



October 21, 2014

**VIA CFTC PORTAL**

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

**Re: Rule Filing SR-OCC-2014-18 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**

The purpose of this proposed rule change is to provide that OCC’s President will be its Chief Operating Officer, rather than its Chief Executive Officer, and that the President will not be a Management Director. These changes are proposed to be made in connection with the resignation of OCC’s former President and Chief Executive Officer, a transition plan that includes the election of OCC’s current Chief Operating Officer as President and Chief Operating Officer, and the appointment of an Ad Hoc Search Committee to identify an appropriate candidate to become OCC’s Chief Executive Officer (collectively, the “Transition Plan”). OCC’s Board of Directors has determined that in light of the resignation of the former President and Chief Executive Officer and the election of the current Chief Operating Officer as President, the positions of President and Chief Executive Officer should be separated and the position of President should instead be combined with the position of Chief Operating Officer. To reflect this change, OCC is proposing to revise Section 8 of Article IV of its By-Laws to state that the President will be OCC’s Chief Operating Officer, rather than its Chief Executive Officer.

While OCC's existing By-Laws provide that the President, who is also the Chief Executive Officer, serves as a Management Director on OCC's Board of Directors, given the separation of the President and Chief Executive Officer positions and the pending search for a new Chief Executive Officer, OCC's Board of Directors has also determined that the President should not be a Management Director. Accordingly, OCC proposes to amend its By-Laws such that the President is not a Management Director. To reflect this change, OCC is proposing to revise Section 7 of Article III of its By-Laws to refer only to the Executive Chairman, and not the President, as a Management Director. OCC also proposes to make a conforming revision to Section 8 of Article IV of its By-Laws to state that the President will not preside at meetings of the Board of Directors or the stockholders in the absence or disability of the Executive Chairman and the Management Vice Chairman because the President will no longer serve as a Management Director.

OCC is also proposing amendments to its Stockholder Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. In each case, conforming changes would be made to provide that only the Executive Chairman, not the President, will serve as a Management Director.

Once a replacement Chief Executive Officer has been elected by the Board of Directors, OCC intends to reconsider the appropriate number of Management Directors. The currently proposed rule change represents a short-term measure to implement the Transition Plan, and OCC does not intend a permanent change in the composition of the Board of Directors. Therefore, once OCC's Board of Directors has elected a Chief Executive Officer, OCC would propose further changes to its By-Laws, Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. OCC believes that the short-term flexibility reflected in the foregoing changes will assist OCC and its Board of Directors in implementing the Transition Plan efficiently and governing OCC effectively.

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 Principles as potentially being impacted:

**Public Information.** OCC believes that by implementing the proposed rule change it will be better able to provide market participants with information to identify and evaluate OCC's governance structure. The proposed rule change, including the amended Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others, will be posted on OCC's public website thereby providing the public with relevant information regarding OCC's operations.

#### Opposing Views

No opposing views were expressed related to the rule amendments.

Melissa Jurgens  
October 21, 2014  
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Notice of Pending Rule Certification

OCC hereby certifies that notice of this rule filing has been 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.

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,



Stephen Szarmack  
Vice President & Associate General Counsel

Enclosure

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

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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**

This proposed rule change by The Options Clearing Corporation (“OCC”) would revise OCC’s By-Laws to provide that OCC’s President will be its Chief Operating Officer, rather than its Chief Executive Officer, and that the President will not be a Management Director. Conforming amendments are also proposed to OCC’s Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others.

Material proposed to be added to OCC’s By-Laws as currently in effect is underlined and material proposed to be deleted is enclosed in bold brackets. The Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others, with changes marked where relevant, are attached hereto as Exhibits 5A through 5C, respectively.

**THE OPTIONS CLEARING CORPORATION****BY-LAWS**

\* \* \*

**ARTICLE III****BOARD OF DIRECTORS**

\* \* \*

**Management Directors**

**SECTION 7.** The Executive Chairman of the Corporation [and the President of the Corporation], by virtue of holding [their respective] his office[s], shall be elected as a Management Director[s] by the stockholders at each annual meeting of the stockholders. [Each] A Management Director shall serve until the annual meeting of stockholders following his election or appointment as Management Director, and until his successor is elected and appointed and qualified, or until his earlier death, disqualification, resignation or removal. If a Management Director shall cease to hold the office by virtue of which he was elected as a

Management Director, he shall simultaneously be disqualified to serve as a Management Director.

