

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-65789; File No. SR-OCC-2011-14)

November 18, 2011

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Clearing Options on the CBOE Silver Volatility Index

I. Introduction

On September 27, 2011, the Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-OCC-2011-14 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder.² The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change as amended.

II. Description

The purpose of the proposed rule change is to remove any potential cloud on the jurisdictional status of options on the CBOE Silver ETF Volatility Index, which is an index that measures the implied volatility of options on the iShares Silver Trust, an exchange-traded fund designed to reflect the performance of the price of silver.³ To accomplish this purpose, OCC is proposing to amend the interpretation and policy following the introduction in Article XVII of OCC’s By-Laws to clarify that OCC will clear and treat as securities options any option contracts on the CBOE Silver ETF Volatility Index. On June 14, 2010, the Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The staff notes that on August 11, 2011, the Commission issued an Order granting approval of a proposed rule change to trade options on the CBOE Silver ETF Volatility Index. See Securities Exchange Act Release No. 34-65116, 76 FR 51099 (August 17, 2011).

approved rule filing SR-OCC-2010-07, which added the existing interpretation, which relates to the treatment and clearing of options on the CBOE Gold ETF Volatility Index.⁴

In its capacity as a “derivatives clearing organization” registered as such with the CFTC, OCC has filed this proposed rule change for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act (the “CEA”) in order to foreclose any potential liability under the CEA based on an argument that the clearing by OCC of such options as securities options constitutes a violation of the CEA.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and derivative transactions.⁵ The proposed rule change is similar to a proposed rule change the Commission approved previously with respect to the jurisdictional status CBOE Gold ETF Volatility Index and clarifies that OCC will clear and treat as securities any relative performance index, including in situations in which one of the reference securities of a relative performance index is an ETF designed to measure the return of gold or silver. Any uncertainty regarding the jurisdictional status of a product could presumably interfere with OCC’s ability to provide clearance and settlement services with respect to the product. The proposed rule change, by allowing OCC confirm in its rules the treatment of a relative performance index, should facilitate the clearance and settlement of such products and, thus, should help promote the prompt and accurate clearance and settlement of securities transactions and of derivative

⁴ Securities Exchange Act Release No. 62290 (June 14, 2010), 75 FR 35861 (June 23, 2010).

⁵ 15 U.S.C. 78a-1(b)(3)(F).

transactions.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act⁶ and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-OCC-2011-14) be, and hereby is, approved.⁸

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

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Deputy Secretary

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78s(b)(2).

⁸ In approving this proposed rule change the Commission has considered the proposed rule's impact of efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁹ 17 CFR 200.30-3(a)(12).