



January 22, 2015

VIA CFTC PORTAL

Melissa Jurgens
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Rule Filing SR-OCC-2015-03 Rule Certification

Dear Secretary Jurgens:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Commodity Futures Trading Commission Regulation (“CFTC”) 40.6, enclosed is a copy of the above-referenced rule filing submitted by The Options Clearing Corporation (“OCC”). The date of implementation of the rule is at least 10 business days following receipt of the rule filing by the CFTC or the date the proposed rule is approved by the Securities and Exchange Commission (the “SEC”) or otherwise becomes effective under the Securities Exchange Act of 1934 (the “Exchange Act”). This rule filing has been, or is concurrently being, submitted to the SEC under the Exchange Act.

In conformity with the requirements of Regulation 40.6(a)(7), OCC states the following:

Explanation and Analysis

OCC is proposing to execute an Agreement for Clearing and Settlement Services (“Clearing Agreement”) between OCC and NASDAQ Futures, Inc. (“NFX”) in connection with NFX’s intention to resume operating as a designated contract market (“DCM”) regulated by the CFTC. No changes are being proposed to be made to OCC’s By-Laws or Rule. OCC is proposing to provide clearance and settlement services to NFX pursuant to the terms set forth in the Clearing Agreement. NFX has been re-designated by the CFTC as a DCM.¹ The purpose of this proposed rule change is to provide notice regarding the Clearing Agreement so that OCC may begin providing clearing and settlement services for NFX in the second quarter of 2015.

¹

See

<http://www.cftc.gov/ucm/groups/public/@otherif/documents/ifdocs/nasdaqorderofreinstatement.pdf>.

Background

By way of background, NFX previously operated as a DCM and cleared its futures contracts through OCC. As such, OCC and NFX had previously entered into a Second Amended and Restated Agreement for Clearing and Settlement Services (“Previous Agreement”) dated January 13, 2012.² Subsequently, as of January 31, 2014, NFX ceased operations as a contract market and became a dormant contract market under CFTC Regulations.³ As a result, the Previous Agreement was terminated pursuant to its terms⁴ and the clearing relationship between OCC and NFX terminated.

Clearing Agreement Proposal

On November 21, 2014, NFX was approved by the CFTC as a DCM.⁵ In connection with that approval, OCC is now proposing to provide the clearance and settlement services as described in the Clearing Agreement. The Clearing Agreement is substantially similar to the Previous Agreement with several differences discussed in more detail below.

The Clearing Agreement has been amended to allow OCC more flexibility in determining which products it will clear based upon OCC’s conclusion that it is able to appropriately risk manage such products using commercially reasonable standards.⁶ More specifically, the following changes have been made:

- Section 3(a) of the Clearing Agreement, “General Criteria for Underlying Interests,” has been amended to permit NFX to select the underlying interests that are the subject of currency futures, commodity futures, and/or futures options to be traded on NFX only if OCC is satisfied that it is able to appropriately risk manage the contract with the proposed underlying interest using commercially reasonable efforts.
- Section 9 of the Clearing Agreement, “Limitations of Authority and Responsibility,” has been amended to specify that OCC shall have no responsibility to enforce standards relating to the conduct of trading on NFX

² See Securities Exchange Act Release No. 66340 (February 7, 2012), 77 FR 7621 (February 13, 2012) (SR-OCC-2012-02).

³ See 17 CFR 40.1.

⁴ More specifically, the Previous Agreement, in relevant part, stated that it would terminate if NFX terminates trading of all Cleared Contracts. See Section 19(b) of the Previous Agreement. See also note 2 *supra*.

⁵ See note 1 *supra*.

⁶ See Sections 3(a) and 9 of the Clearing Agreement in which language has been added allowing such flexibility.

unless OCC finds it reasonably necessary in order to appropriately risk manage the products that are being traded on NFX.

In addition to the above, the Clearing Agreement will also make several changes to the Previous Agreement, which include:

- Section 3(c), “Procedures for Selection of Underlying Interests,” has been amended to state that NFX must submit a certificate for a new class of contracts not already listed or traded on NFX as soon as practicable (rather than ten days prior to the commencement of trading). It has also been amended to state that OCC will be obligated to use commercially reasonable efforts to authorize the clearance and settlement of such contracts as soon as practicable. In addition, the Clearing Agreement expressly obligates NFX to provide OCC with any additional information as requested by OCC from time to time that will assist OCC in identifying a new product proposed for clearing by NFX. OCC believes that these amendments to Section 3(c), related to the procedures for the selection of underlying interests, will ensure that OCC not only has the correct information needed to evaluate a proposed new product but that the information will be produced to OCC in a timely manner which will provide OCC sufficient time to evaluate the proposed new product.
- Section 3(d), “Notice of Additional Maturity or Expiration Dates,” has been amended to state that, for a class of products previously certified, NFX may introduce a new maturity or expiration date that is in the cycle set forth in the certificate by providing notice to OCC through electronic means specified by OCC. The Previous Agreement required such notice to be sent to OCC only by email or facsimile.
- A universal conforming change has been made to various sections in the Clearing Agreement to replace the term “matched” trades with “confirmed” trades to better describe trades that are processed for clearance and settlement.⁷
- Section 5(a), “Confirmed Trade Reports,” has been amended to remove language discussing the possibility that NFX will provide OCC with a confirmed trade report on a real time basis as this capability is already captured in the language “as the Corporation may reasonably prescribe.”

⁷ See Article I, Section 1(C)(28) of OCC’s By-Laws. See also Sections 3(g), 6(a), 7, 19, and Schedule A, Section 1 of the Clearing Agreement.

- Section 5(c)(i) has been amended to include language that will allow OCC to determine the final settlement price for a futures contract in which the underlying interest is a cash-settled foreign currency if the organized market in which that foreign currency future is traded on, or the foreign currency itself, did not open or remain open for trading at or before the time in which the settlement price for such futures contract would ordinarily be determined. In addition, Section 5(c)(i) has been amended to include a reference to “variance” when listing factors that will allow OCC to determine a final reasonable settlement price, if not reported at the ordinary time of final settlement. OCC believes that these additions to the Clearing Agreement clarify the potential underlying interests in which NFX may introduce futures contracts and make the Clearing Agreement more precise.
- Section 7, “Acceptance and Rejection of Transactions in Cleared Contracts,” has been amended to include a provision that will allow OCC, in accordance with its By-Laws, to reject transactions due to validation errors which will allow OCC to better manage its clearance and settlement obligations by expressly allowing it to reject transactions that do not contain complete terms. These validation errors include, for example, an incorrect Clearing Member, account, product or format.
- Section 8, “Non-Discrimination,” has been amended to delete a provision restricting OCC from changing its By-Laws or Rules in any manner that may limit its obligations to clear and settle for NFX. In addition, a provision has been deleted requiring OCC to amend the Clearing Agreement in the event that OCC has made changes to its standard form agreement for clearing and settlement services. Section 8 has also been amended to delete a provision stating OCC is required to consult with NFX and modify OCC’s By-Laws or Rules to incorporate product design features specified by NFX for new products. OCC believes that these provisions are no longer necessary as they limit OCC’s ability to modify its By-Laws, Rules and agreements which may be necessary for OCC to fulfill its obligations as a clearing organization. OCC will, however, continue to be obligated to fulfill both the provisions of the Clearing Agreement and OCC’s regulatory responsibilities. Section 8 has additionally been amended to delete an obligation for each party to provide the other with proposed rule changes. The elimination of this contractual obligation reflects the parties’ determination that their respective obligations to post filed regulatory submissions on their public websites provides sufficient notice of such changes.
- Section 11, “Financial Requirements for Clearing Members,” has been amended to delete a provision stating the specific financial responsibility standards OCC has with respect to its Clearing Members. This change was made to further streamline the Clearing Agreement given OCC’s general obligation to remain consistent with OCC By-Laws and Rules.

- Section 14, “Programs and Projects,” has been amended to eliminate a provision expressly requiring OCC to offer futures contract clearing terms to NFX that are no less favorable to the terms offered to other exchanges.
- Sections 15 and 24 in the Previous Agreement, “Information Sharing” and “Quality Standards” respectively, have been deleted in their entirety in an attempt to simplify the Clearing Agreement as the sections create unnecessary obligations on the parties and are duplicative of general regulatory responsibilities of both parties.
- Section 18(b), “Other Grounds for Termination,” has been amended to include a provision that OCC may terminate the Clearing Agreement at any time so long as NFX is given 120 days prior written notice. The addition of this provision better balances the rights of both parties to terminate the Clearing Agreement at their discretion provided that proper notice is given as required by the Clearing Agreement.
- Various administrative changes have been made throughout the document including, but not limited to, an amended legal name and description of NFX, updated references to sections within the document, and clean-up changes of duplicative terms.

Finally, Schedule A of the Clearing Agreement, “Description of Clearing and Settlement Services” and Schedule B of the Clearing Agreement, “Information Sharing,” have been amended making several changes to the Previous Agreement, which include:

- Section (1) of Schedule A of the Clearing Agreement, “Trade Acceptance,” has been updated to reflect current OCC operational requirements with respect to submission of confirmed trades.
- Section (4) of Schedule A, “Information for Clearing Members,” has been amended to delete specific information sharing obligations of OCC to its Clearing Members and to state that the information provided to Clearing Members will be in accordance with OCC’s By-Laws and Rules.
- Section (I)(A) of Schedule B has been amended to delete specific references to information that OCC will provide to Clearing Members on a daily basis and instead adds a provision that OCC will provide NFX with its “Data Distribution Service” information for regulatory and financial purposes.

