be rooted in any rational way in the public interest but rather serves only to provide an excessive "return" to the Exchange Owners. OCC will have the capital it claimed was necessary without the Plan, and without having to pay any dividends.

The Press Release thus illustrates how implementing the Plan would impose significant and unnecessary costs on OCC. The Plan requires OCC to exchange non-dividend paying or interest bearing funds accumulated through fee revenues for a like amount of unnecessary capital contributions from the Exchange Owners that will accrue extraordinary annual dividend obligations. Accordingly, instead of "strengthening the capitalization of" OCC, which was the Commission's basis for lifting the automatic stay, the Plan will ultimately cost OCC *billions* in dividends over the next few decades. The Plan's true purpose, therefore, is not to allow OCC to achieve its target capital requirement; instead, it is to enrich the Exchange Owners, and this windfall will come at the expense of OCC, other market participants, and ultimately the investing public.

**Allowing OCC to Move Forward with the Steps
in the Press Release will Result in a *Fait Accompli***

OCC's Press Release also confirms another one of Petitioners' arguments: if the automatic stay is not immediately reinstated, OCC will "aggressively move forward to implement the Plan, resulting in a *fait accompli* for the industry and investors before the Commission conducts the meaningful review that the Exchange Act requires."³ That is exactly what OCC is now attempting to do by making the payments outlined in its Press Release.

OCC knows that it would be "extremely impracticable" to reverse the Plan once it is implemented. Among other things, the logistical issues would include:

- (i) reversing and reclaiming at least \$17 million in dividends OCC will pay to the Exchange Owners in 1Q 2016;
- (ii) resolving issues associated with taxes paid by the Exchange Owners on those dividends;
- (iii) clawing back at least \$144.3 million in refunds from clearing members that OCC will pay in 1Q 2016 or "as soon as practicable in 2016"; and
- (iv) reversing the 19% fee decrease that OCC will implement on March 1, 2016.

**The Commission Should Immediately Stay Further Implementation of the Plan,
Require Further Development of the Record, and Reverse the Approval Order**

The Commission should grant the Petitioners' fully briefed motion to reinstitute the automatic stay. The Press Release confirms what Petitioners have been arguing and OCC has been denying – that OCC has sufficient capital without implementing the unnecessary and expensive Plan. Immediate action is required to prevent the irreparable harm that would result from OCC's proceeding with the imminent and massive distribution of capital announced in the Press Release, which would render the Plan a *fait accompli*.

The Press Release also contains new information illustrating OCC's strong financial position, which is compelling evidence that the proposed Plan is unnecessary and that the Plan should be reversed. At a minimum, the Press Release raises further questions about the pertinent facts that should be developed before a hearing officer in accordance with Petitioners' pending motion.

Sincerely,



Joseph C. Lombard

Enclosure

Cc: Division of Trading and Markets (*by facsimile, w/ encl.*)
Petitioners and OCC (*by facsimile, w/ encl.*)

³ See Petitioners' Reply Brief to Mot. To Reinstigate Automate Stay at 10.

OCC Declares Clearing Member Refund and Dividend for 2015 and Reduction of Fees under Approved Capital Plan

Special Refund for 2015 Also Declared

CHICAGO (December 17, 2015) – [OCC \(http://www.theocc.com\)](http://www.theocc.com), the world's largest equity derivatives clearing organization, today announced the declaration of a refund, dividend, and fee reduction under its approved capital plan.¹ The refund of approximately \$39 million² to clearing members and the dividend of approximately \$17 million³ to Stockholder Exchanges will be paid in Q1 2016 following issuance of OCC's financial statements. The new fee schedule, included below, will commence on March 1, 2016, and will result in a reduction in the average clearing fee of approximately 19% from current levels.

OCC also announced a special refund of 2015 clearing fees of approximately \$72 million. The special refund represents the excess of 2015 pre-tax net income over OCC's target revenue based on achievement of a 25% business risk buffer. Payment of the 2015 special refund, and the previously declared 2014 refund of \$33.3 million, will be made as soon as practicable in 2016 upon further determination that the 2015 special refund and 2014 refund amounts will not cause OCC's capital to fall below its total equity capital resource requirement of \$247 million.

The SEC has approved OCC's capital plan and more recently issued an order discontinuing the automatic stay that resulted from the filings of various petitions for review of the approval order. In doing so, the SEC noted that strengthening the capitalization of OCC is a compelling public interest and that the concerns raised by the petitioners did not justify continuation of the stay. "Our actions taken under the approved capital plan are consistent with the operative fee, refund, and dividend policies approved by the SEC and align with regulatory expectations under the approval order," said [Craig Donohue](/about/corporate-information/executives/bio_donohue.jsp) (/about/corporate-information/executives/bio_donohue.jsp), OCC Executive Chairman. He added, "It will also ensure OCC has the amount of capital needed to comply with existing and proposed capital requirements."

The following schedule of revised fees will be effective as of March 1, 2016.

SCHEDULE OF REVISED FEES

Tier	Current Fee	New Fee
1-500	\$0.050/per contract	\$0.041/per contract
501-1000	\$0.040/per contract	\$0.032/per contract
1001-2000	\$0.030/per contract	\$0.024/per contract
>2000	\$55.00/per trade	\$46.00/per trade

Market maker/specialist scratch and linkage fees per side will remain unchanged at \$0.020.

Additionally, the board has approved a flat fee schedule that will be separately implemented following OCC's regulatory filing with the SEC. The flat fee schedule will provide greater simplicity and preserve the approximately 19% fee reduction described above.

About OCC

OCC is the world's largest equity derivatives clearing organization and the foundation for secure markets. Founded in 1973, OCC operates under the jurisdiction of both the U.S. Securities and Exchange Commission (SEC) and the U.S. Commodity Futures Trading Commission (CFTC). OCC now provides central counterparty (CCP) clearing and settlement services to 18 exchanges and trading platforms for options, financial futures, security futures and securities lending transactions. More information about OCC is available at www.theocc.com (<http://www.theocc.com/>).

¹ For information about the approved capital plan, see http://www.theocc.com/about/newsroom/releases/2015/09_11.jsp ([/about/newsroom/releases/2015/09_11.jsp](http://www.theocc.com/about/newsroom/releases/2015/09_11.jsp)).

² Amounts for the 2015 refund, dividend, and special refund are based on 2015 projections and subject to change based on the completion of OCC's annual financial statements.

³ Pro-rata based on Stockholder Exchange funding commencing on March 3, 2015.

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