



8011-01

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82055; File No. SR-OCC-2017-805]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Advance Notice Concerning the Use of the Society of Worldwide Interbank Financial Telecommunication Messaging Network in OCC's Cash Settlement Process

November 13, 2017.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing and Settlement Supervision Act of 2010 (“Clearing Supervision Act”)¹ and Rule 19b-4(n)(1)(i) of the Securities Exchange Act of 1934 (“Act”),² notice is hereby given that on October 10, 2017, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) an advance notice as well as a proposed cash settlement agreement procedures agreement (“CSPA”) template as described in Items I and II below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the advance notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

In accordance with Section 806(e)(1) of the Clearing Supervision Act³ and Rule 19b-4(n)(1)(i)⁴ of the Act,⁵ this advance notice is filed by OCC in connection with proposed changes to improve OCC's cash settlement process by implementing Society of Worldwide Interbank

¹ 12 U.S.C. 5465(e)(1).

² 17 CFR 240.19b-4(n)(1)(i).

³ 12 U.S.C. 5465(e)(1).

⁴ 17 CFR 240.19b-4(n)(1)(i).

⁵ 15 U.S.C. 78a et seq.

Financial Telecommunication (“SWIFT”) messaging as the primary means of transmitting daily cash settlement instructions between OCC and its Clearing Banks.⁶ The proposed change is designed to: (1) increase the efficiency, accuracy, and resiliency of OCC’s cash settlement process, (2) eliminate certain risks associated with the current use of OCC’s proprietary online cash settlement system within the ENCORE clearing system (“OCS”), and (3) adopt communication procedures and standards that are internationally accepted and therefore are consistent with the requirements in Rule 17Ad-22(e)(22).⁷

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.⁸

II. Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on the advance notice. 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 and B below, of the most significant aspects of these statements.

(A) Clearing Agency’s Statement on Comments on the Advance Notice Received from Members, Participants or Others

Communications with Clearing Banks

⁶ See OCC Rule 101.C.(1) (defining the term “Clearing Bank”).

⁷ 17 CFR 240.17Ad-22(e)(22).

⁸ OCC’s By-Laws and Rules can be found on OCC’s public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

There are currently eight banks or trust companies that act as OCC Clearing Banks.⁹ The Clearing Banks were first informed in early 2016 via phone communications regarding OCC's initiative to utilize SWIFT messaging and the SWIFT network for cash settlement processing. This initiative was positively received by existing Clearing Banks since they utilize SWIFT-based messaging in other areas of their businesses. Moreover, several Clearing Banks have informally expressed their desire to OCC in the past for OCC to integrate use of the SWIFT messaging network in the cash settlement process.

Beginning in October 2016, OCC distributed a draft template cash settlement procedures agreement to all Clearing Banks that would implement SWIFT messaging as the primary means of transmitting daily cash settlement instructions between OCC and the Clearing Banks along with a request for feedback. In response, all of the existing Clearing Banks have expressed support for the transition to SWIFT. This is in part because the existing use of OCC's online cash settlement system is not integrated with the internal systems used by Clearing Banks for processing settlement instructions. Processing the settlement instructions therefore requires manual intervention by the Clearing Banks to enter the instructions into their own systems. According to comments from all Clearing Banks, this lack of integration elongates the timeframe to process and approve settlement instructions, which causes delays and increases the risk of errors in preparing, posting, transmitting, receiving, and executing timely settlement instructions.

Following the receipt of questions and comments, OCC began negotiating the cash settlement procedures agreement with each Clearing Bank based on the standardized template. The definitive documentation between OCC and each Clearing Bank is expected to be consistent

⁹ OCC Rule 101.C.(1) defines the term "Clearing Bank" to mean "a bank or trust company which has entered into an agreement with [OCC] in respect of settlement of confirmed trades on behalf of Clearing Members."

with the template agreement, however, areas of negotiation to date have generally included such matters as acceptable backup communication methods for transmitting settlement instructions (e.g., facsimile, e-mail, or other means), standards of care associated with duties and potential liabilities under the agreement (e.g., negligence, gross negligence, or willful misconduct), certain defined terms (e.g., the meaning of a “business day”), and allocations of responsibility regarding the detection of errors associated with settlement instructions.

