

identifies all securities traded on the NYSE Arca Marketplace that do not trade for the duration of each of the three sessions specified in NYSE Arca Equities Rule 7.34. The Exchange proposes to add the following securities to these lists: (1) Claymore MACROshares Oil Up Tradeable Shares and (2) Claymore MACROshares Oil Down Tradeable Shares.<sup>7</sup> These securities are traded on the Exchange pursuant to UTP and are Paired Trust Shares, as described in NYSE Arca Equities Rule 8.400.

Finally, the Exchange proposes to amend NYSE Arca Equities Rule 7.34(a)(4)(A) relating to trading halt procedures applicable to trading specified Derivative Securities Products on a UTP basis in the Opening, Core, and Late Trading Sessions. The Exchange proposes to add Paired Trust Shares described in NYSE Arca Equities Rule 8.400 to the list of Derivative Securities Products to which NYSE Arca Equities Rule 7.34(a)(4)(A) applies.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,<sup>8</sup> in general, and furthers the objectives of section 6(b)(5)<sup>9</sup> in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or

such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act<sup>10</sup> and rule 19b-4(f)(6) thereunder.<sup>11</sup>

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed rule change should provide transparency and more clarity with respect to the trading hours eligibility of certain derivative securities products and should promote consistency in the trading halts of derivative securities. For these reasons, the Commission designates the proposed rule change as operative immediately.<sup>12</sup>

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate 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 e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEArca-2007-02 on the subject line.

### *Paper Comments*

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

<sup>10</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>11</sup> 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires an exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice requirement in this case.

<sup>12</sup> For purposes only of accelerating the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

All submissions should refer to File Number SR-NYSEArca-2007-02. 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 Web site (<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 inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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-NYSEArca-2007-02 and should be submitted by February 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>13</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-1593 Filed 1-31-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-55151; File No. SR-OCC-2006-16]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Definition of Fund Share

January 23, 2007.

## I. Introduction

On September 21, 2006, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2006-16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> Notice

<sup>13</sup> 17 CFR 200.30-3(a)(12).

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

<sup>7</sup> See note 5, *supra*.

<sup>8</sup> 15 U.S.C. 78f(b).

<sup>9</sup> 15 U.S.C. 78f(b)(5).

of the proposal was published in the **Federal Register** on November 28, 2006.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

## II. Description

OCC issues and clears options on “fund shares” that are defined in Article I of OCC’s By-Laws as a publicly traded interest in a trust, investment company, or other entity holding portfolios or baskets of securities.<sup>3</sup> The rule change amends the definition of “fund share” in order to accommodate requests from OCC participant exchanges that OCC clear and settle options on exchange traded fund (“ETF”) shares that represent interests in an entity holding euros and investing the euros in time deposits.<sup>4</sup> Specifically, the rule change amends the definition to include interests in entities holding portfolios or baskets of currencies, including single currencies. The definition would also be revised to make it clear that (i) it includes entities with actively managed portfolios and (ii) it applies only to entities principally engaged in holding portfolios or baskets of securities or currencies and not to entities that do so as an incident to some other business.

If approved by the Commission, the proposed rule change would not be implemented until definitive copies of an appropriate supplement to the options disclosure document, *Characteristics and Risks of Standardized Options*, are available for distribution.

## III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>5</sup> The purpose of the proposed rule change is to amend OCC’s By-Laws and Rules so that OCC may clear and settle options on ETF shares that represent interest in an entity that holds currencies, including single currencies. Accordingly, the proposed

rule change should promote the prompt and accurate clearance and settlement of such securities transactions.

## IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.<sup>6</sup>

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–2006–16) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Florence E. Harmon,**  
Deputy Secretary.

[FR Doc. E7–1585 Filed 1–31–07; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55152; File No. SR–OCC–2006–17]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Definition of Fund Share and Options on Commodity Pool ETFs

January 23, 2007.

## I. Introduction

On September 21, 2006, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR–OCC–2006–17 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).<sup>1</sup> Notice of the proposal was published in the **Federal Register** on November 28, 2006.<sup>2</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

## II. Description

The rule change permits OCC to issue, clear, and settle options on equity interests issued by exchange-traded funds (“ETFs”) that trade directly or indirectly in commodity futures products and are therefore subject to

regulation by the Commodity Futures Trading Commission (“CFTC”) as commodity pools. The American Stock Exchange recently filed a proposed rule change to list and trade options on (1) interests (“Interests”) issued by the DB Commodity Index Tracking Fund (“DBC Fund”), whose value is intended to track the performance of the “Deutsche Bank Liquid Commodity Index™—Excess Return” and (2) units issued by the United States Oil Fund, L.P. (“Oil Fund”), whose value is intended to track the spot price of West Texas Intermediate light, sweet crude oil delivered to Cushing, Oklahoma, less Oil Fund expenses.<sup>3</sup>

The interests and the units are freely transferable and may be bought and sold like any other ETF interest or other exchange-listed security. In addition to options on the Interests and the Units, there may be other similar options on ETFs regulated by the CFTC as commodity pools that OCC may be asked to issue, clear, and settle in the future.

The definition of “fund share” in Article I of OCC’s By-Laws is currently limited to shares in entities “holding portfolios or baskets of securities.” However, the Oil Fund invests directly in commodity futures contracts. Additionally, although as a technical matter the DBC Fund invests exclusively in securities, entities such as the DBC Fund that invest in the securities issued by a commodity pool are themselves deemed to be commodity pools because they represent an indirect investment in commodity futures contracts. OCC is therefore amending the definition of “fund share” in Article I of its By-Laws to specifically refer to interests in an entity that is a commodity pool. The definition is revised to make it clear that it includes feeder funds.

The proposed rule change will not be implemented until definitive copies of an appropriate supplement to the options disclosure document, *Characteristics and Risks of Standardized Options*, are available for distribution.

## III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities

<sup>2</sup> Securities Exchange Act Release No. 54786, (November 20, 2006), 71 FR 68872.

<sup>3</sup> Securities Exchange Act Release No. 46914 (November 26, 2002), 67 FR 72261 (December 4, 2002) [File No. SR–OCC–2002–22].

<sup>4</sup> Securities and Exchange Act Release Nos. 54087 (June 30, 2006), 71 FR 38918 (July 10, 2006) [File No. SR–ISE–2005–60] and 54983 (December 20, 2006), 71 FR 78476 (December 29, 2006) [File No. SR–AMEX–2006–87] (Orders approving a proposed rule change to allow listing and trading of fund shares that hold specified non-U.S. currency options, futures or options on futures on such currency, or any other derivatives based on such currency).

<sup>5</sup> 15 U.S.C. 78q–1(b)(3)(F).

<sup>6</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>7</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> Securities Exchange Act Release No. 54784, (November 20, 2006), 71 FR 68871.

<sup>3</sup> File No. SR–AMEX–2006–110. See Securities Exchange Act Release Nos. 54450 (September 14, 2006) 71 FR 55230 (September 21, 2006) [File No. SR–AMEX–2006–44] and 53582 (March 31, 2006) 71 FR 17510 (April 6, 2006) [File No. SR–AMEX–2005–127] for more detailed descriptions of the DBC Fund and of the Oil Fund.