

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-63120; File No. SR-OCC-2010-17]

### Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Clearing Member Trade Assignment Arrangements

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on October 4, 2010, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>2</sup> and Rule 19b-4(f)(4)<sup>3</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. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The proposed rule change would provide a new service for clearing members that are parties to a Clearing Member Trade Assignment ("CMTA") arrangement.

#### II. Self-Regulatory Organization'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 such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to provide a new service for clearing members that are parties to a CMTA arrangement. Clearing members electing to participate in the new service will authorize OCC to facilitate on a

non-guaranteed basis settlement of commissions and fees<sup>4</sup> relating to position transfers effected between the clearing members pursuant to their CMTA arrangement. This service is being offered in response to a request made by OCC's Roundtable.<sup>5</sup>

##### 1. Background

CMTA is the process by which an authorized executing clearing member directs the transfer of an exchange transaction to a designated account of a carrying clearing member. To correct mis-clears and other bona fide processing errors, an executing clearing member also may transfer to a carrying clearing member as a part of their CMTA arrangement positions that resulted from transactions that were directly cleared into an account of an executing clearing member but were intended for give-up to the carrying clearing member. Currently, fees and commissions that are owed by the carrying clearing member to the executing clearing member with respect to these transfers are tracked and billed bilaterally between the firms. This process, which has long been considered inefficient, results in increased collection times and reconciliation problems for the firms involved. At the request of the Roundtable, OCC has developed a centralized solution to reduce some of these inefficiencies. OCC therefore proposes to modify its systems and rules to provide for the non-guaranteed settlement of fees and commissions associated with position transfers effected pursuant to registered CMTA arrangements.

##### 2. Rule Changes

OCC proposes to add system functionality to support the calculation and non-guaranteed settlement of fees and commissions based on entries made by the executing clearing member. Firms desiring to make use of this functionality will be required to reregister their CMTA arrangement and specifically authorize OCC to make such settlements without any further authorization from the carrying clearing

member. Accordingly, OCC is proposing to amend Rule 403, relating to CMTA processing, to provide that clearing members electing to use this new service must register that aspect of their CMTA arrangement with OCC. Such registration, when accepted by OCC's systems, will authorize an executing clearing member to make entries into OCC's systems with respect to fees and commissions subject to any system checks imposed by OCC.<sup>6</sup> Such registration will also authorize OCC to settle on a non-guaranteed basis the total of such amounts on the business day next following the date the entries were made without any further authorization from the carrying clearing member. If the clearing members terminate their CMTA arrangement, OCC would be authorized to settle any fee and commission amounts entered prior to the effective time of such termination as determined in accordance with Rule 403.

Settlement of fees and commissions will be done on a non-guaranteed basis pursuant to changes being made to Rule 504. Rule 504 currently provides for OCC's money-only settlement service (proposed to be renamed "non-guaranteed settlement service") through which clearing members may specifically authorize OCC to effect non-guaranteed settlements of monies owed between two firms relating to transactions cleared by OCC. A new provision will be added to Rule 504 in order to accommodate the settlement of fees and commissions pursuant to an effectively registered CMTA arrangement. The new provision will permit OCC, as agent, to calculate and effect settlement of the aggregate of such amounts based on entries made by the executing clearing member to the CMTA arrangement without any further consent of the carrying clearing member. OCC will have no obligation to verify the executing clearing member's entries, and any disputes between the firms regarding such amounts will have to be resolved between themselves. Settlements will occur the business day following the business day on which the executing clearing member inputs necessary information into OCC's

<sup>4</sup> Fees would include exchange, clearing, and other fees related to the transaction.

<sup>5</sup> The OCC Roundtable is an OCC sponsored advisory group comprised of representatives from OCC's participant exchanges, OCC, a cross-section of OCC clearing members, and industry service bureaus. The Roundtable considers operational improvements that may be made to increase efficiencies and lower costs in the options industry. As a separate but related matter, the Roundtable also asked OCC to eliminate the requirement that clearing members to a CMTA arrangement represent they have entered into a "written" agreement when registering their arrangement in order to support their ability to enter into agreements electronically.

<sup>6</sup> For commissions, OCC's systems will be configured to permit clearing members to specify either a particular commission rate or a flat commission rate, provided that no commission rate could exceed \$9.99/contract and no flat rate could exceed \$50,000 per entry. For fees, OCC's systems will be configured to permit clearing members to input any combination of fees subject to a \$50,000 cap per transaction. Use of this service by registered clearing members remains optional (*i.e.*, OCC's systems will not require registered firms to input fee and commission information in order to effect a CMTA-related transfer).

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

<sup>2</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>3</sup> 17 CFR 240.19b-4(f)(4).

systems. Like other settlements effected pursuant to Rule 504, these settlements will not be guaranteed by OCC. If a settlement draft for these amounts against a clearing member's bank account is not honored, OCC will have no obligation to effect any payment of commissions or fees to the executing clearing member. Likewise, OCC will have no obligation to effect these settlements if OCC has suspended an executing or carrying clearing member.

Finally, OCC proposes to insert another new provision into Rule 504. First, the new provision will reflect OCC's current practice of not processing non-guaranteed settlements until settlements pursuant to Rule 502 (for premium, mark-to-market, and cash exercise and assignment settlement amounts) and 605 (margin deficits) have been completed. Second, it will also permit OCC to defer processing of non-guaranteed settlements on a business day. Affected clearing members will be notified of OCC's decision and of the business day non-guaranteed settlements will be resumed. This authority will provide OCC with flexibility to defer processing non-guaranteed settlements on a given business day in the event a significant processing delay makes such action advisable or appropriate.

OCC states that the proposed rule change is consistent with Section 17A of the Act<sup>7</sup> because it would provide a centralized service to facilitate collection of fees and commissions relating to transfers between clearing members that are parties to a CMTA arrangement thereby increasing the efficiency of the fee and commission collection process and reducing costs associated therewith. Furthermore, OCC states that the proposed rule change is not inconsistent with the existing rules of OCC including any other rules proposed to be amended.

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

OCC does not believe that the proposed rule change would impose any burden on competition.

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

OCC has not solicited or received written comments relating to the proposed rule change. OCC will notify the Commission of any written comments it receives.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>8</sup> and Rule 19b-4(f)(4)<sup>9</sup> because it effects a change in an existing service of a registered clearing agency that does not adversely affect the safeguarding of securities or funds in the custody or control of the clearing agency or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. 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 No. SR-OCC-2010-17 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File No. SR-OCC-2010-17. 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 Web site 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 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at OCC's principal office and on OCC's Web site at (<http://www.theocc.com/about/publications/bylaws.jsp>). 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 No. SR-OCC-2010-17 and should be submitted on or before November 15, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-63129; File No. SR-NYSEArca-2010-91]**

### **Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Amendment to NYSE Arca Equities Rule 8.500 To Accommodate Trading of Trust Units**

October 19, 2010.

Pursuant to Section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the "Act")<sup>2</sup> and Rule 19b-4 thereunder,<sup>3</sup> notice is hereby given that, on October 12, 2010, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b-4.

<sup>7</sup> 15 U.S.C. 78q-1.

<sup>8</sup> Above note 2.

<sup>9</sup> Above note 3.