(B) Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

Description of the Proposed Change

Background

The Existing Online Cash Settlement System

In connection with OCC’s performance of clearance and settlement services for cleared contracts¹⁰ and Stock Loans, OCC and Clearing Members are obligated under OCC’s By-Laws and Rules to perform cash settlement of related obligations.¹¹ This cash settlement process is facilitated by Clearing Banks, which are banks or trust companies that have entered agreements with OCC to settle on behalf of Clearing Members and at which OCC and Clearing Members each maintain accounts.¹² Currently, there are eight Clearing Banks with which OCC effects cash settlements through OCS, which is a proprietary web-based system OCC developed in conjunction with the gradual phase-in of its ENCORE clearing system in the early- to-mid

¹⁰ See Article I., Section 1.C.(11).

¹¹ See, e.g., Article I, Section 1.S.(16) of OCC’s By-Laws (defining the term “settlement time”); Article VI, Sections 4 and 6 of OCC’s By-Laws (addressing obligations of Purchasing Clearing Members and obligations of OCC as a central counterparty); and Chapter V of OCC’s Rules (regarding daily cash settlement).

¹² See OCC Rule 101.C.(1) (defining the term “Clearing Bank”).

2000's.¹³ OCS replaced OCC's previous cash settlement system, the Options Automated Settlement Instructions System, which required the use of dedicated terminals at each Clearing Bank. Because OCS is a web-based system, it provides greater flexibility to OCC and Clearing Banks because users are not limited to only using dedicated terminals to access the system.

On a daily basis, OCC generates settlement instructions associated with Cleared Contracts and Stock Loans of Clearing Members by running specific predefined settlement profiles¹⁴ throughout the day. The resulting settlement instructions are generally transmitted by OCC to Clearing Banks by way of OCS, at which point the Clearing Banks are able to view batches of settlement instructions within OCS.¹⁵ Clearing Bank staff review the settlement instructions by logging into OCS and opening the settlement batch. Thereafter, the Clearing Bank either approves or rejects the settlement instructions in OCS. One of the Clearing Banks, however, currently does not utilize OCS as its primary means of effecting cash settlement. Instead, the Clearing Bank primarily receives settlement instructions from OCC via facsimile, reviews the settlement instructions, approves or rejects them, and then returns a facsimile confirmation to OCC. After receipt of the confirmation, OCC staff manually enters the approvals or rejections into OCS.

Cash settlement instructions that OCC transmits to Clearing Banks are generally categorized in two groups: start-of-day and intra-day. Start-of-day settlement instructions are

¹³ See generally OCC Completes Second Major Installation of Encore™ Clearing System (November 25, 2002), available at https://www.theocc.com/about/newsroom/releases/2002/11_25.jsp.

¹⁴ Predefined settlement profiles are programmed to track various types of obligations to pay or collect cash in connection with Cleared Contracts and Stock Loans that are in turn used to generate settlement instructions.

¹⁵ A settlement batch is a set of individual debit or credit settlement instructions that may either instruct a Clearing Bank to move funds to or from an OCC settlement account or to or from a Clearing Member's account at the same Clearing Bank.

generated through OCC's nightly processing cycle and relate to cash settlement obligations that arise from Cleared Contracts and Stock Loans of Clearing Members, including, but not limited to, premium payments, margin requirements, mark-to-market activity, and cash settlement amounts for exercised options that are cash settled. Intra-day settlement instructions represent any settlement instruction other than a start-of-day instruction and may be transmitted by OCC to a Clearing Bank throughout the day. For example, intra-day settlement instructions may be generated to credit excess cash to a Clearing Member in connection with its margin requirement,¹⁶ to complete a cash substitution regarding a Clearing Member's margin deposit or to effect an intra-day margin call that OCC may issue to a Clearing Member pursuant to its authority under Rule 609.¹⁷ The settlement timeline for processing intra-day settlement instructions depends on the time at which the Clearing Bank receives the instructions, as discussed below.

Existing Cash Settlement Procedures Agreements

Each Clearing Bank entered into a CSPA with OCC that details the substantive rights and responsibilities of the parties and specifies operational procedures for which they are responsible regarding start-of-day and intra-day settlement instructions. This includes prescribed communication methods and settlement procedures and generally contemplates the use of OCS as the primary means to facilitate the cash settlement process, with the exception of the one instance described above in which the primary means of communication between OCC and the Clearing Bank is facsimile.

