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SECURITIES AND EXCHANGE COMMISSION  
[Release No. 34-70486; File No. SR-OCC-2013-12]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change to Revise OCC 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  
September 24, 2013.

I. Introduction

On August 2, 2013, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR-OCC-2013-12 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> The proposed rule change was published for comment in the Federal Register on August 21, 2013.<sup>3</sup> The Commission received no comment letters. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

OCC is amending its By-Laws and Rules to make structural changes to OCC's Membership/Risk Committee (“MRC”) regarding Public Directors<sup>4</sup> and the process for

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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> Exchange Act Release No. 34-70207 (August 15, 2013), 78 FR 51786 (August 21, 2013).

<sup>4</sup> 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, national securities association, or any broker or dealer engaging in securities transactions.

designating MRC members. Specifically, OCC is amending Article III, Section 9 of OCC's By-Laws to provide that at least one Public Director is required to serve on the MRC. The Public Director(s) will be nominated to serve on the MRC by the Chairman of the Board and such nomination will be subject to approval by the Board of Directors. OCC is also amending Article III, Section 9 of OCC's By-Laws to provide that the Chairman of the MRC will 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 will nominate one of the Public Directors to serve as the MRC Chairman.

In addition, OCC is amending Article III, Section 9 of OCC's By-Laws to eliminate the requirement that MRC members must be designated at the first meeting of OCC's Board of Directors that follows each annual meeting. Instead, OCC's By-Laws will require MRC members to be designated annually.

OCC is also amending 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 OCC's By-Laws and Rules that set forth powers and duties of the MRC, which are in fact contained in a number of other provisions of its By-Laws and Rules as well.

### III. Discussion

Section 19(b)(2)(C) of the Act<sup>5</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

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<sup>5</sup> 15 U.S.C. 78s(b)(2)(C).

applicable to such organization. Section 17A(b)(3)(F) of the Act<sup>6</sup> requires that the rules of a registered clearing agency be designed to, among other things, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, protect investors and the public interest. Section 17A(b)(3)(F)<sup>7</sup> of the Act also requires that the rules of a registered clearing agency not be designed to permit unfair discrimination in the admission of participants or among participants in the use of the clearing agency.

The Commission finds that the rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>8</sup> because amending OCC's By-Laws to require that OCC's Board of Directors appoints at least one Public Director to the MRC and designates a Public Director as Chairman of the MRC, should help ensure that diverse viewpoints contribute to the decision-making process at the MRC, which should ultimately lead to decisions that assure the safeguarding of securities and funds which are in OCC's custody or control or for which OCC is responsible, and generally protect investors and the public interest. Furthermore, by proposing rules that require the appointment of a Public Director to the MRC, the rule change should help diminish the likelihood of unfair discrimination in the evaluation of prospective OCC members and the treatment of current OCC members by interested participants.

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<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> Id.

<sup>8</sup> Id.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>9</sup> and the rules and regulations thereunder.

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> that the proposed rule change (File No. SR-OCC-2013-12) be and hereby is APPROVED.<sup>11</sup>

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Kevin M. O'Neill,  
Deputy Secretary.

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<sup>9</sup> 15 U.S.C. 78q-1.

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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