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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-69722; File No. SR-OCC-2013-07)

June 10, 2013

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Short-Form License Agreement That Must Be Signed by OCC Clearing Members Seeking to Clear Over-The-Counter Index Options on Underlying Indices Published by Standard & Poor's Financial Services LLC

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 May 31, 2013, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the clearing agency. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(i) of the Act<sup>3</sup> and Rule 19b(4)(f)(1) thereunder<sup>4</sup> so that the proposal was effective upon filing with the Commission. 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 amend the short-form license agreement that must be signed by OCC clearing members seeking to clear over-the-counter (“OTC”) index options on underlying indices published by Standard & Poor’s Financial Services LLC (“S&P<sup>®</sup>”).

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

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

The purpose of this proposed rule change is to amend the S&P short-form license agreement that clearing members must execute if they plan to participate in OCC's initiative to clear and settle index options that are negotiated bi-laterally in the OTC market and submitted to OCC for clearing (the "S&P Agreement"). On August 30, 2012, OCC filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2012-14 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>5</sup> and Rule 19b-4 thereunder<sup>6</sup> ("Proposed Rule Change") and as an Advance Notice (AN-OCC-2012-01) pursuant to Section 806(e) of Title VIII of the Dodd-Frank Act ("Title VIII" or "Clearing Supervision Act").<sup>7</sup> The Proposed Rule Change and Advance Notice were published for comment in the Federal Register on September 18, 2012<sup>8</sup> and September 27, 2012,<sup>9</sup> respectively. On November 30, 2012, OCC filed

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<sup>5</sup> 15 U.S.C. 78s(b)(1)

<sup>6</sup> 17 CFR 240.19b-4

<sup>7</sup> 12 U.S.C. 5465(e).

<sup>8</sup> Securities Exchange Act Release No. 67835 (September 12, 2012), 77 FR 57602 (September 18, 2012).

Amendment No. 1 to the Proposal.<sup>10</sup> An Order was issued by the Commission approving the Proposed Rule Change and providing notice that there was no objection to the Advance Notice (the “Approved Rule Change”).<sup>11</sup>

As part of the Approved Rule Change, OCC added a new Interpretation and Policy .11 to Section 1 of Article V of the By-Laws, providing that clearing members that desire to be designated as an OTC Index Option Clearing Member must execute and maintain in effect such other documents as OCC may prescribe. Among those documents necessary to clear OTC index options on underlying indices published by S&P is the S&P Agreement in such form as specified from time-to-time by S&P, and the form of agreement was attached to the Proposed Rule Change as Exhibit 3.

The proposed changes to the S&P Agreement are generally clarifying and housekeeping in nature. For example, certain typographical errors have been corrected, extraneous words have been deleted, and certain terms have been defined (e.g., “S&P 500 Index”). Contacts in the S&P Agreement for notice purposes have been updated and the limitation of liability and indemnification provisions have been expanded. As required by OCC By-Laws Article 1, Section V, Interpretation and Policy .11(ii), clearing members that plan to clear OTC index options would be required to execute the new S&P

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<sup>9</sup> Securities Exchange Act Release No. 67906 (September 21, 2012), 77 FR 59431 (September 27, 2012).

<sup>10</sup> In Amendment No. 1, OCC proposed to amend Article XVII of its By-laws to clarify that Section 6 of that Article, pertaining to OTC Index Options, are inoperative until further notice by OCC, as well as to amend Item 3 of the proposed rule change to clarify that the clearing of OTC Options will not occur until certain enhancements related to longer-tenor options have been approved and implemented.

<sup>11</sup> Securities Exchange Act Release No. 34-68434 (December 14, 2012), 77 FR 75243 (December 19, 2012).

Agreement because it is a prerequisite to being an OTC Index Option Clearing Member that participates in OCC's initiative to clear and settle OTC index options. The S&P Agreement will be made available for review on OCC's website.

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Securities Exchange Act of 1934, as amended (the "Act"),<sup>12</sup> and the rules and regulations thereunder, including Rules 17Ad-22(d)(1) and (2) because by improving the precision and clarity of the rights and obligations specified in the S&P Agreement, which is prerequisite for a clearing member to act as an OTC Index Option Clearing Member, the proposed modifications would help remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions,<sup>13</sup> ensure that OCC's rules are reasonably designed to have participation requirements that are objective and publicly disclosed and permit fair and open access,<sup>14</sup> and provide for a well-founded, transparent, and enforceable legal framework.<sup>15</sup> The proposed rule change is not inconsistent with any 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 impact, or impose any burden on competition that is not necessary or appropriate in furtherance of the purposes

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<sup>12</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>14</sup> 17 CFR 240.17Ad-22(d)(2).

<sup>15</sup> 17 CFR 240.17Ad-22(d)(1).

of the Act.<sup>16</sup> With respect to any burden on competition among clearing agencies, OCC is the only registered clearing agency that performs central counterparty services to 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 affects all of OCC's clearing members desiring to be an OTC Index Option Clearing Member, and OCC believes that the proposed modifications to the S&P Agreement would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because the proposed modifications are clarifying and housekeeping in nature and would not impose any additional substantive burden. Any clearing member that seeks to become an OTC Index Options Clearing Member would be required to execute the new version of the S&P Agreement.

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 that is unnecessary or inappropriate in furtherance of the purposes of the Act because the changes would clarify the meaning of the S&P Agreement in ways that help to promote the purposes of the Act and Rule 17Ad-22 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.

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<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(I).

### 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)(i) of the Act<sup>17</sup> and paragraph (f)(i) of Rule 19b-4 thereunder<sup>18</sup> because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. OCC states that it will delay the implementation of the rule change until it is deemed certified under CFTC Regulation § 40.6.<sup>19</sup> 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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2013-07 on the subject line.

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<sup>17</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>18</sup> 17 CFR 240.19b-4(f)(1).

<sup>19</sup> 17 CFR 40.6.

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-2013-07. 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 Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's website:

[http://www.theocc.com/components/docs/legal/rules\\_and\\_bylaws/sr\\_occ\\_13\\_07.pdf](http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_13_07.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-2013-07 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>20</sup>

Kevin M. O'Neill  
Deputy Secretary

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<sup>20</sup> 17 CFR 200.30-3(a)(12).