



8011-01
SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-81008; File No. SR-OCC-2017-015]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning the U.S. Market Transition to a Shortened Settlement Cycle
June 23, 2017

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b-4 thereunder,² notice is hereby given that on June 9, 2017, 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. Items I and II have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act³ and Rule 19b-4(f)(4)(i)⁴ thereunder 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

This proposed rule change by OCC concerns the amendment of OCC’s By-Laws and Rules in connection with recent amendments adopted by the Commission to Rule 15c6-1(a)⁵ under the Act. The amendments to Rule 15c6-1(a)⁶ shorten the standard

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(4)(i).

⁵ 17 CFR 240.15c6-1(a).

⁶ Id.

settlement cycle for most broker-dealer securities transactions from three business days after the trade date to two business days after the trade date.

The proposed changes to OCC's By-Laws and Rules were included in Exhibits 5A and 5B of the filing, respectively.

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. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.⁷

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend OCC's By-Laws and Rules in connection with recently adopted amendments to Commission Rule 15c6-1(a) to shorten the standard settlement cycle for most broker-dealer transactions regarding the purchase or sale of securities from three business days after the trade date ("T+3") to two business days after the trade date ("T+2").⁸ The compliance date regarding these

⁷ OCC's By-Laws and Rules can be found on OCC's public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

⁸ Securities Exchange Act Release No. 80295 (March 22, 2017), 82 FR 15564 (March 29, 2017).

amendments is September 5, 2017.⁹

Background

Commission Rule 15c6-1 establishes a standard settlement cycle for most purchases or sales of securities by broker-dealers. The Commission adopted Rule 15c6-1(a)¹⁰ in 1993 to establish T+3 as the standard trade settlement cycle (instead of five business days after the trade date), and it became effective in June of 1995.¹¹ In March of 1995, the Commission approved changes to OCC's Rules that were proposed to ensure consistency with the new T+3 standard settlement cycle.¹²

Since the change to T+3, the Commission and the financial services industry have continued to explore the idea of shortening the settlement cycle even further.¹³ In April 2014, DTCC published a recommendation to shorten the standard U.S. trade settlement cycle to T+2 and announced that it would partner with market participants and industry

⁹ Id.

¹⁰ 17 CFR 240.15c6-1(a). Rule 15c6-1(a) provides, in relevant part, that “a broker or dealer shall not effect or enter into a contract for the purchase or sale of a security (other than an exempted security, government security, municipal security, commercial paper, bankers’ acceptances, or commercial bills) that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction.”

¹¹ Securities Exchange Act Release Nos. 33023 (October 6, 1993), 58 FR 52891 (final rule adopting Rule 15c6-1); 34952 (November 9, 1994), 59 FR 59137 (changing the effective date of the final rule from June 1, 1995 to June 7, 1995).

¹² Securities Exchange Act Release No. 35552 (March 30, 1995), 60 FR 17600 (April 6, 1995) (SR-OCC-94-11).

¹³ See e.g., Securities Industry Association, “SIA T+1 Business Case Final Report” (July 2000); Securities Exchange Act Release No. 49405 (March 11, 2004), 69 FR 12922 (March 18, 2004) (Concept Release: Securities Transactions Settlement); The Depository Trust & Clearing Corporation (“DTCC”), “Proposal to Launch a New Cost-Benefit Analysis on Shortening the Settlement Cycle” (December 2011).

organizations to devise the necessary approach and timelines to achieve T+2.¹⁴ To improve the efficiency of the U.S. settlement system by reducing the attendant risks in the T+3 settlement of securities transactions, and to align U.S. markets with the standard settlement cycles in other major global markets that have already moved to T+2, DTCC, in collaboration with the financial services industry, formed an Industry Steering Committee (“ISC”) and an industry working group and sub-working groups to facilitate the move to T+2.¹⁵ In June of 2015, the ISC published a White Paper outlining the activities and proposed timeframes that would be required to move to T+2 in the U.S.¹⁶ Concurrently, SIFMA and the ICI jointly submitted a letter to Commission Chair White expressing support of the financial service industry’s efforts to shorten the settlement cycle and identified amendments to Rule 15c6-1(a) that they believed would be necessary for an effective transition to T+2.¹⁷ In March 2016, the ISC announced an industry target date of September 5, 2017, for the transition to T+2.¹⁸

On September 28, 2016, the Commission proposed amendments to Rule 15c6-

¹⁴ See DTCC, “DTCC Recommends Shortening the U.S. Trade Settlement Cycle” (April 2014).