\* \* \*

## ARTICLE IV

### OFFICERS

#### Selection by Board of Directors

SECTION 1. An Executive Chairman of the Board [and a President], who shall [each] by virtue of his office be a Management Director of the Corporation, shall be elected by the Board of Directors from among the full-time employees of the Corporation. A Vice Chairman of the Board shall be elected by the Board of Directors from among the Member Directors. Such Vice Chairman shall be referred to as the Member Vice Chairman. The Board of Directors shall also elect a Secretary and a Treasurer, none of whom need be a member of the Board of Directors at the time of such election. The Board of Directors may, but need not, elect a Management Vice Chairman or one or more Vice Presidents or such other officers as it may from time to time determine are required for the efficient management and operation of the Corporation. An officer shall hold his office for one year and until his successor is elected and qualified or until his earlier death, resignation or removal. Two or more offices may be held by the same person except the offices of Executive Chairman of the Board, President and Member Vice Chairman.

\* \* \*

#### President

SECTION 8. The Board of Directors shall elect a President of the Corporation who shall be its Chief [Executive Officer] Operating Officer. The President shall be responsible for all aspects of the business of the Corporation that do not report directly to the Executive Chairman, shall administer the day to day affairs and business of the Corporation in accordance with the directions of the Executive Chairman and shall have supervision of the officers and agents appointed by him. In the absence or disability of the Executive Chairman and the Management Vice Chairman, the President shall fulfill the duties and have the powers of the Executive Chairman, [including presiding] except that the President shall not preside at meetings of the Board of Directors or the stockholders.

\* \* \*

**Item 2. Procedures of the Self-Regulatory Organization**

Under Article XI, Section 1 of OCC's By-Laws, certain By-Laws, including Article III, may not be amended by the Board without the approval of the holders of all of the outstanding common stock of OCC. The proposed rule change was approved for filing with the Commission by the stockholders and the Board of Directors of OCC at a meeting held on September 19, 2014.

Questions regarding the proposed rule change should be addressed to Stephen 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**

The purpose of this proposed rule change is to provide that OCC's President will be its Chief Operating Officer, rather than its Chief Executive Officer, and that the President will not be a Management Director. These changes are proposed to be made in connection with the resignation of OCC's former President and Chief Executive Officer, a transition plan that includes the election of OCC's current Chief Operating Officer as President and Chief Operating Officer, and the appointment of an Ad Hoc Search Committee to identify an appropriate candidate to become OCC's Chief Executive Officer (collectively, the "Transition Plan").

OCC's Board of Directors has determined that in light of the resignation of the former President and Chief Executive Officer and the election of the current Chief Operating Officer as President, the positions of President and Chief Executive Officer should be separated and the position of President should instead be combined with the position of Chief Operating Officer. To reflect this change, OCC is proposing to revise Section 8 of Article IV of its By-Laws to state that the

President will be OCC's Chief Operating Officer, rather than its Chief Executive Officer.

While OCC's existing By-Laws provide that the President, who is also the Chief Executive Officer, serves as a Management Director on OCC's Board of Directors, given the separation of the President and Chief Executive Officer positions and the pending search for a new Chief Executive Officer, OCC's Board of Directors has also determined that the President should not be a Management Director. Accordingly, OCC proposes to amend its By-Laws such that the President is not a Management Director. To reflect this change, OCC is proposing to revise Section 7 of Article III of its By-Laws to refer only to the Executive Chairman, and not the President, as a Management Director. OCC also proposes to make a conforming revision to Section 8 of Article IV of its By-Laws to state that the President will not preside at meetings of the Board of Directors or the stockholders in the absence or disability of the Executive Chairman and the Management Vice Chairman because the President will no longer serve as a Management Director.

OCC is also proposing amendments to its Stockholder Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. In each case, conforming changes would be made to provide that only the Executive Chairman, not the President, will serve as a Management Director.

Once a replacement Chief Executive Officer has been elected by the Board of Directors, OCC intends to reconsider the appropriate number of Management Directors. The currently proposed rule change represents a short-term measure to implement the Transition Plan, and OCC does not intend a permanent change in the composition of the Board of Directors. Therefore, once OCC's Board of Directors has elected a Chief Executive Officer, OCC would propose further changes to its By-Laws, Stockholders Agreement, Board of Directors Charter

and Fitness Standards for Directors, Clearing Members and Others. OCC believes that the short-term flexibility reflected in the foregoing changes will assist OCC and its Board of Directors in implementing the Transition Plan efficiently and governing OCC effectively.

B. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(C) of the Securities Exchange Act of 1934, as amended (the “Act”),<sup>1</sup> and the rules and regulations thereunder, because the proposed modifications would help ensure that OCC’s By-Laws assure a fair representation of its stockholders and participants in the selection of its directors and administration of its affairs by amending OCC’s By-Laws to reflect implementation of the Transition Plan. In particular, the proposed rule change would ensure that during the implementation of the Transition Plan OCC’s Executive Chairman is its only Management Director, permitting consideration of the appropriate number of Management Directors. OCC believes, therefore, that the proposed rule change is consistent with Section 17A(b)(3)(C) of the Act. The proposed rule change is not inconsistent with the existing rules of OCC, including any other 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 any burden on competition.<sup>2</sup> Changes to the rules of a clearing agency may have an impact on the participants in a clearing agency and the markets that the clearing agency serves. This proposed rule change primarily affects OCC in that it amends certain By-Laws governing OCC’s management structure. The proposed modifications would not unfairly inhibit access to OCC’s services or

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<sup>1</sup> 15 U.S.C. 78q-1(b)(3)(C).