For start-of-day settlement instructions, the CSPA requires the Clearing Bank on the morning of each business day and by a standard time to access OCS and act upon the settlement

¹⁶ See OCC Rule 608 (Withdrawals of Margin).

¹⁷ See OCC Rule 609 (Intra-Day Margin).

instructions transmitted by OCC. Once the Clearing Bank reviews the settlement instructions, it either accepts or rejects each instruction through OCS.¹⁸ If an instruction is to be rejected, the Clearing Bank must immediately notify OCC in advance by telephone that it intends to reject the instruction and provide the reason. OCC then has an opportunity to submit a revised settlement instruction by telephone or other mutually agreed upon means. All settlement instructions must be acted upon by the Clearing Bank before a defined settlement time, which differs for credit instructions (*i.e.*, transfers of funds from an OCC account to a Clearing Member account) and debit instructions (*i.e.*, transfers of funds from a Clearing Member account to an OCC account). If a Clearing Bank does not expressly accept or reject a settlement instruction by the specified settlement time, the bank is deemed to have accepted the instruction.

For intra-day settlement instructions, OCC transmits the instructions through OCS for the Clearing Bank to review and then notifies the Clearing Bank by telephone or other agreed upon means. With respect to Clearing Banks with access to OCS, the Clearing Bank must then use commercially reasonable efforts to access OCS immediately and act upon the settlement instruction by the earlier of either: (a) thirty (30) minutes following the time the bank first views the settlement instruction in OCS or (b) sixty (60) minutes after OCC notifies the Clearing Bank that it has submitted settlement instructions via OCS. The same provisions related to backup procedures, acceptance, rejection, and implied acceptance for morning settlement also apply to such intra-day settlement instructions.

Proposed Changes

Under the Proposed CSPA, OCC and all Clearing Banks would use the SWIFT network as the primary means of transmitting settlement instructions to each other, and Clearing Bank

¹⁸ In the event OCS is unavailable, the CSPA specifies backup procedures, which may include transmission by telephone or facsimile.

staff would no longer log in to OCS and accept or reject settlement instructions. OCC would, however, continue using OCS for more limited purposes to manage its settlement instruction processing, including with respect to the initiation, processing, and tracking of settlement instructions. Under the new process in which SWIFT would be the primary means of transmitting settlement instructions, OCC would integrate OCS with the SWIFT network, and SWIFT would be used to communicate settlement instructions to Clearing Banks and allow Clearing Banks to approve settlement instructions. OCC would also implement a new monitoring screen to complement OCS that would allow OCC to track the lifecycle of all SWIFT messages sent or received by OCC in connection with its cash settlement activities.

SWIFT would not be a new communication channel for OCC even though the proposed change would increase the extent to which OCC utilizes the SWIFT messaging network in connection with its clearance and settlement activities. This is because Clearing Members may currently deposit letters of credit denominated in U.S. dollars issued by banks or trust companies approved by OCC as margin assets¹⁹ and the issuer of any such letter of credit submits amendments to OCC using the SWIFT network. OCC manages this process through a SWIFT system that interfaces with OCC's ENCORE clearing system so that OCC is able to track and process the amendment messages. Under the proposed change, OCC would also use the same SWIFT system to support cash settlement processing. Based upon settlement profiles created by OCC, settlement instructions in the form of SWIFT messages would be automatically transmitted to Clearing Banks over the SWIFT network. In response, OCC would then receive acceptances from Clearing Banks via the SWIFT network. If an acceptance is not provided, OCC would have discretion to treat a settlement instruction as rejected, and in any case would

¹⁹ See OCC Rule 604(c).

promptly contact the Clearing Bank to determine the reason and coordinate with the Clearing Bank to ensure that appropriate action is taken with respect to the instruction.