- Section (I)(B) of Schedule B has been amended to delete certain information sharing provisions and to state that the information sharing obligations OCC continues to have may be satisfied by posting the required information on OCC's public website which streamlines the information sharing process.

Conclusion

The Clearing Agreement has remained substantially similar to the Previous Agreement but has been amended in certain respects as described above. Generally, the amendments will provide OCC more discretion in which products it manages based upon its risk management framework, remove unnecessary obligations for each party, and make the Clearing Agreement more precise and reflective of current practices. The Clearing Agreement also allows OCC to continue to provide clearance and settlement purposes while fulfilling its obligations as a self-regulating organization. As such, as stated above, OCC is proposing to provide notice regarding the Clearing Agreement so that OCC may begin providing clearing and settlement services for NFX in the second quarter of 2015

OCC reviewed the derivatives clearing organization ("DCO") core principles ("Core Principles") as set forth in the Commodity Exchange Act. During this review, OCC identified the following Core Principle as potentially being impacted:

Participant and Product Eligibility. OCC and NFX have engaged in lengthy negotiations regarding the Clearing Agreement. As a result of those discussions and negotiations, OCC has established appropriate requirements for determining the eligibility of contracts submitted to OCC for clearing, taking into account OCC's ability to manage the risk associated with such contracts. OCC previously provided clearing services to NFX, and the new Clearing Agreement, while similar to the Previous Agreement between the parties, updates and enhances certain protections for OCC while also allowing participants to trade NFX products and have those products cleared through OCC.

Opposing Views

No opposing views were expressed related to the rule amendments.

Notice of Pending Rule Certification

OCC hereby certifies that notice of this rule filing has been be given to Clearing Members of OCC in compliance with Regulation 40.6(a)(2) by posting a copy of the submission on OCC's website concurrently with the filing of this submission.

Melissa Jurgens
January 22, 2015
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Certification

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Act and the CFTC's regulations thereunder.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Szarmack". The signature is written in a cursive style with a large, stylized initial "S".

Stephen Szarmack
Vice President & Associate General Counsel

Enclosure

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 19b-4

Proposed Rule Change
by

THE OPTIONS CLEARING CORPORATION

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

Item 1. Text of the Proposed Rule Change

The Options Clearing Corporation (“OCC”) is proposing to execute an Agreement for Clearing and Settlement Services (“Clearing Agreement”) between OCC and NASDAQ Futures, Inc. (“NFX”) in connection with NFX’s intention to resume operating as a designated contract market (“DCM”) regulated by the Commodity Futures Trading Commission (“CFTC”). No changes are being proposed to be made to OCC’s By-Laws or Rules.

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved for filing with the Commission by the Board of Directors of OCC at a meeting held on March 6, 2014.

Questions should be addressed to Stephen M. Szarmack, Vice President and Associate General Counsel, at (312) 322-4802.

Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Purpose

OCC is proposing to provide clearance and settlement services to NFX pursuant to the terms set forth in the Clearing Agreement. NFX has been re-designated by the CFTC as a DCM.¹ The purpose of this proposed rule change is to provide notice regarding the Clearing Agreement so that OCC may begin providing clearing and settlement services for NFX in the second quarter of 2015.

¹ See <http://www.cftc.gov/ucm/groups/public/@otherif/documents/ifdocs/nasdaqorderofreinstatement.pdf>.

Background

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Clearing Agreement Proposal

On November 21, 2014, NFX was approved by the CFTC as a DCM.⁵ In connection with that approval, OCC is now proposing to provide the clearance and settlement services as described in the Clearing Agreement. The Clearing Agreement is substantially similar to the Previous Agreement with several differences discussed in more detail below.

The Clearing Agreement has been amended to allow OCC more flexibility in determining which products it will clear based upon OCC’s conclusion that it is able to

² See Securities Exchange Act Release No. 66340 (February 7, 2012), 77 FR 7621 (February 13, 2012) (SR-OCC-2012-02).

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⁴ More specifically, the Previous Agreement, in relevant part, stated that it would terminate if NFX terminates trading of all Cleared Contracts. See Section 19(b) of the Previous Agreement. See also note 2 supra.

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appropriately risk manage such products using commercially reasonable standards.⁶ More specifically, the following changes have been made:

- Section 3(a) of the Clearing Agreement, “General Criteria for Underlying Interests,” has been amended to permit NFX to select the underlying interests that are the subject of currency futures, commodity futures, and/or futures options to be traded on NFX only if OCC is satisfied that it is able to appropriately risk manage the contract with the proposed underlying interest using commercially reasonable efforts.
- Section 9 of the Clearing Agreement, “Limitations of Authority and Responsibility,” has been amended to specify that OCC shall have no responsibility to enforce standards relating to the conduct of trading on NFX unless OCC finds it reasonably necessary in order to appropriately risk manage the products that are being traded on NFX.

In addition to the above, the Clearing Agreement will also make several changes to the Previous Agreement, which include:

- Section 3(c), “Procedures for Selection of Underlying Interests,” has been amended to state that NFX must submit a certificate for a new class of contracts not already listed or traded on NFX as soon as practicable (rather than ten days prior to the commencement of trading). It has also been amended to state that OCC will be obligated to use commercially reasonable efforts to authorize the clearance and settlement of such contracts as soon as practicable. In addition, the

⁶ See Sections 3(a) and 9 of the Clearing Agreement in which language has been added allowing such flexibility.

Clearing Agreement expressly obligates NFX to provide OCC with any additional information as requested by OCC from time to time that will assist OCC in identifying a new product proposed for clearing by NFX. OCC believes that these amendments to Section 3(c), related to the procedures for the selection of underlying interests, will ensure that OCC not only has the correct information needed to evaluate a proposed new product but that the information will be produced to OCC in a timely manner which will provide OCC sufficient time to evaluate the proposed new product.

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report on a real time basis as this capability is already captured in the language “as the Corporation may reasonably prescribe.”

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- Sections 15 and 24 in the Previous Agreement, "Information Sharing" and "Quality Standards" respectively, have been deleted in their entirety in an attempt

to simplify the Clearing Agreement as the sections create unnecessary obligations on the parties and are duplicative of general regulatory responsibilities of both parties.

- Section 18(b), “Other Grounds for Termination,” has been amended to include a provision that OCC may terminate the Clearing Agreement at any time so long as NFX is given 120 days prior written notice. The addition of this provision better balances the rights of both parties to terminate the Clearing Agreement at their discretion provided that proper notice is given as required by the Clearing Agreement.
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Conclusion

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B. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended (the “Act”),⁸ which facilitates the prompt and

⁸ 15 U.S.C. 78q-1(b)(3)(F).

accurate clearance of derivative transactions because the Clearing Agreement memorializes the rights and obligations of OCC and NFX with respect to each other related to clearing and settlement activities. Memorializing the rights and obligations of OCC and NFX with respect to each other reduces legal risk as it relates to the business relationship between OCC and NFX, which will, in turn, facilitate the prompt and accurate clearance and settlement of derivatives transactions submitted to OCC by NFX for clearing and settlement. In addition, the proposed rule change is not inconsistent with any rules of OCC, including any rules proposed to be amended.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose a burden on competition. The proposed rule change relates solely to commodity products that are subject to the exclusive jurisdiction of the CFTC and therefore will not impose a burden on competition in securities markets or any other market governed by the Act.

Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

Item 6. Extension of Time Period for Commission Action

Not applicable.

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

Pursuant to Section 19(b)(3)(A)⁹ and 19b-4(f)(4)(ii),¹⁰ the proposed rule change is filed for immediate effectiveness because it primarily affects the clearing operations of OCC with respect to products that are not securities and does not significantly affect any securities clearing operations of OCC or any rights or obligations of OCC with respect to securities clearing or persons using such securities clearing service. This proposed rule change concerns a Clearing Agreement between OCC and a DCM that trades futures products that are subject to the exclusive jurisdiction of the CFTC. In addition, the proposed rule change does not adversely affect OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of securities investors and the public interest as OCC currently performs clearing operations for other DCM's that list futures products for trading. As such, the obligations proposed in the Clearing Agreement are neither new nor novel to OCC. In addition, clearing volume associated with futures products represents a very small percentage of OCC's overall cleared transaction volume, and, thus, the proposed rule change would not adversely affect OCC's obligations with respect to the settlement of securities transactions. At any time within 60 days of the filing of such rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(4)(ii).

necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.¹¹

Item 8. Proposed Rule Change Based on Rule of Another Self-Regulatory Organization or of the Commission

Not applicable.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1A. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 3. OCC-NFX Agreement for Clearing and Settlement Services.

¹¹ Notwithstanding the foregoing, implementation of this rule change will be delayed until this rule change is deemed certified under CFTC Regulation §40. See 17 CFR 40.6.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has caused this filing to be signed on its behalf by the undersigned hereunto duly authorized.

THE OPTIONS CLEARING CORPORATION

By:  _____

Stephen M. Szarmack
Vice President and Associate General Counsel

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-[_____]; File No. SR-OCC-2015-03)

January 22, 2015

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning the Execution of an Agreement for Clearing and Settlement Services between OCC and NASDAQ Futures, Inc.