<sup>2</sup> 15 U.S.C. 78q-1(b)(3)(I).

disadvantage or favor any particular user in relationship to another user because they relate to OCC governance issues and would not impose any additional substantive burden on clearing members or other OCC participants.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies and would not impose a burden on competition.

**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**

OCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.

**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)**

Not applicable.

**Item 8. Proposed Rule Change Based on Rules 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 the proposed rule change for publication in the Federal Register.

Exhibit 5A. Amendment No. 12 to Stockholders Agreement.

Exhibit 5B. Board of Directors Charter.

Exhibit 5C. Fitness Standards for Directors, Clearing Members and Others.

**SIGNATURES**

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

**THE OPTIONS CLEARING CORPORATION**

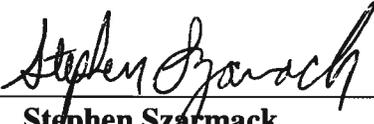
By:  \_\_\_\_\_  
**Stephen Szarmack**  
**Vice President and Associate General Counsel**

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-[\_\_\_\_\_]; File No. SR-OCC-2014-18)

October 21, 2014

Clearing Agency; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change to Provide that The Options Clearing Corporation's President Will be its Chief Operating Officer, and that the President Will Not be a Management Director

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder<sup>2</sup> notice is hereby given that on October 21, 2014, 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

This proposed rule change by OCC would revise OCC's By-Laws to provide that OCC's President will be its Chief Operating Officer, rather than its Chief Executive Officer, and that the President will not be a Management Director. Conforming amendments are also proposed to OCC's Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others.

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

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 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

The purpose of this proposed rule change is to provide that OCC's President will be its Chief Operating Officer, rather than its Chief Executive Officer, and that the President will not be a Management Director. These changes are proposed to be made in connection with the resignation of OCC's former President and Chief Executive Officer, a transition plan that includes the election of OCC's current Chief Operating Officer as President and Chief Operating Officer, and the appointment of an Ad Hoc Search Committee to identify an appropriate candidate to become OCC's Chief Executive Officer (collectively, the "Transition Plan"). OCC's Board of Directors has determined that in light of the resignation of the former President and Chief Executive Officer and the election of the current Chief Operating Officer as President, the positions of President and Chief Executive Officer should be separated and the position of President should instead be combined with the position of Chief Operating Officer. To reflect this change, OCC is proposing to revise Section 8 of Article IV of its By-Laws to state that the President will be OCC's Chief Operating Officer, rather than its Chief Executive Officer.

While OCC's existing By-Laws provide that the President, who is also the Chief Executive Officer, serves as a Management Director on OCC's Board of Directors, given the separation of the President and Chief Executive Officer positions and the pending search for a new Chief Executive Officer, OCC's Board of Directors has also determined that the President should not be a Management Director. Accordingly, OCC proposes to amend its By-Laws such that the President is not a Management Director. To reflect this change, OCC is proposing to revise Section 7 of Article III of its By-Laws to refer only to the Executive Chairman, and not the President, as a Management Director. OCC also proposes to make a conforming revision to Section 8 of Article IV of its By-Laws to state that the President will not preside at meetings of the Board of Directors or the stockholders in the absence or disability of the Executive Chairman and the Management Vice Chairman because the President will no longer serve as a Management Director.

OCC is also proposing amendments to its Stockholder Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. In each case, conforming changes would be made to provide that only the Executive Chairman, not the President, will serve as a Management Director.

Once a replacement Chief Executive Officer has been elected by the Board of Directors, OCC intends to reconsider the appropriate number of Management Directors. The currently proposed rule change represents a short-term measure to implement the Transition Plan, and OCC does not intend a permanent change in the composition of the Board of Directors. Therefore, once OCC's Board of Directors has elected a Chief Executive Officer, OCC would propose further changes to its By-Laws, Stockholders Agreement, Board of Directors Charter and Fitness Standards for Directors, Clearing Members and Others. OCC believes that the short-

term flexibility reflected in the foregoing changes will assist OCC and its Board of Directors in implementing the Transition Plan efficiently and governing OCC effectively.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(C) of the Act,<sup>3</sup> and the rules and regulations thereunder, because the proposed modifications would help ensure that OCC's By-Laws assure a fair representation of its stockholders and participants in the selection of its directors and administration of its affairs by amending OCC's By-Laws to reflect implementation of the Transition Plan. In particular, the proposed rule change would ensure that during the implementation of the Transition Plan OCC's Executive Chairman is its only Management Director, permitting consideration of the appropriate number of Management Directors. OCC believes, therefore, that the proposed rule change is consistent with Section 17A(b)(3)(C) of the Act. The proposed rule change is not inconsistent with the existing rules of OCC, including any other 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 any burden on competition.<sup>4</sup> Changes to the rules of a clearing agency may have an impact on the participants in a clearing agency and the markets that the clearing agency serves. This proposed rule change primarily affects OCC in that it amends certain By-Laws governing OCC's management structure. The proposed modifications would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because they relate to OCC governance issues and would not impose any additional substantive burden on clearing

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<sup>3</sup> 15 U.S.C. 78q-1(b)(3)(C).

