

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-68368; File No. SR-ODD-2012-02)

December 6, 2012

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Accelerated Delivery of Supplement to the Options Disclosure Document Reflecting Certain Changes to Disclosure Regarding Adjustments for Cash Dividends and Distributions in Respect of Options Overlying Less than 100 Shares to Accommodate the Trading of Mini Options

On October 2, 2012, The Options Clearing Corporation (“OCC”) submitted to the Securities and Exchange Commission (“Commission”), pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (“Act”),¹ five preliminary copies of a supplement (“November 2012 Supplement”) to amend the options disclosure document (“ODD”) to reflect certain changes to disclosure regarding adjustments for cash dividends and distributions in respect of options overlying less than 100 shares to accommodate the trading of mini options.² On November 14, 2012, the OCC submitted to the Commission definitive copies of the November 2012 Supplement.³

The ODD currently contains general disclosures on the characteristics and risks of trading standardized options. In September 2012, the Commission approved proposed rule changes that permitted the International Securities Exchange, LLC and NYSE Arca, Inc. to list and trade mini options (“Mini Options”) overlying 10 shares of SPDR S&P 500 ETF, Apple Inc., SPDR Gold Trust, Google Inc., and Amazon.com, Inc.⁴ Subsequently, NASDAQ OMX PHLX LLC filed a

¹ 17 CFR 240.9b-1.

² See letter from Jean M. Cawley, Senior Vice President, Deputy General Counsel and Chief Compliance Officer, OCC, to Sharon Lawson, Senior Special Counsel, Division of Trading and Markets (“Division”), Commission, dated October 1, 2012.

³ See letter from Jean M. Cawley, Senior Vice President, Deputy General Counsel and Chief Compliance Officer, OCC, to Sharon Lawson, Senior Special Counsel, Division, Commission, dated November 9, 2012.

⁴ See Securities Exchange Act Release No. 67948 (September 28, 2012), 77 FR 60735 (October 4, 2012) (SR-NYSEArca-2012-64 and SR-ISE-2012-58).

proposed rule change to list and trade these Mini Options.⁵ The current proposed November 2012 Supplement amends the ODD disclosure to accommodate adjustments for cash dividends and distributions in respect of options overlying less than 100 shares.⁶ This change will help to ensure that Mini Options are adjusted when the corresponding standard-sized options are adjusted. Specifically, the November 2012 Supplement would make clear that no adjustment will normally be made for any cash dividend or distribution that amounts to less than \$0.125 per underlying share. In addition, for contracts originally listed with a unit of trading larger than 100 shares, the November 2012 Supplement will continue to provide that no adjustment normally would be made for any cash dividend or distribution that amounts to less than \$12.50 per contract. The proposed supplement is intended to be read in conjunction with the more general ODD, which discusses the characteristics and risks of options generally.⁷

⁵ See Securities Exchange Act Release No. 68132 (November 1, 2012), 77 FR 66904 (November 7, 2012) (SR-Phlx-2012-126) (notice of filing and immediate effectiveness of proposed rule change to list and trade Mini Options).

⁶ The Commission recently approved a proposed rule change by the OCC to make similar changes to its By-Laws. See Securities Exchange Act Release Nos. 67917 (September 24, 2012), 77 FR 59687 (September 28, 2012) (“OCC Notice”) and 68104 (October 25, 2012), 77 FR 65917 (October 31, 2012) (SR-OCC-2012-16). In its filing, the OCC stated that without the By-Law amendments, some cash dividends or distributions that would exceed the adjustment threshold in the case of standard options would not exceed the adjustment threshold in the case of a Mini Option because the per contract distribution on the Mini Option would be only 1/10th of the distribution on the standard option and the adjustment threshold was stated on a per contract basis rather than a per share basis. Therefore, the OCC amended, with Commission approval, the adjustment threshold from \$12.50 per contract to \$0.125 per share. In its filing, the OCC also stated that it did not intend for the rule change to affect options contracts that were originally listed with units of trading in excess of 100 shares.

⁷ The Commission notes that the options markets must continue to ensure that the ODD is in compliance with the requirements of Rule 9b-1(b)(2)(i) under the Act, 17 CFR 240.9b-1(b)(2)(i), including when changes regarding Mini Options are made in the future. Any future changes to the rules of the options markets concerning Mini Options would need to be submitted to the Commission under Section 19(b) of the Act. 15 U.S.C. 78s(b).

Rule 9b-1(b)(2)(i) under the Act⁸ provides that an options market must file five copies of an amendment or supplement to the ODD with the Commission at least 30 days prior to the date definitive copies are furnished to customers, unless the Commission determines otherwise, having due regard to the adequacy of the information disclosed and the public interest and protection of investors.⁹ In addition, five copies of the definitive ODD, as amended or supplemented, must be filed with the Commission not later than the date the amendment or supplement, or the amended ODD, is furnished to customers. The Commission has reviewed the proposed November 2012 Supplement, and the amendments to the ODD contained therein, and finds that, having due regard to the adequacy of the information disclosed and the public interest and protection of investors, the supplement may be furnished to customers as of the date of this order.

⁸ 17 CFR 240.9b-1(b)(2)(i).

⁹ This provision permits the Commission to shorten or lengthen the period of time which must elapse before definitive copies may be furnished to customers.

IT IS THEREFORE ORDERED, pursuant to Rule 9b-1 under the Act,¹⁰ that definitive copies of the November 2012 Supplement to the ODD (SR-ODD-2012-02), reflecting changes to disclosure regarding adjustments for cash dividends and distributions in respect of options overlying less than 100 shares, may be furnished to customers as of the date of this order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

Kevin M. O'Neill
Deputy Secretary

¹⁰ 17 CFR 240.9b-1.

¹¹ 17 CFR 200.30-3(a)(39).