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 January 22, 2015, 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. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

OCC is proposing to execute an Agreement for Clearing and Settlement Services (“Clearing Agreement”) between OCC and NASDAQ Futures, Inc. (“NFX”) in connection with NFX’s intention to resume operating as a designated contract market (“DCM”) regulated by the Commodity Futures Trading Commission (“CFTC”).

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 received on the proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

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

OCC is proposing to provide clearance and settlement services to NFX pursuant to the terms set forth in the Clearing Agreement. NFX has been re-designated by the CFTC as a DCM.³ The purpose of this proposed rule change is to provide notice regarding the Clearing Agreement so that OCC may begin providing clearing and settlement services for NFX in the second quarter of 2015.

Background

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the Previous Agreement was terminated pursuant to its terms⁶ and the clearing relationship between OCC and NFX terminated.

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⁶ More specifically, the Previous Agreement, in relevant part, stated that it would terminate if NFX terminates trading of all Cleared Contracts. *See* Section 19(b) of the Previous Agreement. *See also* note 4 *supra*.

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⁸ *See* Sections 3(a) and 9 of the Clearing Agreement in which language has been added allowing such flexibility.

- Section 9 of the Clearing Agreement, “Limitations of Authority and Responsibility,” has been amended to specify that OCC shall have no responsibility to enforce standards relating to the conduct of trading on NFX unless OCC finds it reasonably necessary in order to appropriately risk manage the products that are being traded on NFX.

In addition to the above, the Clearing Agreement will also make several changes to the Previous Agreement, which include:

- Section 3(c), “Procedures for Selection of Underlying Interests,” has been amended to state that NFX must submit a certificate for a new class of contracts not already listed or traded on NFX as soon as practicable (rather than ten days prior to the commencement of trading). It has also been amended to state that OCC will be obligated to use commercially reasonable efforts to authorize the clearance and settlement of such contracts as soon as practicable. In addition, the Clearing Agreement expressly obligates NFX to provide OCC with any additional information as requested by OCC from time to time that will assist OCC in identifying a new product proposed for clearing by NFX. OCC believes that these amendments to Section 3(c), related to the procedures for the selection of underlying interests, will ensure that OCC not only has the correct information needed to evaluate a proposed new product but that the information will be produced to OCC in a timely manner which will provide OCC sufficient time to evaluate the proposed new product.
- Section 3(d), “Notice of Additional Maturity or Expiration Dates,” has been amended to state that, for a class of products previously certified, NFX may

introduce a new maturity or expiration date that is in the cycle set forth in the certificate by providing notice to OCC through electronic means specified by OCC. The Previous Agreement required such notice to be sent to OCC only by email or facsimile.

- A universal conforming change has been made to various sections in the Clearing Agreement to replace the term “matched” trades with “confirmed” trades to better describe trades that are processed for clearance and settlement.⁹
- Section 5(a), “Confirmed Trade Reports,” has been amended to remove language discussing the possibility that NFX will provide OCC with a confirmed trade report on a real time basis as this capability is already captured in the language “as the Corporation may reasonably prescribe.”
- Section 5(c)(i) has been amended to include language that will allow OCC to determine the final settlement price for a futures contract in which the underlying interest is a cash-settled foreign currency if the organized market in which that foreign currency future is traded on, or the foreign currency itself, did not open or remain open for trading at or before the time in which the settlement price for such futures contract would ordinarily be determined. In addition, Section 5(c)(i) has been amended to include a reference to “variance” when listing factors that will allow OCC to determine a final reasonable settlement price, if not reported at the ordinary time of final settlement. OCC believes that these additions to the

⁹ See Article I, Section 1(C)(28) of OCC’s By-Laws. See also Sections 3(g), 6(a), 7, 19, and Schedule A, Section 1 of the Clearing Agreement.

Clearing Agreement clarify the potential underlying interests in which NFX may introduce futures contracts and make the Clearing Agreement more precise.

- Section 7, “Acceptance and Rejection of Transactions in Cleared Contracts,” has been amended to include a provision that will allow OCC, in accordance with its By-Laws, to reject transactions due to validation errors which will allow OCC to better manage its clearance and settlement obligations by expressly allowing it to reject transactions that do not contain complete terms. These validation errors include, for example, an incorrect Clearing Member, account, product or format.
- Section 8, “Non-Discrimination,” has been amended to delete a provision restricting OCC from changing its By-Laws or Rules in any manner that may limit its obligations to clear and settle for NFX. In addition, a provision has been deleted requiring OCC to amend the Clearing Agreement in the event that OCC has made changes to its standard form agreement for clearing and settlement services. Section 8 has also been amended to delete a provision stating OCC is required to consult with NFX and modify OCC’s By-Laws or Rules to incorporate product design features specified by NFX for new products. OCC believes that these provisions are no longer necessary as they limit OCC’s ability to modify its By-Laws, Rules and agreements which may be necessary for OCC to fulfill its obligations as a clearing organization. OCC will, however, continue to be obligated to fulfill both the provisions of the Clearing Agreement and OCC’s regulatory responsibilities. Section 8 has additionally been amended to delete an obligation for each party to provide the other with proposed rule changes. The elimination of this contractual obligation reflects the parties’ determination that

their respective obligations to post filed regulatory submissions on their public websites provides sufficient notice of such changes.

- Section 11, “Financial Requirements for Clearing Members,” has been amended to delete a provision stating the specific financial responsibility standards OCC has with respect to its Clearing Members. This change was made to further streamline the Clearing Agreement given OCC’s general obligation to remain consistent with OCC By-Laws and Rules.
- Section 14, “Programs and Projects,” has been amended to eliminate a provision expressly requiring OCC to offer futures contract clearing terms to NFX that are no less favorable to the terms offered to other exchanges.
- Sections 15 and 24 in the Previous Agreement, “Information Sharing” and “Quality Standards” respectively, have been deleted in their entirety in an attempt to simplify the Clearing Agreement as the sections create unnecessary obligations on the parties and are duplicative of general regulatory responsibilities of both parties.
- Section 18(b), “Other Grounds for Termination,” has been amended to include a provision that OCC may terminate the Clearing Agreement at any time so long as NFX is given 120 days prior written notice. The addition of this provision better balances the rights of both parties to terminate the Clearing Agreement at their discretion provided that proper notice is given as required by the Clearing Agreement.
- Various administrative changes have been made throughout the document including, but not limited to, an amended legal name and description of NFX,

updated references to sections within the document, and clean-up changes of duplicative terms.

Finally, Schedule A of the Clearing Agreement, “Description of Clearing and Settlement Services” and Schedule B of the Clearing Agreement, “Information Sharing,” have been amended making several changes to the Previous Agreement, which include:

- Section (1) of Schedule A of the Clearing Agreement, “Trade Acceptance,” has been updated to reflect current OCC operational requirements with respect to submission of confirmed trades.
- Section (4) of Schedule A, “Information for Clearing Members,” has been amended to delete specific information sharing obligations of OCC to its Clearing Members and to state that the information provided to Clearing Members will be in accordance with OCC’s By-Laws and Rules.
- Section (I)(A) of Schedule B has been amended to delete specific references to information that OCC will provide to Clearing Members on a daily basis and instead adds a provision that OCC will provide NFX with its “Data Distribution Service” information for regulatory and financial purposes.
- Section (I)(B) of Schedule B has been amended to delete certain information sharing provisions and to state that the information sharing obligations OCC continues to have may be satisfied by posting the required information on OCC’s public website which streamlines the information sharing process.

Conclusion

The Clearing Agreement has remained substantially similar to the Previous Agreement but has been amended in certain respects as described above. Generally, the

amendments will provide OCC more discretion in which products it manages based upon its risk management framework, remove unnecessary obligations for each party, and make the Clearing Agreement more precise and reflective of current practices. The Clearing Agreement also allows OCC to continue to provide clearance and settlement purposes while fulfilling its obligations as a self-regulating organization. As such, as stated above, OCC is proposing to provide notice regarding the Clearing Agreement so that OCC may begin providing clearing and settlement services for NFX in the second quarter of 2015.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,¹⁰ which facilitates the prompt and accurate clearance of derivative transactions because the Clearing Agreement memorializes the rights and obligations of OCC and NFX with respect to each other related to clearing and settlement activities. Memorializing the rights and obligations of OCC and NFX with respect to each other reduces legal risk as it relates to the business relationship between OCC and NFX, which will, in turn, facilitate the prompt and accurate clearance and settlement of derivatives transactions submitted to OCC by NFX for clearing and settlement. In addition, the proposed rule change is not inconsistent with any rules of OCC, including any 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 a burden on competition. The proposed rule change relates solely to commodity products that are subject to

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

the exclusive jurisdiction of the CFTC and therefore will not impose a burden on competition in securities markets or any other market governed by the Act.

(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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Please include File Number SR-OCC-2015-03 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-2015-03. 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, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at

http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_03.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-2015-03 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.¹¹

Kevin M. O'Neill
Deputy Secretary

Action as set forth recommended herein
APPROVED pursuant to authority delegated by
the Commission under Public Law 87-592.
For: Division of Trading and Markets

By: _____

Print Name: _____

Date: _____

¹¹ 17 CFR 200.30-3(a)(12).