<sup>4</sup> 15 U.S.C. 78q-1(b)(3)(I).

members or other OCC participants.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies and would not impose a burden on competition.

(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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2014-18 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-2014-18. 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\\_14\\_18.pdf](http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_18.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-2014-18 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.<sup>5</sup>

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: \_\_\_\_\_

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<sup>5</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 5A.**

Amendments that would add material to OCC's Stockholders Agreement as currently in effect are marked by underlining and deletions are enclosed in bold brackets. The amendments will become effective upon the latter of execution by all parties named below or receipt of all necessary approvals of the Commission.

\* \* \*

**AMENDMENT NO. 12**

**TO**

**STOCKHOLDERS AGREEMENT**

AGREEMENT, dated as of this \_\_\_\_ day of October, 2014, among THE OPTIONS CLEARING CORPORATION, a Delaware corporation (the "Clearing Corporation"), CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED, a Delaware corporation ("CBOE"), INTERNATIONAL SECURITIES EXCHANGE, LLC, a Delaware limited liability company ("ISE"), NASDAQ OMX PHLX LLC, a Delaware limited liability company ("PHLX"), NYSE MKT LLC, a Delaware limited liability company ("NYSE MKT"), NYSE ARCA, INC., a Delaware corporation ("NYSE ARCA"), and such other stockholders of the Clearing Corporation as shall hereafter become parties to the Stockholders Agreement (as hereinafter defined) in the manner provided therein.

**W I T N E S S E T H:**

WHEREAS, the Clearing Corporation, CBOE, ISE, PHLX, NYSE MKT and NYSE ARCA are parties to a Stockholders Agreement dated January 3, 1975, as amended (the "Stockholders Agreement");

WHEREAS, the parties hereto desire to amend the Stockholders Agreement to reflect that the President of the Clearing Corporation will not serve as a Management Director, as was approved by the Board of Directors and the Stockholders of the Clearing Corporation on September 19, 2014;

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**1. Provisions for Governance and Nominating Committee.**

(a) Section 2 of the Stockholders Agreement is hereby amended to read as follows:

Section 2. Voting of Shares of Stock.

Each Stockholder agrees to vote, at each annual meeting of stockholders of the Clearing Corporation (or any other meeting of stockholders of the Clearing Corporation at which any of the matters specified in clauses (i) or (ii) of this Section 2 is submitted to a vote of stockholders), or any adjournments thereof, duly called and held during the term of this Stockholders Agreement, (i) all the shares of Class A Stock which such Stockholder is entitled to vote at such meeting in favor of the election of the individuals duly nominated by the Governance and Nominating Committee, or otherwise duly selected by the Clearing Members, as Member Directors in accordance with Section 5 of Article III of the By-Laws of the Clearing Corporation; and (ii) all the shares of Class B Stock which such Stockholder is entitled to vote at such meeting as part of the class in favor of (a) the election of the Executive Chairman of the Clearing Corporation [and the President of the Clearing Corporation] as a Management Director[s], and (b) if one or more Public Directors are to be elected at such meeting, the election of such person(s), not affiliated with any national securities exchange or national securities association or with any broker or dealer in securities, as the Governance and Nominating Committee shall have nominated, as Public Director(s).

(b) Section 3 of the Stockholders Agreement is hereby amended to read as follows:

Section 3. Proxy to Vote Shares of Stock

Each Stockholder agrees to, and does hereby, irrevocably appoint the Members of the Governance and Nominating Committee of the Clearing Corporation, or any one or more of them, as its attorney with the full power such Stockholder would have to represent such Stockholder at each annual meeting of stockholders of the Clearing Corporation (or any other meeting of stockholders of the Clearing Corporation at which any of the matters specified in clauses (i) or (ii) of this Section 3 is submitted to a vote of stockholders), or any adjournments thereof, duly called and held, for the purpose of voting on the following specified matters, and to vote on such matters as follows, and for no other purpose:

(i) To vote all of the shares of Class A Stock which such Stockholder is entitled to vote at such meeting in favor of the election of the individuals duly nominated by the Governance and Nominating Committee, or otherwise duly selected by the Clearing Members, as Member Directors in accordance with Section 5 of Article III of the By-Laws of the Clearing Corporation; and

(ii) To vote all of the shares of Class B Stock which such Stockholder is entitled to vote at such meeting as part of the class in favor of (a) the election of the Executive Chairman of the Clearing Corporation [and the President of the Clearing Corporation] as a Management Director[s] and (b) if one or more Public Directors are to be elected at such meeting, the election of such person(s), not affiliated with any national securities exchange or national securities association or with any broker or dealer in securities, as the Governance and Nominating Committee shall have nominated, as Public Director(s).

