

securities companies, and (C) securities issued by majority-owned subsidiaries of the owner which (i) are not investment companies, and (ii) are not relying on the exception from the definition of investment company in paragraph (1) or (7) of section 3(c) of the Act.

3. The Company states that it is actively engaged in ongoing business operations in the placement agency, restaurant, gaming and entertainment fields and that it has never been an investment company as defined by section 3(a)(1)(A).<sup>3</sup> Because the Company's investment securities are currently only approximately 16.4% of its total assets, the Company believes that it no longer meets the definition of investment company as defined in section 3(a)(1)(C) of the Act. The Company further states that it intends to manage its assets and any future cash earnings in a manner that will cause the Company to continue to be excluded from the definition of an investment company under the Act. The Company states that after entry of the order requested by the application, it will continue to be a publicly-held company and will continue to be subject to the reporting and other requirements of the Securities Exchange Act of 1934. Accordingly, the Company states that it is qualified for an order of the Commission pursuant to section 8(f) of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

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

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-61692; File No. SR-OCC-2010-0]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to ETFS Palladium Shares And ETFS Platinum Shares

March 11, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on March 1, 2010, The Options Clearing Corporation

<sup>3</sup> The Company also states that none of its subsidiaries can be defined as an investment company for purposes of the Act and none of its subsidiaries is relying on sections 3(c)(1) or 3(c)(7) of the Act.

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

(“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. 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 add ETFS Palladium Shares and ETFS Platinum Shares to the interpretation following the definition of “fund share” in Article I, Section 1 of OCC's By-Laws.

#### 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 remove any potential cloud on the jurisdictional status of options or security futures on ETFS Palladium Shares or ETFS Platinum Shares. To accomplish this purpose, OCC is proposing to amend the interpretation following the definition of “fund share” in Article I, Section 1 of OCC's By-Laws. On May 30, 2008, the Commission approved rule filing SR-OCC-2008-07, which added the interpretation with respect to the treatment and clearing of options and security futures on SPDR Gold Shares.<sup>2</sup> On December 4, 2008, the Commission approved rule filings SR-OCC-2008-13 and SR-OCC-2008-14, which amended the interpretation to extend similar treatment to options and security futures on iShares® COMEX Gold Shares and iShares® Silver Shares.<sup>3</sup> On February 25, 2010, the Commission approved rule filing SR-OCC-2009-20, which extended similar treatment to options and security futures on ETFS Physical Swiss Gold Shares and ETFS Physical Silver

Shares.<sup>4</sup> Under the current proposed rule change, OCC would also (i) clear and treat as securities options any option contracts on ETFS Palladium Shares and ETFS Platinum Shares that are traded on securities exchanges and (ii) clear and treat as security futures any futures contracts on ETFS Palladium Shares and ETFS Platinum Shares.

In its capacity as a “derivatives clearing organization” registered with the Commodity Futures Trading Commission (“CFTC”), OCC is filing this proposal for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act (“CEA”) in order to foreclose any potential liability under the CEA based on an argument that the clearing by OCC of such options as securities options or the clearing of such futures as security futures constitutes a violation of the CEA. The products for which approval is requested are essentially the same as the options and security futures on SPDR Gold Shares, iShares® COMEX Gold Shares, and iShares® Silver Shares that OCC currently clears pursuant to the rule changes referred to above and exemptions issued by the CFTC.<sup>5</sup> OCC believes that this filing raises no new regulatory or policy issues.

OCC states that the proposed interpretation of OCC's By-Laws is consistent with the purposes and requirements of Section 17A of the Act<sup>6</sup> because it is designed to promote the prompt and accurate clearance and settlement of transactions in securities options and security futures, to foster cooperation and coordination with persons engaged in the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. OCC states that the proposed rule change accomplishes these purposes by reducing the likelihood of a dispute as to the Commission's jurisdiction or shared jurisdiction in the case of security futures over derivatives based on ETFS Palladium Shares or ETFS Platinum Shares. OCC also states that the

<sup>4</sup> Securities Exchange Act Release No. 61591, 75 FR 9979 (Mar. 4, 2010).

<sup>5</sup> CFTC Order Exempting the Trading and Clearing of Certain Products Related to SPDR Gold Trust Shares, 73 FR 31981 (June 5, 2008). CFTC Order Exempting the Trading and Clearing of Certain Products Related to iShares® COMEX Gold Trust Shares and iShares® Silver Trust Shares, 73 FR 79830 (Dec. 3, 2008).

<sup>6</sup> 15 U.S.C. 78q-1.

<sup>2</sup> Securities Exchange Act Release No. 57895, 73 FR 32066 (June 5, 2008).

<sup>3</sup> Securities Exchange Act Release No. 59054, 73 FR 75159 (Dec. 10, 2008).

proposed rule change is not inconsistent with OCC's By-Laws and Rules.

*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 for Commission Action**

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

**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-2010-03 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-2010-03. 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/publications/rules/proposed\\_changes/proposed\\_changes.jspU](http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.jspU). 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 submission should refer to File No. SR-OCC-2010-03 and should be submitted on or before April 8, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

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

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**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61694; File No. SR-NYSE-2010-18]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange LLC To Amend the Bylaws of NYSE Euronext To Adopt a Majority Voting Standard in Uncontested Elections of Directors**

March 11, 2010.

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> notice is hereby given that on March 5, 2010, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the

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

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

<sup>2</sup> 17 CFR 240.19b-4.

proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. 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 Substance of the Proposed Rule Change**

The Exchange is submitting this rule filing in connection with the proposal of its ultimate parent, NYSE Euronext (the "Corporation"),<sup>3</sup> to amend its bylaws ("Bylaws") to replace the plurality vote standard for election of directors in uncontested elections that is currently in the Bylaws with a majority vote standard for such elections. The existing plurality vote standard will be retained in connection with contested elections for directors. The text of the proposed rule change is available at the Exchange, at the Commission's Public Reference Room, and on the Exchange's Web site at <http://www.nyse.com>.

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

In its filing with the Commission, the self-regulatory organization 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. The Exchange 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*

**1. Purpose**

The Exchange is submitting this rule filing in connection with the Corporation's proposal to amend its Bylaws to replace the plurality vote standard for election of directors in uncontested elections that is currently in the Bylaws with a majority vote standard for such elections. Specifically, the Bylaws currently provide that "directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of directors." Under the Corporation's corporate governance

<sup>3</sup> NYSE, a New York limited liability company, is an indirect wholly-owned subsidiary of NYSE Euronext.