AGREEMENT FOR CLEARING AND SETTLEMENT SERVICES

This Agreement for Clearing and Settlement Services (this "Agreement") is entered into as of _____, 2014 by and among The Options Clearing Corporation, a Delaware corporation (the "Corporation"), NASDAQ Futures, Inc., a Delaware corporation (the "Market"), and, solely with respect to Sections 5, 15 and 19 of this Agreement, The NASDAQ OMX Group, Inc. ("NASDAQ OMX Group"), a Delaware corporation. References in this Agreement to a party or the parties shall not include NASDAQ OMX Group.

WHEREAS, the Corporation is registered with the Commodity Futures Trading Commission (the "CFTC") as a derivatives clearing organization and, as part of its business, provides clearing and settlement services in respect of commodity futures and options thereon;

WHEREAS, the Market, as of the Effective Date, is a board of trade that has been designated as a contract market by the CFTC;

WHEREAS, the Market, as of the Effective Date, is an exchange that clears commodity futures and options transactions through the Corporation and is an "affiliate" (as defined in Article I, Section 1 of the Corporation's By-Laws) of The NASDAQ OMX Group, Inc. which is a global exchange group that delivers trading clearing, exchange technology, regulatory, securities listing and public company services and clears security option transactions through the Corporation (an "Options Exchange");

WHEREAS, the Corporation and the Market (under its previous names, the Philadelphia Board of Trade, Inc. and NASDAQ OMX Futures Exchange, Inc.), had previously entered into a Second Amended and Restated Agreement for Clearing and Settlement Services dated as of January 13, 2012, as amended by certain Schedule Cs from time to time (the "Previous Agreement");

WHEREAS, on January 31, 2014, the Market became a dormant contract market under the CFTC regulations and, as a result, the Previous Agreement terminated pursuant to its terms;

WHEREAS, the Market has again re-engaged the Corporation to provide clearing and settlement services in respect of commodity futures and options thereon, in each case on underlying interests that are selected in accordance with Section 3(a) (collectively, the "Cleared Contracts"), and the Corporation has accepted such engagement, subject to the terms and conditions of this Agreement;

WHEREAS, NASDAQ OMX Group, for good and valuable consideration, wishes to assume liability jointly and severally with the Market for certain indemnification obligations of the Market to the extent set forth in this Agreement; and

WHEREAS, the Market wishes to trade certain commodity futures for which daily settlement amounts will include payments other than variation payments.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, terms and conditions herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Market Representations.

The Market represents that, as of the Effective Date (as defined in Section 24), (a) it is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (b) it is a board of trade that has been designated by the CFTC as a contract market pursuant to Section 5 of the Commodity Exchange Act (the "CEA"), (c) it has rules that comply with the provisions of the CEA and regulations of the CFTC thereunder for the trading of any commodity futures and options thereon ("Commodity Contracts") that are to be cleared by the Corporation (as amended from time to time, the "Market Rules"), (d) it has all governmental and other approvals and consents that are required to have been obtained by it with respect to the Market Rules, (e) the Market Rules are in full force and effect, (f) it has all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (g) this Agreement is the legal, valid and binding obligation of the Market, enforceable against the Market in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (h) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any other agreement binding on or affecting it or any of its assets, (i) it is in compliance with all regulations of the CFTC applicable to a designated contract market, and (j) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with.

Section 2. Corporation Representations.

The Corporation represents that, as of the Effective Date, (a) it is a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (b) it is a derivatives clearing organization registered under Section 5b(c) of the CEA and is permitted to provide facilities for the clearance and settlement of Commodity Contracts, subject to applicable regulations of the CFTC, (c) it has all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (d) the Agreement is the legal, valid and binding obligation of the Corporation, enforceable against the Corporation in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (e) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its

constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets, (f) it is in compliance with all regulations of the CFTC applicable to the clearing of Commodity Contracts, (g) the CFTC has approved or permitted to become effective all By-Laws and Rules of the Corporation relating to Commodity Contracts, (h) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with, and (i) it is prepared to provide clearing and settlement services for Commodity Contracts.

Section 3. Selection of Underlying Interests; Classes and Series of Commodity Contracts.

(a) General Criteria for Underlying Interests

(i) **Underlying Interests for Currency Futures.** The Market may select the underlying interests that are the subject of currency futures to be traded on the Market and cleared by the Corporation, subject to the conditions that such currency futures shall be cash-settled in U.S. Dollars and the Corporation is satisfied that it is able to appropriately risk manage the commodity futures using commercially reasonable efforts.

(ii) **Underlying Interests for Other Commodity Futures.** The Market may select the underlying interests that are the subject of other commodity futures to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) delivery of the underlying interests shall not be required, (B) counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of commodity futures on the underlying interest would not be (i) unlawful or (ii) likely to subject the Corporation to liability based upon claims that clearing and settling of commodity futures on such interest infringes the intellectual property rights of third parties or otherwise, and (C) the Corporation is satisfied that it is able to appropriately risk manage the commodity futures using commercially reasonable efforts. The parties may agree on types of underlying interests (other than currencies) selected by the Market to be the subject of commodity futures to be traded on the Market and cleared by the Corporation by completing and executing a Schedule C in the form attached hereto. The Schedules C created pursuant to this Section 3(a)(ii) and pursuant to Section 3(a)(iii) shall be numbered in a single sequence as Schedule C-1, Schedule C-2, etc.

(iii) **Underlying Interests for Futures Options.** The Market may select the underlying futures contracts that are the subject of futures options to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) each underlying futures contract shall consist solely of a commodity futures contract (and not a security future); (B) (I) such commodity futures contract shall be traded on the Market and cleared by the Corporation or (II) the futures option shall be cash-settled in U.S. dollars; (C) each underlying futures contract shall be open for trading at the time of selection or no later than the date and time that the overlying futures option is opened for trading; (D) counsel to the Corporation is satisfied that the clearance and

settlement by the Corporation of futures options on the underlying futures contract would not be (I) unlawful or (II) likely to subject the Corporation to liability based upon claims that clearing and settling of futures options on such futures contract infringes the intellectual property rights of third parties or otherwise; and (E) the Corporation is satisfied that it is able to appropriately risk manage the commodity futures using commercially reasonable efforts. The parties may agree on types of futures contracts selected by the Market to be the subject of futures options to be traded on the Market and cleared by the Corporation by completing and executing a Schedule C in the form attached hereto.

(b) Nomenclature. Cleared Contracts with respect to which the underlying interest is a broad-based security index are herein referred to as "broad-based index futures." Broad-based index futures and commodity futures are herein referred collectively as "futures." Cleared Contracts that are options on futures are herein referred to as "futures options." The underlying interests in respect of futures (including broad-based security indexes) are herein referred to as "types" of underlying interests.

(c) Procedures for Selection of Underlying Interests.

(i) If the Market wishes to list and trade Commodity Contracts of a class not theretofore listed or traded on the Market, the Market shall notify the Corporation by submitting a certificate as described below (a "Certificate"): (A) in the case of a class of broad-based index futures, other Schedule C futures for which the underlying interest is a commodity index or futures options that have as their underlying an index future that is not traded on the Market, as soon as practicable before the trading day on which the Market wishes to commence trading such futures or futures options; (B) (I) in the case of a class of futures options that is not subject to clause (A) and that is not cash-settled, no earlier than the time at which a Certificate is submitted with respect to the underlying futures contract and no later than 11:00 a.m. (Chicago time) on the trading day before the trading day on which the Market wishes to commence trading and (II) in the case of a class of futures options that is not subject to clause (A) and that is cash settled, no later than 11:00 am (Chicago time) on the trading day before the trading day on which the Market wishes to commence trading, and (C) in the case of a class of other Commodity Contracts, as specified by the Corporation. (A "trading day" means a day on which U.S. securities markets are open for business.) The Corporation will use commercially reasonable efforts to authorize the clearance and settlement of such Commodity Contracts as soon as practicable.

(ii) The Certificate shall set forth: (A) the type of contract (future or futures option); (B) the complete name of the underlying interest; (C) in the case of a futures option, whether it is cash-settled or physically-settled and whether the underlying futures contract is also listed on the Market; (D) the expiration or maturity cycle of the class; (E) the series marker, if any; (F) the manner in which the opening and closing settlement price is to be determined; (G) the date on which the Market intends to commence listing and trading contracts in the class; and (H) any other material information requested by the Corporation from time-to-time that will assist the Corporation in identifying the product (for example, including, but not limited to,

settle on open/close, American/European style).

(iii) If the type of underlying interest for a futures contract is a security index or the type of underlying interest for a futures option is a future on a security index not traded on the Market, the Certificate shall also: (A) identify the index, state that it is a broad-based security index and explain the basis for such statement; (B) identify the securities composing the index by complete name, trading symbol and CUSIP number; (C) identify the reporting authority for the index; (D) set out in detail the method and frequency of calculation of the index; (E) identify the owner or owners of the index and, if other than the Market, explain the basis for the right of the Market to list and trade futures on the index; and (F) in the case of a futures option on a broad-based security index future, the series by contract price and maturity date.

(iv) If the type of underlying interest for a futures contract is an index other than a security index or the type of underlying interest for a futures option is a future on an index other than a security index not traded on the Market, the Certificate shall also (A) identify the index and state that it is not a group or index of securities (including any interest therein or based on the value thereof), (B) identify the constituents of the index, (C) identify the reporting authority for the index, (D) set out in detail the method and frequency of calculation of the index and (E) identify the owner or owners of the index and, if other than the Market, explain the basis for the right of the market to list and trade options on the index.