The power vested hereby is given in furtherance of the interest of each Stockholder and the Clearing Members to assure that the management of the Clearing Corporation is elected in accordance with the provisions of the By-Laws and to assure the effectuation of the purposes of the Plan, and this power shall remain outstanding for the term of this Stockholders Agreement.

**2. Counterpart Execution.**

This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**3. Effectiveness.**

This Agreement shall be effective upon the latter of:

- (i) execution by all of the parties named below, or
- (ii) receipt of all necessary approvals of the Securities and Exchange Commission

with respect to the changes to the By-Laws of the Clearing Corporation providing for, among other things, the formation of the Governance and Nominating Committee.

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

THE OPTIONS CLEARING CORPORATION

By:

\_\_\_\_\_  
Name:

Title:

CHICAGO BOARD OPTIONS EXCHANGE,  
INCORPORATED

By:

\_\_\_\_\_  
Name:

Title:

INTERNATIONAL SECURITIES EXCHANGE, LLC

By:

\_\_\_\_\_  
Name:

Title:

NASDAQ OMX PHLX LLC

By:

\_\_\_\_\_  
Name:

Title:

NYSE MKT LLC

By:

\_\_\_\_\_  
Name:

Title:

NYSE ARCA, INC.

By:

\_\_\_\_\_  
Name:

Title:

**EXHIBIT 5B.****THE OPTIONS CLEARING CORPORATION  
BOARD OF DIRECTORS  
CHARTER****I. INTRODUCTION**

Oversight of the management of the business and affairs of The Options Clearing Corporation (“OCC” or the “Corporation”) is vested in its Board of Directors (the “Board”) except as may otherwise be provided in OCC’s Certificate of Incorporation or its by-laws and rules.<sup>1</sup> The Board discharges its responsibilities in a manner consistent with legal and regulatory requirements applicable to OCC and the expectations of OCC’s stakeholders (i.e., stockholders, clearing members, cleared markets, market participants, and regulatory authorities). In doing so, the Board exercises its authority to promote the safe, sound and efficient operation of OCC and the development of safe, sound and prudent principles for risk assessment, monitoring and management in light of OCC’s role as a systemically important financial market utility. Capitalized terms used in this Charter shall have the meanings set forth in OCC’s by-laws and rules unless otherwise indicated.

**II. MEMBERSHIP AND ORGANIZATION**

- A. Size and Composition. As provided for in the by-laws, the Board presently is comprised of two (2) Management Directors one of whom is the Executive Chairman of the Board [and the other of whom is the President]; five (5) Exchange Directors representing each of OCC’s Equity Exchanges (i.e., stockholders); nine (9) Member Directors representing OCC clearing members; and five (5) Public Directors.<sup>1</sup>
- B. Qualification Standards. As provided for in the by-laws, the Board has adopted certain criteria to be used by the Governance and Nominating Committee in considering nominees for service as a Director (i.e., a member of OCC’s Board). The Fitness Standards for Directors, Clearing Members and Others (“Fitness Standards”), as adopted and amended by the Board, set forth such criteria and is attached hereto. Such Fitness Standards are periodically reviewed by the Board. In addition, the by-laws set forth other considerations

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<sup>1</sup> For example, Article III, Section 8 of OCC’s by-laws states that the Board shall not take action in respect of matters as to which the Corporation has agreed to limit its authority under the provisions of its agreements with its Equity Exchanges. Such provisions include the requirement that amendment of certain by-law provisions requires the unanimous consent of OCC’s stockholders.

to be taken into account in the nomination of Member Directors for purposes of achieving balanced representation on the Board among Member Directors. Those considerations include the volume of business transacted with OCC during the prior year and the mix of Member Directors that are primarily engaged in agency trading on behalf of retail customers or individual investors.<sup>ii</sup>

