



August 2, 2013

VIA ELECTRONIC MAIL

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-2013-12 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 revise OCC’s By-Laws and Rules to make structural changes to OCC’s Membership/Risk Committee (“MRC”) regarding Public Directors¹ and the process for designating MRC members. The proposed rule change would require that at least one Public Director must serve on the MRC, that the MRC Chairman be a Public Director, and that all MRC members would be designated on an annual basis.

Currently, Article III, Section 9 of OCC’s By-Laws specifies that at the first meeting of the Board of Directors that follows each annual meeting the Board must designate the Chairman of the Board, the Vice Chairman of the Board, and at least three other Member Directors to serve on the MRC. The By-Laws would be modified to provide that at least one Public Director must

¹ In relevant part, Article III, Section 6A of OCC’s By-Laws defines a Public Director as a person who is “not affiliated with any national securities exchange or national securities association or with any broker or dealer in securities[.]”

serve on the MRC and that the MRC Chairman must be a Public Director. These modifications would correspond to OCC's existing practice of having at least one Public Director serve on the MRC, and OCC believes that including this requirement in the By-Laws would help ensure that the MRC will continue to operate in a manner that is appropriately free from outside influence and that therefore helps protect the interests of investors and the public.

The proposed rule change would also eliminate the requirement from the By-Laws that MRC members must be designated at the first meeting of OCC's Board of Directors that follows each annual meeting. Instead, the only timing requirement in the By-Laws would be for MRC members to be designated annually. OCC believes this change to the By-Laws would provide OCC's Board with appropriate flexibility to decide when it is best for new MRC member designations to be made.

As amended, Article III, Section 9 of OCC's By-Laws would provide that the Public Director(s) would be nominated to serve on the MRC by the Chairman of the Board and that any nomination would be subject to approval by the Board of Directors. Article III, Section 9 would also provide that the Chairman of the MRC would be required to be a Public Director. If more than one Public Director is nominated to serve on the MRC, the Chairman of the Board would nominate one of the Public Directors to serve as the MRC Chairman. Any such nomination by the Chairman of the Board would be subject to Board approval. OCC also proposes to make technical corrections in Article III, Section 9 to eliminate specific references to Article V of the By-Laws and Chapter VI of the Rules in order to avoid any erroneous inference that those are the only provisions of the By-Laws and Rules that set forth powers and duties of the MRC, which are in fact contained in many other provisions of the By-Laws and Rules as well.²

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:

Risk Management. OCC believes that by implementing the proposed rule change it will be better able to discharge its responsibilities with respect to risk management, as set forth in the DCO Core Principles. By having at least one public director serve on the MRC as well as requiring the MRC Chairman to be a public director, the MRC will continue to operate in a manner that is appropriately free from outside influence thereby facilitating OCC's monitoring and management of risks to which it is exposed.

Opposing Views

No opposing views were expressed related to the rule amendments.

² For example, see Article I, Section G.(6) of the By-Laws and Rules 214(b), 305(c), and 309(e).

Melissa Jurgens
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Notice of Pending Rule Certification

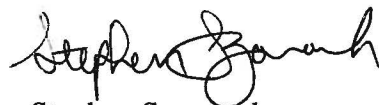
OCC hereby certifies that notice of this rule filing has been given to Clearing Members of OCC in compliance with Regulation 40.6(a)(2) by posting a copy of the submission on OCC's website concurrently with the filing of this submission.

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

SUBMISSION COVER SHEET

Registered Entity Identifier Code (optional) SR-OCC-2013-12 Date: August 2, 2013

IMPORTANT: CHECK BOX IF CONFIDENTIAL TREATMENT IS REQUESTED.

ORGANIZATION The Options Clearing Corporation

FILING AS A: DCM SEF DCO SDR ECM/SPDC

TYPE OF FILING

• Rules and Rule Amendments

- Certification under § 40.6 (a) or § 41.24 (a)
- “Non-Material Agricultural Rule Change” under § 40.4 (b)(5)
- Notification under § 40.6 (d)
- Request for Approval under § 40.4 (a) or § 40.5 (a)
- Advance Notice of SIDCO Rule Change under § 40.10 (a)

• Products

- Certification under § 39.5(b), § 40.2 (a), or § 41.23 (a)
- Swap Class Certification under § 40.2 (d)
- Request for Approval under § 40.3 (a)
- Novel Derivative Product Notification under § 40.12 (a)

RULE NUMBERS

Article III – Section 9

DESCRIPTION

OCC proposes to revise its By-Laws and Rules to make structural changes to OCC’s Membership/Risk Committee regarding Public Directors and the process for designating Membership/Risk Committee members.