¹⁵ The ISC includes, among other participants, DTCC, the Securities Industry and Financial Markets Association (“SIFMA”) and the Investment Company Institute (“ICI”).

¹⁶ See “Shortening the Settlement Cycle: The Move to T+2” (June 18, 2015).

¹⁷ See Letter from ICI and SIFMA to Mary Jo White, Chair, SEC, dated June 18, 2015; see also Letter from Mary Jo White, Chair to Kenneth E. Bentsen, Jr. President and CEO, SIFMA, and Paul Schott Stevens, President and CEO, ICI, dated September 16, 2015 (expressing support for industry efforts to shorten the trade settlement cycle to T+2 and indicating a commitment to developing a proposal to amend Rule 15c6-1(a) to require standard settlement no later than T+2).

¹⁸ See ISC Media Alert: “US T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017” (March 7, 2016).

1(a) to shorten the standard settlement cycle to T+2 on the basis that the shorter settlement cycle would reduce the risks that arise from the value and number of unsettled securities transactions prior to completion of settlement, including credit, market and liquidity risks faced by U.S. market participants.¹⁹ On March 22, the Commission adopted the amendments to Rule 15c6-1(a) as proposed.²⁰ In light of this action by the SEC, OCC is proposing amendments to its By-Laws and Rules in connection with the T+2 settlement cycle and to do so by the Commission’s designated compliance date of September 5, 2017.

Proposed Changes to OCC By-Laws and Rules

OCC is proposing changes to the following By-Laws and Rules in connection with the recently-amended Rule 15c6-1(a) and the particular changes are discussed in more detail below:

- OCC Rule 901 (Settlement Through Correspondent Clearing Corporations);²¹
- OCC Rule 903 (Obligation to Deliver);
- OCC Rule 1302 (Delivery of Underlying Securities);
- OCC Rule 1503 (Exercise Settlement Date for Event Options and Range Options);

¹⁹ Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016); see also Commission Press Release 2016-200: “SEC Proposes Rule Amendment to Expedite Process for Settling Securities Transactions” (September 28, 2016).

²⁰ Securities Exchange Act Release No. 80295, supra note 8.

²¹ Article I, Section 1.C.(33) of OCC’s By-Laws defines the term “correspondent clearing corporation” to mean National Securities Clearing Corporation (“NSCC”) or any successor thereto which, “by agreement with [OCC], provides facilities for settlements in respect of exercised option contracts or BOUNDS or in respect of delivery obligations arising from physically-settled stock futures.”

- Article XXI of OCC's By-Laws (Stock Loan/Hedge Program);
- OCC Rule 2208 (Settlement Date);
- OCC Rule 2209A (Termination of Market Loans); and
- OCC Rule 2502 (Settlement Date for BOUNDS).

First, OCC proposes to amend certain of its Rules that govern settlement of physically- settled options and futures through NSCC. Chapter IX of OCC's Rules addresses delivery and payment obligations arising out of the exercise of physically-settled stock option contracts and the maturity of physically-settled stock futures contracts. Rule 901 requires that certain obligations be settled through the facilities of NSCC. Rule 901(d) permits OCC to revoke a specification in any Delivery Advice that settlement be made through the facilities of NSCC at any time prior to the opening of business on the delivery date by an appropriate notice to the Receiving and Delivering Clearing Members.²² In particular, Rule 901(d) allows specified OCC senior officers to extend or postpone the time for delivery to no more than three business days after the date that OCC revokes such a settlement specification. OCC proposes to amend this provision to make such an extension or postponement consistent with the new T+2 settlement cycle. Accordingly, under the proposed rule change, the amount of time that OCC has to extend or postpone the time of delivery would be changed to two business days.

²² OCC recently proposed changes to existing Rule 901(d) in connection with advance notice and proposed rule change filings related to a new Stock Options and Futures Settlement Agreement between OCC and the National Securities Clearing Corporation. See SR-OCC-2017-013 and SR-OCC-2017-804. The proposed changes to Rule 901(d) currently pending Commission review in SR-OCC-2017-013 and SR-OCC-2017-804 are indicated in Exhibit 5B with double underlined and double strikethrough text.

Rule 903 governs the obligation of a Clearing Member to deliver when either a Delivery Advice or OCC directs that settlement be made on a broker-to-broker basis. It currently specifies the delivery date for physically-settled options as the third business day following the day on which the exercise notice was, or is deemed to have been, properly tendered to OCC. Rule 903 also generally specifies the delivery date for physically settled security futures as the third business day following the maturity date. Under the proposed rule change, these references in Rule 903 to the “third” business day would be changed to the “second” business day.

Second, OCC proposes to amend Rule 1302 concerning the delivery of underlying securities for physically-settled stock futures. With certain exceptions, Rule 1302 currently provides that the delivery date for a physically-settled stock future is the third business day following the maturity date of the applicable series. Under the proposed rule change, the reference to the “third” business day would be changed to “second” business day.

Third, OCC proposes to amend Rule 1503 concerning the exercise settlement date for credit default options and credit default basket options. With certain exceptions, Rule 1503 currently provides that the exercise settlement date for a credit default option and credit default basket option is the third business day following the date on which the option is deemed to have been exercised. Under the proposed rule change, the reference to the “third” business day would be changed to “second” business day.

Fourth, OCC proposes to amend a provision of its By-Laws and certain Rules concerning its two Stock Loan Programs: the Hedge Program and Market Loan Program. In the Hedge Program, OCC acts as the guarantor for Stock Loans that are initiated

bilaterally between Clearing Members through The Depository Trust Company (“DTC”). Under Article XXI, Section 2(c) of OCC’s By-Laws, OCC may terminate outstanding Hedge Loans under certain conditions. If any Hedge Loans are so terminated by OCC, it is required to provide written notice thereof to all affected Hedge Clearing Members to specify the date on which such termination is to become effective, which shall be at least three stock loan business days after the date of such notice. OCC proposes to amend this provision to make the effective date of such a termination consistent with the new T+2 settlement cycle. OCC therefore proposes to amend Section 2(c) of Article XXI to change the minimum number of days between notice and termination from three to two.

Rule 2208(a) currently provides the settlement date for the termination of a Hedge Loan shall be the earlier of: (1) the date on which the Borrowing Clearing Member initiates the termination or (2) the date that is three stock loan business days after the date on which the Lending Clearing Member initiates the termination. OCC proposes to amend Rule 2208(a) to change “three” stock loan business days to “two” stock loan business days.

In the Market Loan Program, OCC acts as the guarantor for Market Loans that are initiated through the matching of bids and offers that are either agreed upon by the Market Loan Clearing Members or matched anonymously through a Loan Market. Typically, a Market Loan is terminated through the process of a Market Loan Clearing Member providing notice to the Loan Market to call for the recall or return of a specified quantity of Loaned Stock. The Loan Market sends details of the matched return or recall transaction to OCC, and OCC validates the transaction and sends a pair of delivery orders to DTC for settlement in connection with the recall or return. Rule 2209A(a)(3) currently

provides that if a recall transaction fails to settle by the Settlement Time on the third stock loan business day following the day that the transaction was first submitted, the Lending Clearing Member may choose to execute a buy-in of the Loaned Stock. OCC proposes to change the reference to “third” stock loan business day to “second” stock loan business day.

Under Rule 2209A(d), OCC may terminate outstanding Market Loans under certain conditions. If any Market Loans are so terminated by OCC, it is required to provide written notice thereof to all affected Market Loan Clearing Members to specify the date on which such termination is to become effective, which shall be at least three stock loan business days after the date of such notice. OCC proposes to amend this provision to make the effective date of such a termination consistent with the new T+2 settlement cycle. OCC therefore proposes to amend Rule 2209A(d) to change the minimum number of days between notice and termination from three to two.