- C. Election of Directors, Resignation and Disqualification. Election of the categories of Directors shall occur as provided in the by-laws. Resignations and disqualifications from the Board as well as the filling of any vacancy shall be addressed as provided in the by-laws.<sup>iii</sup>
- D. Tenure, Term and Age Limitations. The tenure of service of each category of Director is specified in OCC's by-laws. The Management Directors and the Exchange Directors are elected at each annual stockholder meeting. There are no term limitations with respect to such categories of Directors. Each class of Member Director and Public Director is elected to a term of three years subject to the term limitations set forth in the by-laws. No age limitations are imposed with respect to any category of Director.<sup>iv</sup>
- E. Vice Chairmen of the Board. If elected by the Board and serving, the Management Vice Chairman of the Board shall have the responsibilities and duties set forth in the by-laws in the event of the absence or disability of the Executive Chairman. The Member Vice Chairman, who is elected by the Board from the Member Directors, shall have the responsibilities and duties set forth in the by-laws, including those in the event of the absence or disability of the Executive Chairman and the Management Vice Chairman, if elected and serving.<sup>v</sup>
- F. Meetings. Generally, the Board regularly meets a minimum of five times per year. Directors are expected to attend all meetings of the Board, review all materials in advance and be prepared to participate fully in the meeting. Special meetings may be called as provided for in the by-laws. Briefing materials are generally distributed in advance of each Board meeting.<sup>vi</sup> The Executive Chairman of the Board, in consultation with the President as well as the Secretary, shall establish the agenda for each Board meeting. A Director may request that an item be included on any meeting agenda. The Executive Chairman may ask members of management or others to attend the meeting and provide pertinent information as is necessary. The Board may call executive sessions from which guests of the Board may be excluded. Directors may participate in meetings by means of a conference telephone call

or other means of communication that allows all participants in the meeting to hear each other.

- F. Quorum. Except as may otherwise be provided in the by-laws, a majority of the Directors then in office, but not less than six (6) Directors, shall constitute a quorum of the Board for the conduct of business.<sup>vii</sup>
- G. Minutes. The Secretary or such other person appointed by the Board will prepare the minutes of each meeting of the Board, which shall be furnished to the Directors for review.<sup>viii</sup>

### III. AUTHORITY

- A. Scope. Except as otherwise provided in the Certificate of Incorporation and the by-laws, the Board oversees the management of the business and affairs of OCC. As required by the by-laws, the Board annually elects certain corporate officers including the Executive Chairman (who is also a Management Director) of the Board and the President [(who are also the Management Directors)], the Secretary, and the Treasurer. Each of these officers has the authorities, responsibilities and duties set forth in the by-laws and rules and such other duties as may be delegated to them in accordance with the by-laws.<sup>ix</sup>

In discharging its oversight role, the Board may inquire into any matter it considers appropriate to carry out its duties and responsibilities. The Board shall confer with management and other employees of the Corporation to the extent it may deem necessary or appropriate to fulfill its duties.

The Board shall have the authority to hire specialists or rely upon other outside advisors or specialists to assist it in carrying out its activities. The Board also shall have the authority to approve the fees and retention terms applicable to such advisors and specialists.

- B. Board Committees and Delegation. The Board shall establish any standing and other committees that it deems necessary or appropriate to discharge its responsibilities. The Board presently has established four standing committees: the Audit Committee, the Risk Committee, Performance Committee, and the Governance and Nominating Committee.<sup>x</sup>

For each standing Committee the Board shall establish a written charter which shall set forth the responsibilities of that Committee, as well as Committee structure and operations, and any required reporting to the full Board. The Chairs of such Committees shall be determined in accordance with the terms

of the applicable Committee Charter and, if applicable, the by-laws. Subject to and as provided in the by-laws, the Board shall approve and annually review Committee assignments. Directors are expected to attend all meetings of Committees to which they are appointed, review all materials in advance and be prepared to participate fully in the Committee's meetings.

The Board may form such other committees, including subcommittees, as it from time to time deems appropriate, and may delegate authority to one or more designated members of such committees.

- C. Review of Charter. This Charter shall be periodically reviewed by the Board of Directors.

#### **IV. FUNCTIONS AND RESPONSIBILITIES**

The Board performs an oversight role to ensure that OCC is managed and operated in a manner consistent with the discharge of OCC's regulatory responsibilities in connection with its provision of clearance and settlement services as an industry utility. The Board is responsible for acting as a steward of OCC to make certain OCC has the critical capabilities necessary to achieve its objectives and obligations in a safe, sound, efficient and prudential manner.

Either directly or indirectly through delegating certain responsibilities to its Committees, the Board has the following functions to discharge its management oversight responsibilities:

- To oversee governance processes in a manner consistent with this Charter, including reviewing Committee charters and reports of Committee activities, effecting Committee appointments, and periodically evaluating the Fitness Standards;
- To approve and oversee OCC's business strategies, including expansions of clearing and settlement services to new business lines;
- To monitor OCC's performance in delivering clearance and settlement services;
- To oversee OCC's processes and framework for assessing, managing and monitoring strategic, financial and operational risk;
- To oversee OCC's financial reporting, auditing, accounting and compliance processes;
- To foster OCC's processes designed to ensure compliance with applicable laws and regulations and to conduct business in a legal and ethical manner;

- To oversee OCC's system of internal controls;
- To oversee major capital expenditures and to approve the annual budget and corporate plan;
- To assure management succession; and
- To oversee the development and design of employee compensation, incentive and benefit programs and to regularly evaluate senior management performance and approve the compensation of the Executive Chairman and President.