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”) proposes to revise its By-Laws to require that at least one Public Director must serve on the Membership/Risk Committee, that the Membership/Risk Committee Chairman be a Public Director, and that all Membership/Risk Committee members would be designated on an annual basis. Material proposed to be added is marked by underlining. Material proposed to be deleted is enclosed in bold brackets.

THE OPTIONS CLEARING CORPORATION**BY-LAWS**

* * *

ARTICLE III**Board Directors**

* * *

Committees

SECTION 9. [At the first meeting of the Board of Directors following each annual meeting, the] On an annual basis, the Board of Directors shall [designate] appoint a Membership/Risk Committee, having the powers and duties set forth in the By-Laws and Rules and as delegated by the Board of Directors. The Membership/Risk Committee shall consist of the Chairman of the Board, the Member Vice Chairman, [of the Board, and] at least three other Member Directors [of the Corporation,] selected on a basis that shall not discriminate against any Exchange, and one or more Public Directors nominated by the Chairman of the Board and approved by the Board of Directors[to serve on a Membership/Risk Committee having the powers and duties set forth in Article V of these By-Laws and Chapter VI of the Rules]. The Chairman of the Membership/Risk Committee shall be a Public Director. If there are two or more Public Directors on the Membership/Risk Committee, the Chairman of the Board shall nominate, subject to the approval of the Board of Directors, one of the Public Directors to serve as the Membership/Risk Committee Chairman.

Subject to applicable law, the Certificate of Incorporation and the other provisions of these By-Laws, the Board of Directors, by resolution passed by a majority of the whole Board of Directors, may, but need not, designate persons to serve on such other committees as it may deem necessary and appropriate, may delegate one or more of its powers to such committees, and may fill any vacancy occurring in any such committee and may remove any member thereof for any reason.

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors at a meeting held on March 7, 2013 and the stockholders of OCC approved the proposed changes to Article III of the By-Laws on the same date.¹

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

The purpose of this proposed rule change is to revise OCC's By-Laws and Rules to make structural changes to OCC's Membership/Risk Committee ("MRC") regarding Public Directors² and the process for designating MRC members. The proposed rule change would require that at least one Public Director must serve on the MRC, that the MRC Chairman be a Public Director, and that all MRC members would be designated on an annual basis.

¹ Article XI, Section 1 of OCC's By-Laws provides that Article III may not be amended by the Board of Directors without the approval of the holders of all of the outstanding common stock of OCC.

² In relevant part, Article III, Section 6A of OCC's By-Laws defines a Public Director as a person who is "not affiliated with any national securities exchange or national securities association or with any broker or dealer in securities[.]"

Currently, Article III, Section 9 of OCC's By-Laws specifies that at the first meeting of the Board of Directors that follows each annual meeting the Board must designate the Chairman of the Board, the Vice Chairman of the Board, and at least three other Member Directors to serve on the MRC. The By-Laws would be modified to provide that at least one Public Director must serve on the MRC and that the MRC Chairman must be a Public Director. These modifications would correspond to OCC's existing practice of having at least one Public Director serve on the MRC, and OCC believes that including this requirement in the By-Laws would help ensure that the MRC will continue to operate in a manner that is appropriately free from outside influence and that therefore helps protect the interests of investors and the public.

The proposed rule change would also eliminate the requirement from the By-Laws that MRC members must be designated at the first meeting of OCC's Board of Directors that follows each annual meeting. Instead, the only timing requirement in the By-Laws would be for MRC members to be designated annually. OCC believes this change to the By-Laws would provide OCC's Board with appropriate flexibility to decide when it is best for new MRC member designations to be made.