OCC believes the proposed change would significantly increase the resiliency of OCC's cash settlement process by reducing manual processing steps that are more prone to error. For example, upon a Clearing Bank's acceptance of a settlement instruction sent by OCC using SWIFT, debits or credits, as appropriate, would be automatically made as between OCC's account at the Clearing Bank and the Clearing Member's account at the Clearing Bank. This means that Clearing Banks would no longer need to view settlement instructions in OCS and manually enter them into their systems to effect them as they do today. Moreover, use of the SWIFT network would eliminate facsimile, telephone, and e-mail communications as primary communication methods for settlement processing. If SWIFT is unavailable, OCC and Clearing Banks would communicate by using contingency methods as specified in the applicable CSPA.

The Proposed CSPA would also introduce significant efficiencies to OCC's cash settlement process by reducing manual processing steps that elongate the time frame for processing and approving settlement instructions. Notably, OCC expects significantly faster response times from Clearing Banks because the banks would be able to communicate with OCC using the same SWIFT transmission method that they already typically use to process funds transfer instructions. OCC believes that efficiencies and time savings would also be experienced by significantly reducing manual steps associated with the processing of settlement instructions, such as manual data entry by Clearing Banks to enter settlement instruction information into their own systems based on computer printouts of instructions contained in OCS or instructions that are received by facsimile. In addition, the proposed change would allow Clearing Banks to forward SWIFT messages from OCC to internal staff at the Clearing Bank who have

responsibility for the cash settlement process.

The Proposed CSPA would also harmonize the primary process by which OCC performs cash settlement with Clearing Banks by having all Clearing Banks use the SWIFT messaging system. In addition to the efficiency and risk mitigation benefits described above, the Proposed CSPA would directly respond to the Clearing Bank requests for OCC to implement an enhanced process to mitigate the manual processing challenges that are associated with the existing cash settlement process.

Finally, OCC believes that the Proposed CSPA would also promote compliance with Rule 17Ad-22(e)(22),²⁰ which requires OCC as a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to “use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.” In adopting this requirement, the Commission stated that “[r]elevant internationally accepted communication procedures and standards could include messaging standards such as *SWIFT*, *FIX* and *FpML*.” [emphasis added].²¹ Accordingly, use of the SWIFT messaging network as the primary process to support daily cash settlement is consistent with Rule 17Ad-22(e)(22).

New Cash Settlement Procedures Agreement

As part of the transition to SWIFT, Clearing Banks would enter into the Proposed CSPA with OCC. The Proposed CSPA is based on a standardized template developed by OCC in collaboration with its Clearing Banks. The Proposed CSPA template agreement is not a public document, and OCC has separately submitted a request for confidential treatment regarding the

²⁰ 17 CFR 240.17Ad-22(e)(22).

²¹ Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70842 (October 13, 2016).

Proposed CSPA template agreement, which is included in this filing as Exhibit 3. The definitive Proposed CSPA between OCC and each Clearing Bank is expected to be consistent with the template agreement, however, OCC and each Clearing Bank may negotiate certain modifications.

As is the case today, the Proposed CSPA would continue to be the principal form of agreement that governs the rights and responsibilities of OCC and each Clearing Bank, details operational procedures (including backup procedures) and security protocols, and identifies individuals at OCC and at the Clearing Bank who are authorized to act on behalf of each party with respect to cash settlement instructions.

Under the Proposed CSPA, the timelines for OCC and Clearing Banks to perform the actions needed to effect settlement would be bifurcated as they are under the current agreement into start-of-day settlement instructions and intra-day settlement instructions. Also as with the current CSPA, there would be defined deadlines by which OCC must submit settlement instructions and by which the Clearing Bank must accept and execute the settlement instructions. In the event the SWIFT network is unavailable during a time at which settlement instructions are to be communicated, each Proposed CSPA would detail backup procedures with corresponding security protocols by which OCC and the Clearing Bank could effect settlement. For example, such alternative communication methods may include secure e-mail messages, telephone instructions with the use of personal identification codes, facsimile instructions, the Clearing Bank's proprietary online account system, or other methods agreed upon by OCC and the Clearing Bank.

Under the Proposed CSPA, however, Clearing Banks would not be deemed to have accepted settlement instructions in the event the Clearing bank does not explicitly communicate

acceptance or rejection to OCC. Instead, any acceptance would be required to be made by affirmative SWIFT confirmation message, and if a Clearing Bank did not respond OCC would have discretion to treat the failure to respond as a rejection and OCC would communicate with the Clearing Bank to understand the reason(s) why no response to the settlement instruction was provided and appropriate action is taken. These measures are intended to ensure that potentially erroneous instructions are identified and acted upon in a timely manner and to evidence settlement finality.