In addition, the Board shall perform such functions and responsibilities as set forth in OCC's by-laws and rules, including, but not limited to:

- Determining disqualifications from Board service and making appointments to fill vacancies among the Management Directors, Member Directors and Public Directors as specified in the by-laws<sup>xi</sup>;
- Electing designated corporate officers<sup>xii</sup>;
- Approving applications for clearing membership and initial contributions to the clearing fund of newly admitted clearing members, subject to the by-laws and rules<sup>xiii</sup>;
- Approving OCC's fee structure consistent with the by-law requirements as well as rebates, discounts and refunds of clearing fees<sup>xiv</sup>;
- Approving additions to, amendments of, and deletions from OCC's by-laws and rules subject to the provisions of the by-laws<sup>xv</sup>;
- Conducting convened hearings in connection with a denial of membership or a suspension determination<sup>xvi</sup>;
- Suspending a clearing member<sup>xvii</sup>; and
- Performing such other functions reserved to the Board under the by-laws and rules.

## V. DUTIES AND RESPONSIBILITIES OF DIRECTORS

Each Director is required to act in good faith in the best interests of OCC and with due regard to the fiduciary responsibilities owed to OCC as a business and systemically important financial market utility. In addition, each Director is required to comply with the provisions of the Code of Conduct for OCC Directors, including, without limitation, the provisions relating to conflicts of interest and confidentiality.

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- i Article III, Section 1.
  - ii Article III, Sections 2, 5, 6, 6A and 7.
  - iii Article III, Sections 5, 6, 6A, 7, 10, 11 and 12.
  - iv Article III, Sections 2, 6, 6A and 7; Article IV, Section 1.
  - v Article IV, Sections 1 and 7.
  - vi Article III, Section 14.
  - vii Article III, Section 13.
  - viii Article IV, Section 10.
  - ix Article III, Section 8; Article IV Sections 1, 2 and 5.
  - x Article III, Section 9.
  - xi See end note iii.
  - xii See end note ix.
  - xiii Article V, Section 2; Article VIII, Section 2.
  - xiv Article III, Section 8; Article IX, Section 9.
  - xv Article XI, Sections 1 and 2.
  - xvi Article V, Section 2; Rule 1110.
  - xvii Article III, Section 8; Rule 1102.

**EXHIBIT 5C.**

## The Options Clearing Corporation: Fitness Standards for Directors, Clearing Members and Others

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### The Options Clearing Corporation Fitness Standards

The Board of Directors and the stockholders of The Options Clearing Corporation (the "Corporation") have established qualification and fitness standards (the "Fitness Standards") for (i) directors, (ii) Clearing Members, and (iii) any person affiliated with a director or a Clearing Member. The criteria of the applicable Fitness Standards shall be used in nominating directors and in admitting Clearing Members or otherwise granting direct access to the settlement or clearing activities of the Corporation.

#### Fitness Standards for Directors

The Corporation's By-Laws contain governance standards designed to provide fair representation to stockholders and Clearing Members. The Board currently has 21 members consisting of nine Clearing Member directors ("Member Directors"), five directors nominated by the stockholder exchanges ("Exchange Directors"), five directors who are not affiliated with any national securities exchange, national securities association or broker or dealer in securities (the "Public Directors"), and two management directors, one of whom is the Corporation's Executive Chairman [and President] (the "Management Directors"). The Governance and Nominating Committee consists of at least one Public Director, at least one Exchange Director and at least one Member Director. All of the Governance and Nominating Committee members will be selected by the Board from among the directors recommended by the then-constituted Governance and Nominating Committee after consultation with the Executive Chairman and shall serve at the pleasure of the Board. The chairman of the Governance and Nominating Committee shall be designated by the Board from among the Public Director members of the Committee. Prior to each annual meeting of stockholders, the Governance and Nominating Committee nominates a slate of nominees for election to the class of Member Directors and the class of non-director members of the Committee whose terms expire at that meeting. Each Exchange Director serves a one-year term and is nominated by one of the five stockholder exchanges, although a single Exchange Director may represent more than one exchange. The Public Directors are divided into three classes, with two Class I Public Directors, one Class II Public Director, and two Class III Public Directors. Each Public Director is elected for staggered three-year terms (with the exception of: (i) the initial Class I Public Director who serves a one-year term ending in 2013 after which the Class I Public Director will be elected for a three-year term; (ii) the Class I Public Director first appointed or elected after the 2014 annual meeting who serves a term ending in 2016, after which the successor to such Class I Public Director will be elected for a three-year term at the 2016 annual meeting, and (iii) the Class III Public Director first appointed or elected after the 2014 annual meeting who serves a term ending in 2015, after which the successor to such Class III Public Director will be elected for a three year term at the 2015 annual meeting) and are nominated by the Executive Chairman, with the approval of the Board of Directors. The Management Directors, one of whom is [who are] the Corporation's Executive Chairman [and President], serve one-year terms. This governance structure was carefully designed to meet the statutory requirements of "fair representation" and facilitates the performance of the Corporation's role as a market utility.