(v) For each other type of underlying interest, the Certificate shall contain the information required for an underlying index to the extent applicable to the underlying interest and/or such other information as may be specified by the Corporation.

(vi) The Certificate shall also state that the Market certifies that the specified underlying interest meets the requirements of Section 3(a)(i), 3(a)(ii) or 3(a)(iii) of this Agreement, whichever is applicable, and the Market has approved the listing and trading of Commodity Contracts to be cleared by the Corporation on such underlying interest.

(vii) Subject to Section 3(e) below, the Market may begin listing and trading broad-based index futures on an index and futures options on futures on a broad-based index if the underlying futures are not listed on the Market in the specified class as soon as practicable after the relevant Certificate has been properly submitted to the Corporation. Trading in a class of other futures and a class of other futures options that is not cash settled may begin on the first trading day after the Corporation has authorized the clearance and settlement of such futures or futures options and so notified the Market. Trading in a class of other futures options that is cash settled may begin on the later of the date when trading in the underlying series of futures begins or the first trading day after the relevant Certificate has been submitted.

(d) Notice of Additional Maturity or Expiration Dates. The Market may introduce an additional maturity or expiration date for Commodity Contracts of any class previously certified pursuant to Section 3(c) above, as follows:

For a maturity or expiration date in the cycle set forth in the Certificate, by providing notice to the Corporation through electronic means specified by the Corporation from time to time. Such notice shall specify the underlying interest, the maturity or expiration date, the last trading date, a contract month date and the series marker (if any), and the exercise price in the case of a series of futures options. Such notice shall be provided on or before the trading day immediately preceding the trading day on which trading in the new series is to commence.

(e) Underlying Interest Ceases to Meet Requirements. In the event that the Corporation shall determine that an underlying interest has ceased to meet any of the requirements set forth in this Section 3 or that it has otherwise become unlawful or likely to subject the Corporation to liability for the Corporation to clear transactions in Commodity Contracts on such underlying interest, the Corporation may give notice to the Market that it is to cease all trading of Commodity Contracts cleared by the Corporation on such underlying interest or, in the alternative, to restrict transactions in such Commodity Contracts on the Market (i) to closing transactions or (ii) to closing transactions for all accounts other than the accounts of (A) market-makers and/or (B) members of the Market to the extent such members execute opening transactions to facilitate the closing transactions of public customers pursuant to the crossing rules of the Market. The Corporation shall not be required to accept for clearance any transaction effected in violation of such notice after the Market has had a reasonable time to halt trading. In the event that the Corporation gives any notice pursuant to this Section 3(e), the Market and the Corporation shall promptly consult with one another to determine an appropriate course of action to restore the underlying interest to compliance with the requirements of this Section 3 or to permit the orderly and lawful liquidation of open interest. Any action taken by the Corporation under the foregoing provisions shall be consistent with its By-Laws and Rules and will be substantially similar to action taken in respect of similar products traded on any other futures market or Options Exchange.

(f) Monitoring of Underlying Security Indexes. The Market shall monitor the status of each underlying security index that it has selected for futures contracts in order to confirm that the index remains a broad-based index, and shall promptly notify the Corporation if it determines that the index has ceased, or is likely to cease, to meet the definition of broad-based index. If the index ceases to meet the definition of broad-based index, and in the opinion of counsel to the Corporation there is a significant risk that the clearance of futures contracts on such index or futures options on index futures on such index by the Corporation would be unlawful or likely to subject the Corporation to liability, then the provisions of Section 3(e) above shall apply.

(g) Breach by Market of Section 3(c) or 3(d). If the Market, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of Section 3(c) or 3(d) hereof, then the Corporation shall not be obligated to clear transactions in

Commodity Contracts deriving from or related to the breach (the “Affected Transactions”) unless and until the Market has corrected such breach or fulfilled such conditions as the Corporation may set. The Corporation shall, promptly upon determining not to clear Affected Transactions effected on the Market, notify the Market of such determination; provided, however, that the Corporation will continue to accept Affected Transactions for clearance until the Market has had a reasonable opportunity to halt trading, unless acceptance of such transactions for clearance would be unlawful or likely to subject the Corporation to liability. Such determination shall not affect the validity of any previously outstanding Cleared Contracts or any confirmed trade that the Corporation has previously accepted for clearance, nor relieve the Corporation of its obligations with respect thereto, nor shall such determination affect any other obligation of either party under this Agreement or any remedy which such party may have or any right or obligation of any third party under the By-Laws and Rules of the Corporation.

Section 4. Multiplier; Units of Trading.

Subject to any applicable limitations prescribed by the Market Rules or the By-Laws and Rules of the Corporation, the multiplier or unit of trading, as the case may be, of each series shall be designated by the Market prior to the time such series is first opened for trading on the Market. Unless the Market specifies otherwise, the unit of trading for futures options shall be one contract in the series of futures underlying such option.

Section 5. Comparison of Transactions in Cleared Contracts; Settlement Prices.

(a) **Confirmed Trade Reports.** The Market agrees that on each business day it will compile a confirmed trade report of all transactions in Cleared Contracts and all “exchange-for-physical” transactions effected by its members on that business day, and will furnish such report to the Corporation by such time or times as the Corporation may reasonably prescribe, taking into consideration the ability of the Market to provide such information within such time frames on a cost-effective basis. Unless the parties expressly agree to the contrary, in no event will the Market be required to furnish such reports to the Corporation earlier than the time by which Options Exchanges are required to furnish reports of security options transactions.

(b) **Daily Settlement Prices.** The Market shall each business day, at such time and in such manner as the parties may agree, notify the Corporation of the settlement price of each futures contract. The Corporation shall adopt such settlement price as the basis for determining the official settlement price for the business day, except in the case of manifest error or inconsistency with its By-Laws and Rules or in any other case in which the Corporation reasonably believes that such settlement price does not reasonably reflect the value or price of the contract, in which case the Corporation, using its best efforts to consult with the Market, shall determine the official settlement price for such day; provided, however, that in the case of fungible contracts traded on more than one exchange or market, the daily settlement price will be determined by a method mutually agreed among the Corporation and all such exchanges, and in the absence of such agreement, as specified by the Corporation. In any case in which the Corporation fixes a daily settlement price other than (i) a price supplied by the Market or (ii) a price

determined by a method mutually agreed among the Corporation and all exchanges trading a fungible contract, the Corporation will promptly notify the Market. The Market shall indemnify the Corporation and each of its directors, officers, committee members, agents, and employees from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement based on the Corporation's use of a settlement price supplied by the Market in determining the official settlement price; provided, however, that no such indemnification obligation shall exist if the Corporation has not used the settlement price supplied by the Market; and provided further that, where the settlement price is with respect to a fungible contract traded on more than one exchange or market, the Market indemnification shall extend only to the price supplied by it and only to the extent that such price is used to determine the daily settlement price in accordance with an agreed upon formula. The provisions of Section 15 hereof shall apply to such indemnity as if such indemnity were provided under Section 15(b)(ii) hereof.

(c) **Final Settlement Price.** The Corporation shall determine the final settlement price in respect of a series of futures in accordance with its By-Laws and Rules.

(i) With respect to a futures contract that has an underlying interest (A) traded on one or more organized markets or (B) that is an index derived from constituents traded on one or more organized markets, if the Corporation determines that the primary market(s) (as determined by the Corporation) (I) for the underlying interest in respect of a cash-settled foreign currency future, or (II) for one or more constituents of an underlying index in respect of a maturing broad-based index future or the index that is the reference variable in respect of a maturing variance future, did not open or remain open for trading (or that any such foreign currency or constituents did not open or remain open for trading on such market(s)) at or before the time when the settlement price for such futures would ordinarily be determined, or that a price, variance or other value used as, or to determine, the final settlement price (a "required value") is otherwise unreported, inaccurate, unreliable, unavailable or inappropriate for such use, then the Corporation, using its best efforts to consult with the Market, shall determine the final settlement price in conformity with the By-Laws and Rules of the Corporation and shall promptly notify the Market of its action.

(ii) With respect to a futures contract that has an underlying interest that is not (A) traded on one or more organized markets or (B) an index derived from constituents traded on one or more organized markets, if the Corporation shall determine that a required value (as defined in Section 5(b)(i)) for an underlying interest or a constituent of an underlying index for a futures contract is unreported, inaccurate, unreliable, unavailable or inappropriate for such use, the Corporation, using its best efforts to consult with the Market, shall determine the final settlement price in conformity with the By-Laws and Rules of the Corporation and shall promptly notify the Market of its action.

Section 6. Clearance of Transactions in Cleared Contracts.

(a) **Provision of Clearing Services.** The Corporation will provide, pursuant to and in accordance with the By-Laws and Rules of the Corporation and applicable regulatory requirements, all services reasonably necessary to perform its obligations under this Agreement, including without limitation the clearing and settlement services identified in Schedule A attached hereto and incorporated herein. The Corporation will have no obligation to any purchaser or seller of a Cleared Contract arising out of any delay or error in the filing by the Market of any report of confirmed trades; provided, however, that nothing in this Section 6(a) will be construed to relieve the Corporation of its obligation to accept and clear such confirmed trades once received. The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents, and employees for any loss or damage incurred resulting from any delay in the filing by the Market of any report of confirmed trades or from any error in the information so filed, other than an error in information submitted to the Market by a member of the Market or delays or errors in the filing of information caused by the Corporation or systems under the control of the Corporation. The provisions of Section 15 hereof shall apply to such indemnity as if such indemnity were provided under Section 15(b)(ii) hereof.