As amended, Article III, Section 9 of OCC's By-Laws would provide that the Public Director(s) would be nominated to serve on the MRC by the Chairman of the Board and that any nomination would be subject to approval by the Board of Directors. Article III, Section 9 would also provide that the Chairman of the MRC would be required to be a Public Director. If more than one Public Director is nominated to serve on the MRC, the Chairman of the Board would nominate one of the Public Directors to serve as the MRC Chairman. Any such nomination by the Chairman of the Board would be subject to Board approval. OCC also proposes to make technical corrections in Article III, Section

9 to eliminate specific references to Article V of the By-Laws and Chapter VI of the Rules in order to avoid any erroneous inference that those are the only provisions of the By-Laws and Rules that set forth powers and duties of the MRC, which are in fact contained in many other provisions of the By-Laws and Rules as well.³

* * *

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F)⁴ of the Securities Exchange Act of 1934 (“Act”)⁵ and the rules and regulations thereunder, including Rule 17Ad-22(d)(8),⁶ because these requirements with respect to Public Directors in OCC’s By-Laws would protect investors and the public interest by promoting the continued operation of the MRC in a manner that is appropriately free from outside influence. By including in the By-Laws the existing practice of having at least one Public Director serve on the MRC and by further requiring that the MRC Chairman be a Public Director, the proposed modifications would help ensure that OCC’s governance arrangements are clear and transparent, fulfill the public interests requirements in Section 17A, support the objectives of owners and participants, and promote the effectiveness of OCC’s risk management procedures.⁷ OCC further believes that the proposed change to the By-Laws to require a Public Director to serve as the MRC Chairman is consistent with explanatory note 3.2.14 to Principle 2 of the Principles for

³ For example, see Article I, Section G.(6) of the By-Laws and Rules 214(b), 305(c), and 309(e).

⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁵ 15 U.S.C. 78a et. seq.

⁶ 17 C.F.R. 240.17Ad-22(d)(8).

⁷ Id.

Financial Market Infrastructures that recommends that a risk committee be chaired by a sufficiently knowledgeable independent board member.

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 that is not necessary or appropriate in furtherance of the purposes of the Act.⁸ With respect to any burden on competition among clearing agencies, OCC is the only clearing agency that performs central counterparty services for the options markets.

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 would require at least one Public Director to serve on the MRC, the MRC Chairman to be a Public Director, and all MRC members to be designated on an annual basis. OCC does not believe that these changes with respect to governance would treat any clearing member or group of clearing members disparately or otherwise disparately affect access to or use of any of OCC's facilities or disadvantage or favor any user in relationship to any other such user. In fact, OCC believes that the proposed requirement that at least one member be a Public Director and that the MRC Chairman be a Public Director would promote competition by lessening the influence that any particular clearing member may have on the MRC.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, that it would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose any burden on competition that is unnecessary or inappropriate in furtherance of the purposes of the Act because the changes would help

⁸ 15 U.S.C. 78q-1(b)(3)(I).

ensure that the MRC continues to operate in a manner that is appropriately free from outside influence and therefore help promote the purposes of the Act and Rule 17Ad-22(d)(8)⁹ thereunder as described above.

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.¹⁰

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

Not applicable.

Item 8. Proposed Rule Change Based on Rules for Another Regulatory Organization or of the Commission

The proposed rule change is not based on a rule change of another self-regulatory organization.

⁹ 17 C.F.R. 240.17Ad-22(d)(8).

¹⁰ 15 U.S.C. § 78s(b)(2).

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.

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 M. Szarmack
Vice President and
Associate General Counsel

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-[_____]; File No. SR-OCC-2013-12)

August 2, 2013

Clearing Agency; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change to Revise its By-Laws and Rules to Make Structural Changes to OCC's Membership/Risk Committee Regarding Public Directors and the Process for Designating Membership/Risk Committee Members

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 August 2, 2013, 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 proposes to revise its By-Laws and Rules to make structural changes to OCC's Membership/Risk Committee ("MRC") regarding Public Directors and the process for designating MRC members.

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 C.F.R. 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

The purpose of this proposed rule change is to revise OCC's By-Laws and Rules to make structural changes to OCC's MRC regarding Public Directors³ and the process for designating MRC members. The proposed rule change would require that at least one Public Director must serve on the MRC, that the MRC Chairman be a Public Director, and that all MRC members would be designated on an annual basis.