The criteria below shall be used by the Committee, the stockholder exchanges, and the Board of Directors in considering nominees for election to the Board and service on the Disciplinary Committee.

*Criteria Applicable to all Directors*

- Characteristics essential for effectiveness as a member of the Board, including, but not limited to, integrity, objectivity, sound judgment, and leadership;
- Expertise and experience in an area relevant to governance of the Corporation, including, but not limited to: (i) strategic planning, such as new business development, expansion of markets, products and customers, and joint venture development; (ii) risk management relevant to risks such as credit, market, liquidity, operational, legal and regulatory compliance, payment systems, clearance and settlement, new products, risk modeling, risk valuation, and systemic risk management; (iii) technology, such as infrastructure, applications development and maintenance, information security, and disaster recovery; (iv) operations; (v) trading; (vi) business management; (vii) finance; (viii) audit; (ix) governmental and legislative relationship management; (x) compensation and human resources; and (xi) legal, regulatory, and compliance expertise.
- Substantial seniority in own firm;
- Knowledge of securities and/or futures industries;
- Appropriate educational credentials or other certifications;
- For current directors eligible for re-election, length of service on the Board and attendance, and participation, and contribution at Board and committee meetings; and
- Appropriate weight given to diversity factors.

In addition, no person shall be qualified to serve on the Board if such person:

- is subject to a “statutory disqualification” under Section 3(a)(39) of the Securities Exchange Act of 1934, as amended (the “Exchange Act”);
- may be refused registration under the Commodity Exchange Act (“CEA”) pursuant to Section 8a(2) of the CEA; or
- has a history of serious disciplinary offenses, including, but not limited to, those that would be disqualifying under Commodity Futures Trading Commission (“CFTC”) Regulation § 1.63.

*Additional Criteria for Member Directors*

- Balanced representation among all Clearing Members;
- Balanced representation of all business activities of Clearing Members;
- Nature of the firm with which each prospective director is associated;
- Industry affiliations;
- Assure that not all Member Directors are representatives of the largest Clearing Member Organizations based on the prior year’s volume; and

- Develop a mix of Member Directors that includes representatives of Clearing Member Organizations that are primarily engaged in agency trading on behalf of retail customers or individual investors.

*Additional Criteria for Exchange Directors*

- Ownership of common stock of the Corporation by the exchange nominating an Exchange Director.

*Additional Criteria for the Public Directors*

- No affiliation with any national securities exchange or national securities association or with any broker or dealer in securities, as stated in the Corporation's By-Laws.

**Fitness Standards for Clearing Members**

Clearing Members of the Corporation are subject to extensive regulation by either or both of the SEC and the CFTC, or, in the case of Non-U.S. Securities Firms, the regulatory authority of the country or countries in which the firm conducts business. Clearing Member applicants must be:

- Registered as a broker or dealer under the Exchange Act;
- A futures commission merchant registered under Section 4f(a)(1) of the CEA; or
- A Non-U.S. Securities Firm, as defined in the By-Laws.

The Risk Committee may refuse to admit any person as a Clearing Member if the person is subject to a "statutory disqualification" under Section 3(a)(39) of the Exchange Act. No person shall be qualified to be admitted as a Clearing Member if the person is subject to statutory disqualification under Section 8a(2)-(4) of the Commodity Exchange Act.

**Fitness Standards for Affiliates and Access Persons**

No person affiliated, within the meaning of Section 5b(c)(2)(O) of the CEA, with a director of the Corporation or a Clearing Member ("Affiliates") shall:

- meet criteria for refusal to register a person under Section 8a(2) of the CEA; unless
- the Risk Committee finds that there are special circumstances warranting the waiver of such disqualification with respect to the Affiliate.

With respect to Affiliates, the Board shall be entitled to rely on a certification from the relevant director or Clearing Member that, to the best of such person's knowledge, none of its affiliates is subject to disqualification pursuant to the Corporation's Fitness Standards and that such person will notify the Corporation if at any time such director or Clearing Member becomes aware that any such affiliate fails to meet the Fitness Standards.

Section 5b(c)(2)(O)(ii)(IV) of the CEA requires each derivative clearing organization ("DCO") to establish Fitness Standards for persons with direct access to the settlement or clearing activities of the DCO ("Access Persons"). The Corporation believes that there are presently no persons with such access other than the Clearing Members.