(b) **Clearing Members.** For purposes of this Agreement “Clearing Member” means a Commodity Futures Clearing Member as defined in the By-Laws of the Corporation. Any Commodity Futures Clearing Member that is a member of the Market may clear transactions in Commodity Contracts listed on the Market through the Corporation. Notwithstanding the foregoing, any Commodity Futures Clearing Member (whether or not it is a member of the Market) may clear transactions in Commodity Contracts listed on the Market through the Corporation through the Corporation’s “CMTA” and/or allocation procedures.

Section 7. Acceptance and Rejection of Transactions in Cleared Contracts.

The Corporation agrees to accept, in accordance with and subject to its By-Laws and Rules, all confirmed trades in Cleared Contracts that are properly submitted to it by the Market in accordance with procedures and practices of which the Market is informed with reasonable advance notice. Upon submission of a confirmed trade to, and acceptance of such confirmed trade by, the Corporation, the Corporation shall be substituted through contractual novation, as provided in its By-Laws and Rules, as the counterparty to each of the Clearing Members that were parties to the confirmed trade. For purposes of the preceding sentence, a Clearing Member to which a trade is given up in accordance with the Corporation’s “CMTA” and/or allocation procedures shall be deemed to have been a party to such trade, and the party giving up such trade shall be deemed not to have been a party to such trade. In accordance with its By-Laws, the Corporation may reject transactions due to validation errors, including, but not limited to, an incorrect clearing member, account product or format.

Section 8. Non-Discrimination.

So long as all conditions on the obligations of the Corporation to clear Cleared Contracts for the Market, as set forth in Article XII of the Corporation's By-Laws, continue to be satisfied, the Corporation agrees not to unfairly discriminate among markets for Cleared Contracts with regard to the nature or quality of the services that it provides or the priority that it assigns to providing such services.

Section 9. Limitations of Authority and Responsibility.

The Corporation shall have no authority or responsibility to establish or enforce standards relating to the conduct of trading on the Market by its members or the supervision of any aspect of the conduct of such members with their customers, except (a) as specifically provided in the By-Laws and Rules of the Corporation, or (b) as otherwise reasonably necessary for the Corporation to appropriately risk manage the products being traded on the Market. The Corporation shall have no responsibility for making disclosure to customers of members of the Market or other customers regarding Cleared Contracts or trading therein on the Market except that the Corporation shall furnish to the Market such information regarding the Corporation and the clearance by it of Cleared Contracts as may reasonably be requested by the Market for purposes of disclosure to customers.

Section 10. Margin Requirements of Corporation

The Corporation shall establish in its By-Laws and Rules, and shall have the responsibility to enforce, requirements as to variation (mark-to-market) payments to be made between the Corporation and its Clearing Members, and the amount and form of margin assets to be deposited or maintained with the Corporation by its Clearing Members, in respect of positions in Cleared Contracts. In establishing such requirements, the Corporation shall not discriminate as to the amount of margin assets to be deposited or maintained: (a) on the basis of the market on which transactions in Cleared Contracts are effected, (b) among markets listing Cleared Contracts on the same underlying interest, or (c) between Cleared Contracts and other products posing substantially equivalent risk to the Corporation that effectively may substitute for Cleared Contracts, but the Corporation may establish higher margin requirements in respect of (A) Cleared Contracts relating to specific underlying interests or types of underlying interests in cases where the distribution or market liquidity of, or other factors relating to, such Cleared Contracts or underlying interests would, in the judgment of the Corporation, increase the risk of the Corporation, its Clearing Members or the public, or (B) particular Clearing Members based on the positions or financial or operational condition of such Clearing Members or otherwise to protect the Corporation, Clearing Members or the public. With respect to higher margin requirements established pursuant to clause (A) above, the Corporation shall, where reasonably practicable, attempt to notify and consult with the Market in advance of the establishment of such margin requirements. Subject to any applicable regulatory constraints, the Corporation shall provide for appropriate reductions in margin obligations to reflect the reduced risk of offsetting or partially offsetting positions in Cleared Contracts traded on the Market and contracts traded on Options Exchanges or other futures markets or security futures markets cleared by the Corporation that are carried by a Clearing Member in the same account at the Corporation. In the event that the Market at any time believes that margin levels established for

Cleared Contracts by the Corporation are too high or otherwise inappropriate, the Market may so inform the Corporation, and representatives of the Corporation will promptly make themselves available to discuss the matter with representatives of the Market, and the Corporation shall give due consideration to any facts or analysis presented by the Market. Unless required by law, the Corporation shall not without the prior written approval of the Market make Cleared Contracts listed for trading by the Market fungible with Cleared Contracts listed for trading by any other market, exchange, electronic trading platform or other entity.

Section 11. Financial Requirements for Clearing Members.

The Corporation shall establish in its By-Laws and Rules financial responsibility standards with which its Clearing Members must comply.

Section 12. Rights and Obligations of Purchasers and Sellers.

The Market Rules shall specifically provide that the rights and obligations of purchasers and sellers of Cleared Contracts, including but not limited to rights and obligations in respect of clearing and settlement, variation payments and performance at maturity, and in the case of futures options, upon exercise thereof, shall be as set forth in the By-Laws and Rules of the Corporation.

Section 13. Fees for Clearing Services.

The Corporation shall establish fee structures for the services it performs for Commodity Futures Clearing Members consistent with the provisions of the By-Laws of the Corporation. Such fee structures shall provide, *inter alia*, that fees for services charged to members of the Market shall not be greater than the fees charged by the Corporation in respect of substantially similar products offered by other futures markets. Notwithstanding the foregoing, the Corporation may offer alternative fee structures to such exchanges or markets so long as it offers the same alternatives to the Market on substantially the same terms and so long as the alternative fee structure provides for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members, including Clearing Members that are members of the Market. Actual clearing fees paid (net of any rebates) may therefore differ among exchanges or markets that select different fee structures.

Section 14. Programs and Projects.

The Corporation agrees that any program or project designed to assist one or more futures markets which it develops at its own expense or which it originates will be made available promptly for the benefit of the Market.

Section 15. Indemnification.

(a) By the Corporation.

(i) The Corporation agrees to indemnify and hold harmless the Market and each of its directors, officers, committee members, agents and employees (each a "Market Indemnified Party" and collectively referred to as the "Market Indemnified

Parties”) from and against any and all loss, damage and expense arising out of or based on any violation or alleged violation by the Corporation of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Corporation may otherwise have.

(ii) The Corporation agrees to indemnify and hold harmless each Market Indemnified Party from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement (collectively referred to as “Losses”) in connection with any action, suit, litigation, claim or proceeding commenced by any person to which any such Market Indemnified Party is made a party defendant, or is threatened to be made such a party, arising out of or based upon any violation or alleged violation by the Corporation of any terms of this Agreement, any alleged default by the Corporation in performing its obligations in accordance with its By-Laws and Rules in respect of any transaction in Cleared Contracts it accepts for clearing, and any violation or alleged violation by the Corporation of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Market Indemnified Party which the Corporation may otherwise have.

(b) By the Market.

(i) The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents and employees (each a “Corporation Indemnified Party” and collectively referred to as the “Corporation Indemnified Parties”) from and against any and all loss, damage and expense (whether or not such loss, damage or expense is reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Market may otherwise have.

(ii) The Market agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, to which any such Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement or any violation or alleged violation by the Market of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Corporation Indemnified Party which the Market may otherwise have.

(c) Indemnification in Respect of Intellectual Property. Without limiting the generality of subsections (a) and (b) above: (i) the Corporation specifically agrees to indemnify and hold harmless each Market Indemnified Party, and the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party, from and against any and all Losses (whether or not in the case of the Corporation such Losses are

reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any claim or cause of action for patent infringement or other intellectual property law violation, where such claim or cause of action relates to intellectual property that is developed or used by the indemnifying party in connection with the activities to be engaged in hereunder, provided that for purposes of this provision the Corporation shall not be deemed to have used any such intellectual property developed or used by the Market solely by virtue of clearing trades executed on the Market; and (ii) without limiting the generality of clause (i) above, the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, asserted against a Corporation Indemnified Party or to which a Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, or is subjected to discovery or testimonial obligations, arising out of or based on (A) any allegation that the Market does not have the right for any reason to list and trade a Commodity Contract traded or proposed to be traded on the Market, or (B) any allegation that the listing and trading of a Commodity Contract by the Market, the issuance by the Corporation of the Commodity Contract so listed and traded, or the clearance and settlement of such trades by the Corporation constitutes unfair competition or unjust enrichment or infringes, interferes with or misappropriates the intellectual property, contract, common law or other rights of a third party, including without limitation the owner of any proprietary index or any licensee of such index or derivative products based thereon. For the avoidance of doubt, the indemnification obligations of the Market under this Section 15 shall include Losses in connection with any claim or cause of action that may be asserted against the Corporation Indemnified Parties related to or arising out of any legal theory that the Market does not have the right to trade any commodity contract for which the final settlement price is based on the final settlement price for a commodity contract listed on another Designated Contract Market, or that the trading in such contracts (and not in contracts generally) or the clearing of any such contracts (and not of contracts generally) by the Corporation, infringes on the intellectual property, contract or other rights of a third party (such claims or causes of action being collectively referred to as "DCM Price Claims"). Further, with respect to any DCM Price Claims, The NASDAQ OMX Group shall indemnify and be liable to the Corporation under the indemnification provisions set forth in Sections 5(b), 15(b), 15(c) and 19, as applicable, and if under Section 15(e) the indemnified party is the Corporation or any person entitled to indemnification under Section 15(b) in connection with a DCM Price Claim, references to an indemnifying party in such Section shall be references to The NASDAQ OMX Group.