The CSPAs currently in effect between OCC and its Clearing Banks were implemented incrementally over a number of years as OCC's operations expanded and it became appropriate to maintain service agreements with a range of Clearing Banks, and in many cases they have not been renegotiated in a significant amount of time. For these reasons, there is variation between the terms and conditions of the relevant CSPA and the corresponding practices with the Clearing Banks. In some cases the differences are relatively substantial, such as in the one case described above where the primary means of communication between the Clearing Bank and OCC to support the cash settlement process is facsimile. The Proposed CSPA would address these issues by increasing consistency in the respective rights and responsibilities of OCC and the Clearing Banks and in turn promoting harmonization across OCC's daily cash settlement process. Negotiation of the Proposed CSPA to adopt the SWIFT messaging network as the primary process to support daily cash settlement would also update the agreements to rely on current industry communication procedures and standards that the Commission has recognized as consistent with the requirements of Rule 17Ad-22(e)(22).²²

²² 17 CFR 240.17Ad-22(e)(22).

Testing and Implementation

Prior to implementation of the Proposed CSPA, the existing CSPA and current processes regarding daily cash settlement would continue in effect while OCC completes the development of the new SWIFT interface. OCC would also complete roundtrip certification testing of the proposed SWIFT network messaging operations. Upon execution of the Proposed CSPA by a Clearing Bank, an implementation date would be coordinated between OCC and the Clearing Bank and OCC would provide advance notice of the implementation to Clearing Members through an Information Memo. OCC generally expects a total timeframe of approximately 90 days would be necessary to migrate a Clearing Bank to SWIFT messaging-based cash settlement. Though OCC would be able to begin migration to SWIFT messaged-based cash settlement with each Clearing Bank on an individual basis, it would expect to complete the migration with all of its Clearing Banks by the end of Q1 2018.

Anticipated Effect on and Management of Risk

OCC anticipates that the Proposed CSPA would reduce the nature and level of risk presented by OCC because, as described above, it would enhance the resiliency, efficiency and consistency of the cash settlement process and thereby reduce risks that are associated with the existing cash settlement process. Specifically, the Proposed CSPA would increase the resiliency of the cash settlement process by reducing manual processing steps that are more prone to risk of delay or error. Due to implementation of the SWIFT messaging network as the primary means of transmitting settlement instructions, a Clearing Bank's acceptance of settlement instructions would automatically result in debits or credits, as appropriate, and Clearing Banks would no longer manually enter settlement instructions in their own systems.

OCC also anticipates the Proposed CSPA would enhance the efficiency of the cash

settlement process by reducing manual processing steps that elongate the timeframe for processing and approving settlement instructions. In this regard, using SWIFT as the primary means of transmitting settlement instructions would reduce the risk of uncertainty in the cash settlement process by allowing OCC and the Clearing Banks to communicate using the same transmission method that is already typically used by the Clearing Banks to process funds transfer instructions with other institutions. OCC expects that this would lead to significantly faster response times from Clearing Banks to accept or reject instructions, which, in turn, would better manage the risk of untimely settlement by providing greater certainty concerning prompt settlement.

In addition, the Proposed CSPA would enhance consistency in the agreements between OCC and the Clearing Banks and harmonize the use of SWIFT as the primary process used to conduct cash settlement. OCC anticipates that this greater consistency would reduce the risk of delay or error in the settlement process that might result from OCC's management of the greater inconsistency across practices with the Clearing Banks that exists today.

Finally, OCC anticipates the Proposed CSPA would reduce regulatory risk to OCC by helping to ensure that the primary means of communicating settlement instructions uses relevant internationally accepted communications procedures and standards to facilitate efficient payment, clearing and settlement in a manner that is consistent with the requirements of Rule 17Ad-22(e)(22).²³

For all of these reasons, OCC anticipates that the Proposed CSPA would reduce the nature and level of risk presented by OCC.

²³ 17 CFR 240.17Ad-22(e)(22).

Consistency with the Payment, Clearing and Settlement Supervision Act

The stated purpose of the Clearing Supervision Act is to mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.²⁴ Section 805(a)(2) of the Clearing Supervision Act²⁵ also authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like OCC, for which the Commission is the supervisory agency. Section 805(b) of the Clearing Supervision Act²⁶ states that the objectives and principles for risk management standards prescribed under Section 805(a) shall be to:

- promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.

The Commission has adopted risk management standards under Section 805(a)(2) of the Clearing Supervision Act and the Act in furtherance of these objectives and principles.²⁷ In

²⁴ 12 U.S.C. 5461(b).

²⁵ 12 U.S.C. 5464(a)(2).

²⁶ 12 U.S.C. 5464(b).

²⁷ 17 CFR 240.17Ad-22. See Securities Exchange Act Release Nos. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7-08-11) (“Clearing Agency Standards”); 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016) (S7-03-14) (“Standards for Covered Clearing Agencies”). The Standards for Covered Clearing Agencies became effective on December 12, 2016. As a “covered clearing agency” under Rule 17Ad-22(a)(5), OCC became obligated to comply with new section (e) of Rule 17Ad-22 as of the Commission’s compliance date of April 11, 2017.

particular, Rule 17Ad-22(e)(22)²⁸ requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to “use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.”

OCC believes that the proposed change concerning cash settlement described above is consistent with Section 805(b)(2) of the Clearing Supervision Act²⁹ because it would promote safety and soundness in OCC’s daily cash settlement process by mitigating risks that arise in the existing process due to manual processing steps and inconsistent practices across OCC’s Clearing Banks and thereby enhancing the resiliency, efficiency and consistency of the process. As described in detail above, the proposed change would promote safety and soundness by implementing the SWIFT messaging network as the primary means of transmitting daily cash settlement instructions between OCC and each Clearing Bank that performs cash settlement on behalf of Clearing Members. This represents the use of a primary communication procedure that would be integrated with the systems that are already typically used by the Clearing Banks to process funds transfer instructions with other institutions and that would cause the acceptance of settlement instructions by Clearing Banks to automatically result in debits or credits, as appropriate, in the accounts of OCC and Clearing Members at the Clearing Banks. OCC believes that these changes promote the safety and soundness of the cash settlement process by, among other things, reducing manual processing steps that are more prone to risk of delay or error and by facilitating faster response times regarding the acceptance or rejection of settlement instructions by Clearing Banks, which, in turn, would provide greater certainty regarding prompt settlement.

²⁸ 17 C.F.R. 240.17Ad-22(e)(22).

²⁹ 12 U.S.C. 5464(b)(2).

OCC also believes that the proposed change to enhance the consistency of the CSPA between OCC and each Clearing Bank would promote safety and soundness by reducing the risk of settlement delay or error that may arise due to the existing degree of variability in the practices between Clearing Banks, including but not limited to the current use by one Clearing Bank of facsimile as a primary method for transmitting settlement instructions.

OCC further believes that the proposed change would promote compliance with Rule 17Ad-22(e)(22),³⁰ which requires OCC as a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to “use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.” In adopting this requirement, the Commission stated that “[r]elevant internationally accepted communication procedures and standards could include messaging standards such as *SWIFT*, *FIX* and *FpML*.” [emphasis added].³¹ Accordingly, use of the *SWIFT* messaging network as the primary process to support daily cash settlement is consistent with Rule 17Ad-22(e)(22).

In these ways, OCC believes the proposed changes are consistent with Section 805(b)(2) of the Clearing Supervision Act³² and Rule 17Ad-22(e)(22).³³

III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of: (i) the date the proposed change was filed with the Commission or (ii) the date any additional information requested by the Commission is

³⁰ 17 CFR 240.17Ad-22(e)(22).

³¹ Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786, 70842 (October 13, 2016).

³² 12 U.S.C. 5464(b)(2).

³³ 17 CFR 240.17Ad-22(e)(22).

received. OCC shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

OCC 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 advance notice is consistent with the Clearing Supervision Act and 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-2017-805 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission,

100 F Street, NE, Washington, DC 20549.

All submissions should refer to File Number SR-OCC-2017-805. 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 advance notice that are filed with the Commission, and all written communications relating to the advance notice 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 a.m. and 3:00 p.m. Copies of the 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_805.pdf.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2017-805 and should be submitted on or before **[INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

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