Currently, Article III, Section 9 of OCC's By-Laws specifies that at the first meeting of the Board of Directors that follows each annual meeting the Board must designate the Chairman of the Board, the Vice Chairman of the Board, and at least three other Member Directors to serve on the MRC. The By-Laws would be modified to provide that at least one Public Director must serve on the MRC and that the MRC Chairman must be a Public Director. These modifications would correspond to OCC's existing practice of having at least one Public Director serve on the MRC, and OCC believes that including this requirement in the By-Laws would help ensure that the MRC will continue to operate in a manner that is appropriately free from outside influence and that therefore helps protect the interests of investors and the public.

The proposed rule change would also eliminate the requirement from the By-Laws that MRC members must be designated at the first meeting of OCC's Board of Directors

³ In relevant part, Article III, Section 6A of OCC's By-Laws defines a Public Director as a person who is "not affiliated with any national securities exchange or national securities association or with any broker or dealer in securities[.]"

that follows each annual meeting. Instead, the only timing requirement in the By-Laws would be for MRC members to be designated annually. OCC believes this change to the By-Laws would provide OCC's Board with appropriate flexibility to decide when it is best for new MRC member designations to be made.

As amended, Article III, Section 9 of OCC's By-Laws would provide that the Public Director(s) would be nominated to serve on the MRC by the Chairman of the Board and that any nomination would be subject to approval by the Board of Directors. Article III, Section 9 would also provide that the Chairman of the MRC would be required to be a Public Director. If more than one Public Director is nominated to serve on the MRC, the Chairman of the Board would nominate one of the Public Directors to serve as the MRC Chairman. Any such nomination by the Chairman of the Board would be subject to Board approval. OCC also proposes to make technical corrections in Article III, Section 9 to eliminate specific references to Article V of the By-Laws and Chapter VI of the Rules in order to avoid any erroneous inference that those are the only provisions of the By-Laws and Rules that set forth powers and duties of the MRC, which are in fact contained in many other provisions of the By-Laws and Rules as well.⁴

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F)⁵ of the Securities Exchange Act of 1934 ("Act")⁶ and the rules and regulations

⁴ For example, see Article I, Section G.(6) of the By-Laws and Rules 214(b), 305(c), and 309(e).

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ 15 U.S.C. 78a et. seq.

thereunder, including Rule 17Ad-22(d)(8),⁷ because these requirements with respect to Public Directors in OCC's By-Laws would protect investors and the public interest by promoting the continued operation of the MRC in a manner that is appropriately free from outside influence. By including in the By-Laws the existing practice of having at least one Public Director serve on the MRC and by further requiring that the MRC Chairman be a Public Director, the proposed modifications would help ensure that OCC's governance arrangements are clear and transparent, fulfill the public interests requirements in Section 17A, support the objectives of owners and participants, and promote the effectiveness of OCC's risk management procedures.⁸ OCC further believes that the proposed change to the By-Laws to require a Public Director to serve as the MRC Chairman is consistent with explanatory note 3.2.14 to Principle 2 of the Principles for Financial Market Infrastructures that recommends that a risk committee be chaired by a sufficiently knowledgeable independent board member.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.⁹ With respect to any burden on competition among clearing agencies, OCC is the only clearing agency that performs central counterparty services for the options markets.

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 would require at least one Public Director to serve on the MRC,

⁷ 17 C.F.R. 240.17Ad-22(d)(8).

⁸ Id.

⁹ 15 U.S.C. 78q-1(b)(3)(I).

the MRC Chairman to be a Public Director, and all MRC members to be designated on an annual basis. OCC does not believe that these changes with respect to governance would treat any clearing member or group of clearing members disparately or otherwise disparately affect access to or use of any of OCC's facilities or disadvantage or favor any user in relationship to any other such user. In fact, OCC believes that the proposed requirement that at least one member be a Public Director and that the MRC Chairman be a Public Director would promote competition by lessening the influence that any particular clearing member may have on the MRC.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, that it would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose any burden on competition that is unnecessary or inappropriate in furtherance of the purposes of the Act because the changes would help ensure that the MRC continues to operate in a manner that is appropriately free from outside influence and therefore help promote the purposes of the Act and Rule 17Ad-22(d)(8)¹⁰ thereunder as described above.

(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.

¹⁰ 17 C.F.R. 240.17Ad-22(d)(8).

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.

The clearing agency shall post notice on its website of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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 Commissions 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-2013-12 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-2013-12. 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/about/publications/bylaws.jsp>

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-2013-12 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 C.F.R. 200.30-3(a)(12).