(d) Limitation on Rights Conferred. The provisions of this Section 15 are not intended to confer any rights upon any person other than Corporation Indemnified Parties, the Market Indemnified Parties and each person, if any, who controls the Market within the meaning of Section 13(b) of the CEA.

(e) Rights and Duties When Action Commenced. Promptly after receipt by an indemnified party under Section 15(a)(ii), 15(b)(ii) or 15(c) hereof of notice of

commencement of any action, suit, litigation, claim or proceeding in which such indemnified party is made a party defendant, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under such Section, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under such Section. In case any such action is brought against any indemnified party, and it promptly notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume and control the defense thereof, with counsel chosen by it, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under such Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, but the indemnified party may, at its own expense, participate in such defense by counsel chosen by it, without, however, impairing the indemnifying party's control of the defense. The indemnifying party may negotiate a compromise or settlement of any such action, provided that such compromise or settlement does not require a contribution by the indemnified party or have a material adverse impact on the business of the indemnified party. As used in this Section 15, the words "party defendant" shall include a counter-defendant, cross-defendant, respondent, and any other capacity in which a claim is asserted against an indemnified party.

Section 16. Notices.

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) three business days after having been mailed by first class registered mail, return receipt requested, postage and registry fees prepaid to the address set forth below, (c) under Section 3(e), when sent by e-mail without notice to the sender from a server that delivery of the e-mail has been delayed or has failed, and if such notice is received, then notice shall not be deemed duly given until the e-mail is sent without such notice, or (d) when sent by facsimile transmission to the facsimile number set forth below, provided that the burden of proving receipt of a facsimile will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine.

(i) If to the Corporation:

The Options Clearing Corporation
One North Wacker Drive, Suite 500
Chicago, IL 60606
Attn: General Counsel

Facsimile Number: 312-322-2593
Telephone Number: 312-322-6200

e-mail address for purposes of notices required
to be sent by e-mail pursuant to Section 3(e): nog@theooc.com

(ii) If to the Market:

NASDAQ Futures, Inc.
c/o The NASDAQ OMX Group, Inc.
1900 Market Street
Philadelphia Stock Exchange Building
Philadelphia, PA 19103
Attn: General Counsel

Facsimile Number: (215) 496-6729
Telephone Number: (215) 496-5406

Section 17. Miscellaneous.

This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Illinois. Neither this Agreement nor any term hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against which enforcement of such change, waiver, discharge or termination is sought. All of the terms of this Agreement, whether so expressed or not, shall be binding upon the respective successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned by either party hereto without the prior written consent of the other party, but a merger, consolidation, reorganization or reincorporation by, or sale of all or substantially all of the assets of, either party shall not require the consent of the other party so long as the successor entity or transferee is qualified to carry on the business contemplated herein. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein. The headings of this Agreement are for the purpose of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together constitute one and the same instrument. Terms used in this Agreement (whether or not initially capitalized) that are defined in the By-Laws and Rules of the Corporation have the meanings given to them in the By-Laws and Rules, unless expressly defined otherwise in this Agreement or unless the context requires a different meaning.

Section 18. Breach of Agreement – Termination.

(a) Breach by Corporation of Section 6 or Section 7. If the Corporation, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of Section 6 or Section 7 hereof, and if as a result of such breach transactions in Cleared Contracts effected on the Market and submitted to the Corporation for clearing are not timely cleared, then the Market may terminate this Agreement upon written notice to the Corporation.

(b) Other Grounds for Termination. The Corporation shall cease clearing Cleared Contracts for the Market and this Agreement shall terminate forthwith if (i)(A) the Market ceases to meet any legal or regulatory requirement necessary to list and trade Commodity Contracts following the Effective Date, (B) the Market terminates the trading of all Cleared Contracts, or (C) the representations of the Market in clause (c), (d) or (e) of Section 1 hereof cease to be accurate, or (ii)(A) the Corporation ceases to be registered as a derivatives clearing organization, or (B) its By-Laws or Rules cease to be in full force and effect in a material respect. The Corporation may cease clearing Cleared Contracts for the Market and terminate this Agreement upon at least 30 days prior written notice if the Market is in violation of this Agreement in any material respect, the Corporation provides the Market with written notice of the violation, and the Market fails to cure the violation within 30 days of receipt of the written notice describing the violation. The Market may terminate this Agreement at any time by giving the Corporation at least 60 days prior written notice; provided, however, that the Market shall to the best of its ability ensure that a secondary market is maintained in each series of Cleared Contracts that it has previously opened for trading until the expiration date of each such series, so that it remains possible for Clearing Members to clear through the Corporation transactions closing out positions in each such series that were open at the time of termination hereof. In addition, the Corporation may terminate this Agreement at any time by giving the Market at least 365 days (i.e., one year) prior written notice.

(c) Transfer of Open Positions to Successor Clearing Organization. If this Agreement is terminated and the Market makes alternative clearing arrangements for transactions in Cleared Contracts executed on the Market thereafter, the Corporation, at the request of any Clearing Member and upon payment of a clearing fee of 7 cents per contract, shall enter into an assignment and assumption agreement satisfactory in form and substance to the Corporation wherein (i) the Corporation assigns to the Market's successor clearing organization (the "Successor") all of the Corporation's right, title and interest in and to such of the Clearing Member's open positions in Cleared Contracts traded on the Market as the Clearing Member may specify, (ii) the Successor assumes all of the Corporation's obligations in respect of such open positions, and (iii) the Successor and such Clearing Member agree to indemnify the Corporation and hold the Corporation harmless against any liability or obligation in respect of such open positions arising from and after the effective time of such assignment and assumption.

Section 19. Survival of Obligations.

Notwithstanding the termination of this Agreement, (a) the Corporation shall continue to be obligated with respect to any confirmed trade that it shall have accepted for clearance as a result of transactions effected on the Market before the date of termination, and (b) the obligation of the Market to indemnify the Corporation pursuant to Section 15(b) hereof and the obligation of the Corporation to indemnify the Market pursuant to Section 15(a) hereof shall survive such termination.

Section 20. Dispute Resolution.

If a dispute arises between employees of the Market and employees of the Corporation relating to the clearing services that are the subject of this Agreement, and the most senior employee actively involved in the dispute on behalf of a party (in either case, the "Senior Disputant") believes that the Corporation's timely and unimpeded conduct of clearing services for the Market is threatened by the unresolved dispute, the Senior Disputant may notify the other party that a dispute exists. Such notice having been given, the Senior Disputant of each party shall without delay notify the Chief Executive Officer of such party, or if the Chief Executive Officer is not immediately available, the most senior officer of such party that is immediately available (in either case, the "Responsible Officer"), that a dispute exists between the parties. The Responsible Officers of the two parties shall thereupon endeavor in good faith to resolve the dispute and to mitigate its deleterious effects and shall confer with each other to those ends. For the judicial resolution of disputes the parties consent to the exclusive jurisdiction of the United States District Court in Chicago, Illinois, if such court has subject matter jurisdiction over the dispute; otherwise, the courts of Illinois situated in Chicago shall have exclusive jurisdiction. Each party waives any objection which it may have at any time to the laying of venue of any proceedings brought in any such court, waives any claim that such proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such proceedings, that such court does not have any jurisdiction over such party.

Section 21. Notice of Regulatory Action.

Each of the Corporation and the Market shall notify the other party of any action taken by a regulatory body or agency that, in the judgment of the party subject to such action, has or will have a material adverse effect on such party's performance of its obligations under this Agreement.

Section 22. System Redundancy, Disaster Recovery.

The Corporation maintains, and will continue to maintain, appropriate facilities for system redundancy and disaster recovery, subject to the general oversight of the SEC.

Section 23. Limitation of Liability.

(a) Neither party shall be liable under any circumstances for incidental, consequential or special damages sustained by the other party under this Agreement, whether or not such damages relate to services covered by this Agreement, even if the party against which an award of damages is sought has been advised of the possibility of such damages; provided, however, that this Section 23 is not intended to limit the indemnification provisions of Section 15 or any other indemnification provisions in this Agreement to the extent that such provisions would otherwise cover incidental, consequential or special damages asserted by third parties against an indemnified party.

(b) Neither party shall be liable for its inability to perform its obligations under this Agreement when such inability arises out of causes beyond its control, including, without limitation, any act of God, act of war or terrorism, accident, labor dispute, or the failure of any third party to provide any electronic, telecommunication or other service used in connection with

the services covered by this Agreement. Each party agrees to notify the other promptly upon learning that any such event has occurred and shall cooperate with the other, upon request, in arranging alternative procedures and in otherwise taking reasonable steps to mitigate the effects of any inability to perform or any delay in performing.