Fifth, OCC proposes to amend Rule 2502 concerning the settlement date for BOUNDS in Chapter XXV of OCC’s Rules. Rule 2502 currently provides the settlement date for a BOUND is the third business day following the expiration date. Under the proposed rule change, the settlement would be changed to the second business day following the expiration date.

Implementation

OCC would implement the proposed rule change in coordination with the Commission’s September 5, 2017, compliance date for the amendments to Rule 15c6-1(a) and the transition to T+2 and would provide advance notice to Clearing Members of the implementation through an Information Memo. OCC will include a footnote in its

By-Laws and Rules with each rule that will change under this proposed rule change noting that each such rule will be updated on September 5, 2017, to reflect the transition to the new T+2 settlement cycle. As part of that footnote, OCC will also include a link to documents on OCC's public website that show the updates to OCC's rules that are being made in this proposed rule change. OCC intends for these updates to be self-executing on September 5, 2017.

2. Statutory Basis

OCC believes that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act²³ and the rules thereunder applicable to OCC. Section 17A(b)(3)(F) requires, among other things, that rules of a clearing agency be designed “to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest[.]”²⁴ OCC believes the proposed rule change is consistent with these requirements because it would coordinate the terms of certain OCC rules with the Commission's amendments to Rule 15c6-1(a) to support a T+2 standardized settlement cycle. Specifically, where a current OCC By-Law or Rule is based upon or otherwise references the T+3 standardized securities settlement cycle, the provision would be changed to support T+2. Harmonizing OCC's By-Laws and Rules with the new T+2 standardized settlement cycle would also remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions by, for example, ensuring

²³ 15 U.S.C. 78q-1(b)(3)(F).

²⁴ Id.

that OCC's By-laws and Rules that are related to T+2 are consistent with the rules concerning the standardized settlement cycle that are maintained by the exchanges for which OCC clears and settles transactions and the rules of clearing agencies, such as NSCC and DTC, that provide clearance and settlement services for securities transactions that underlie physically-settled stock option and physically-settled stock future contracts cleared by OCC. OCC believes that conforming certain of its By-Laws and Rules to the Commission's new standardized settlement cycle would also protect investors and the public interest by ensuring that OCC provides clearance and settlement services in a manner that supports the Commission's requirements for the T+2 standardized settlement cycle.

OCC believes the proposed changes are also consistent with the requirements in Commission Rule 17Ad-22(e)(1).²⁵ The changes are designed to modify OCC's By-Laws and Rules that would otherwise become outdated upon the change to the T+2 standardized settlement cycle. Therefore, OCC believes that the proposed changes promote compliance and consistency with the requirements in Rule 17Ad-22(e)(1) to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent and enforceable legal basis. Maintaining provisions in OCC's publicly available By-Laws and Rules that are consistent at all times with the standardized settlement cycle that is specified in Commission Rule 15c6-1(a) helps ensure that OCC's By-Laws and Rules remain well-founded, clear, transparent and enforceable.

The proposed rule change is not inconsistent with the existing rules of OCC,

²⁵ 17 CFR 240.17Ad-22(e)(1).

including any other rules proposed to be amended.

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

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.²⁶ OCC does not believe that the proposed rule change would impose any burden or have any impact on competition. The proposed rule change would implement conforming changes within OCC's By-Laws and Rules to ensure consistency with amendments recently adopted by the Commission in Rule 15c6-1(a) to change the standard securities settlement cycle to T+2. All Clearing Members would be equally subject to these conforming changes, and the proposed changes would not provide any Clearing Member with a competitive advantage over any other Clearing Member. This proposed rule change would also not inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another. As a result, OCC believes the proposed rule change would not impact or 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 were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act²⁷ and paragraph (f)(4)(i) of Rule 19b-4²⁸ thereunder. At any

²⁶ 15 U.S.C. 78q-1(b)(3)(I).

²⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁸ 17 CFR 240.19b-4(f)(4)(i).

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.²⁹

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2017-015 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2017-015. 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

²⁹ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation §40.6.

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, 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_17_015.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-2017-015 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.³⁰

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Assistant Secretary

³⁰ 17 CFR 200.30-3(a)(12).

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