Section 24. Effectiveness of Agreement.

On the Effective Date, and as conditions to the effectiveness of this Agreement, the CFTC and, with respect to the Corporation, the SEC shall have approved the rule change filed in respect of this Agreement or allowed such rule change to become effective; the Market shall deliver to the Corporation a certificate of a senior officer, in form and substance satisfactory to the Corporation, to the effect that the representations of the Market set forth in Section 1 hereof are true and accurate on such date, and the Corporation shall deliver to the Market a certificate of a senior officer, in form and substance satisfactory to the Market, to the effect that the representations of the Corporation set forth in Section 2 hereof are true and accurate on such date. The "Effective Date" of this Agreement shall be _____, 2014, or, if later, the date when the Market begins trading Commodity Contracts, but shall in no event be earlier than the first date on which all conditions exist such that the representations to be made under Sections 1 and 2 would be true.

Section 25. Nonexclusive Agreement.

This Agreement is nonexclusive and nothing in this Agreement shall prevent the Market from obtaining clearing arrangements from another party during the term of this Agreement or thereafter for Commodity Contracts (as defined in Section 1) traded on the Market.

Section 26. Off-Exchange Trades.

The Corporation shall not treat a block trade, an exchange-for-physical ("EFP") or any other off-exchange trade (collectively, "block trade") as a non-competitively executed trade subject to Article XII, Section 7 of the Corporation's By-Laws (Acceptance of Non-Competitively Executed Trades) if the Market satisfactorily represents to the Corporation that the Market has policies, procedures and systems in place that require each block trade that is submitted to the Corporation to be executed at a competitive price. If the Market provides such satisfactory representations to the Corporation and submits a block trade at an uncompetitive price, it shall immediately notify the Corporation of such unreasonably priced trade and instruct the Corporation to disregard such trade pursuant to Article VI, Section 7(c) of the Corporation's By-Laws. In the event any of the Market's rule(s) regarding block trades are changed, the Market will notify the Corporation in writing prior to the time such rule change is submitted to the applicable regulatory authority.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

THE OPTIONS CLEARING CORPORATION

By: _____

Name:

Title:

NASDAQ FUTURES, INC.

By: _____

Name:

Title:

The NASDAQ OMX Group, Inc., for good and valuable consideration, is signing this Agreement for Clearing and Settlement Services in order to become a party to said Agreement for the limited purpose of acknowledging, accepting and agreeing to its position as a provider of indemnification, jointly and severally with the Market, with respect to: the DCM Price Claims.

The NASDAQ OMX GROUP, INC.

By: _____

Name:

Title:

SCHEDULE A
DESCRIPTION OF CLEARING AND SETTLEMENT SERVICES

In accordance with the terms of this Agreement, the Corporation shall perform the following clearing functions:

(1) Trade Acceptance. The Corporation shall receive confirmed trade submissions from the Market in accordance with the By-Laws, Rules, and procedures of the Corporation as in effect from time to time. The Market acknowledges that, as of the Effective Date, the procedures of the Corporation require that trade submissions on any business day be received no later than 5:00 pm Central Time, so that receipt of confirmed trade submissions after such time will require the further agreement of the Corporation, which may be withheld by the Corporation for any reason.

(2) Transfers. The Corporation shall effect the transfer of positions between Clearing Members in accordance with the By-Laws, Rules and procedures of the Corporation as in effect from time to time.

(3) Position Maintenance and Settlement. On a daily basis the Corporation shall calculate and collect original margin and variation margin on Cleared Contract trades and positions, and margin on positions in futures options, in the accounts of Clearing Members. The Corporation shall settle the gains and losses associated with Cleared Contract trades and positions in the accounts of members at least once each business day.

(4) Information for Clearing Members. The Corporation will make available to each Clearing Member on every business day with respect to Cleared Contracts in each account of such Clearing Member with the Corporation information in accordance with OCC's By-Laws and Rules as currently in effect.

(5) Pay/Collect. The Corporation will determine every Clearing Member's financial obligations to the Corporation each business day and require or make such payments as are necessary to discharge any balance owing in accordance with the Corporation's By-Laws and Rules.

(6) CMTA and/or Allocation Transactions. The Corporation will make the ENCORE system available to Clearing Members that are members of the Market for processing of CMTA and/or allocation transactions.

SCHEDULE B INFORMATION SHARING

I. Information Provided by the Corporation to the Market

A. Information provided each trading day

The Corporation will provide the Market with its Data Distribution Service information in respect of Cleared Contracts on each trading day for regulatory and financial surveillance purposes and for purposes of reporting under CFTC Regulations 16.00 and 16.01.

B. Information provided on an occurrence basis

1. Notice of (a) any Clearing Member default or (b) any suspension of, termination of, ceasing to act for, or liquidation of, any Clearing Member by the Corporation, if, in either case, the Clearing Member is a member of the Market
2. Notice of any disciplinary action taken by the Corporation against a Clearing Member that is a member of the Market involving material non-compliance with financial or financial reporting requirements or material violation of the rules of the Corporation that result in a default or suspension of the clearing member.

OCC shall be deemed to have satisfied its notification obligations pursuant to Paragraphs I.B.1 and I.B.2 above by posting the requisite notice on its public website.

C. Information provided upon request

1. Results of margin stress-tests performed on Clearing Members who are members of the Market when requested by the Market on a Clearing Member-by-Clearing Member basis
2. The Corporation agrees that the Market shall have the right during normal business hours to examine the Corporation's books, accounts, data base, pay/collect and other records, and at the Market's own expense to copy or make extracts from such documents and records and to utilize such data base; provided, however, that the Market shall have no such right with regard to transactions on any other futures market, security futures market or Options Exchange or which is otherwise competitive information of another futures market, security futures market or Options Exchange except insofar as (a) such transactions are entered into by members of the Market and are relevant to the Market's assessment of the financial condition of such member or (b) is necessary to protect the integrity of the Market.

II. Information to be provided by the Market to the Corporation

The Market agrees that whenever, in the performance of its functions of monitoring compliance by its members with the financial responsibility standards established by the Market or the financial responsibility standards established by the SEC or the CFTC, it shall determine that (A) a Clearing Member is not in compliance with such standards, or (B) a Clearing Member is not in

compliance with the financial responsibility standards established by the Corporation for its Clearing Members, or (C) the financial condition of a Clearing Member is such that special restrictions should be imposed on such Clearing Member, or (D) the financial condition of a Clearing Member should be reported to the Securities Investor Protection Corporation, the SEC, the CFTC or any other regulatory body, the Market shall notify the Corporation thereof by telephone immediately following the making of such determination and shall continue to keep the Corporation reasonably informed of the results of the Market's financial surveillance activities in respect of such Clearing Member so long as the Clearing Member is subject to any such special restrictions. The Market further agrees to furnish to the Corporation a copy of all written materials that are furnished to the financial surveillance committee of the Market (the "Committee") respecting a Clearing Member, provided that if the Market does not have a Committee, it hereby agrees to furnish the Corporation with a copy of all written materials respecting the financial condition of a Clearing Member relating to circumstances described in clauses (A) through (D) of the preceding sentence prepared for the management authority of the Market exercising financial surveillance or similar functions (the "management authority"). Such written materials shall be delivered to the Corporation as promptly as practicable, but in no event later than 2:00 p.m. Central Time on the business day next following the day on which such materials are furnished to the Committee or the management authority; provided that upon the oral or written request of the Corporation, the Market shall make such materials available for pickup by the Corporation at the same time as they are furnished to the Committee or management authority. If the Market has a Committee, it also agrees (i) to notify the Corporation by telephone of each special or emergency meeting of the Committee (or regular meeting of the Committee called on less than 48 hours notice) concerning a Clearing Member prior to the commencement of such meeting, (ii) to advise the Corporation at the time of such notification as to the reasons for and purposes of such meeting, and (iii) to report by telephone to the Corporation immediately following the end of each meeting of the Committee (whether a regular or special or emergency meeting) as to the conclusions (if any) reached at such meeting concerning any Clearing Member and the reasons therefor. If the Market does not have a Committee, it also agrees to notify the Corporation of any action or proposed action concerning the financial condition of a Clearing Member to be taken by the management authority and the reasons therefor immediately upon making a determination concerning such Clearing Member.

Notwithstanding the provisions of Section 16 of this Agreement, any notice, written materials or telephone communication required to be furnished to the Corporation by this provision shall be delivered or made to any one of the Executive Chairman, or the President of the Corporation, or in case of the absence or unavailability of all of them, then to any Executive Vice President or Senior Vice President of the Corporation.

Schedule C-[]

INTRODUCTION OF UNDERLYING INTEREST: [identify underlying interest]

[Date]

1. This is one of the Schedules C referred to in Section 3(a)(ii) and (iii) of the Agreement for Clearing and Settlement Services dated as of _____, 2014 (the "Agreement") between NASDAQ Futures, Inc. (the "Market") and The Options Clearing Corporation (the "Corporation"). When completed and duly executed by the parties, this Schedule C shall be incorporated into the Agreement and become a part thereof. Terms used herein and defined in the Agreement shall have the meanings they are given in the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Schedule as of the date first above written.

NASDAQ FUTURES, INC.

THE OPTIONS CLEARING CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title: