

manner. The Exchange also believes that increasing the sector index options fees for Registered Options Traders (on-floor) and Specialists is equitable in that it is in the range of other sector index option options transaction sector index fees.

Additionally, the Exchange believes that the clarifying technical amendments will provide further clarity to the Fee Schedule.

#### *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 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*

No written comments were either solicited or 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)(ii) of the Act<sup>16</sup> and paragraph (f)(2) of Rule 19b-4<sup>17</sup> thereunder. 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 an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Phlx-2010-47 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-Phlx-2010-47. 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 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 publicly available. All submissions should refer to File Number SR-Phlx-2010-47 and should be submitted on or before April 28, 2010.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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### **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-61820; File No. SR-OCC-2010-05]**

#### **Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Cash-Settled Foreign Currency Options With One-Cent Exercise Prices**

April 1, 2010.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on March 16, 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. 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 make clear that cash-settled foreign currency options traded on national securities exchanges will be treated and cleared as securities options notwithstanding that they may have a nominal exercise price such as one cent.

#### **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*

In this rule filing, OCC proposes to add a sentence to the Introduction to Article XXII of its By-Laws to make clear that cash-settled foreign currency options traded on national securities exchanges will be treated and cleared as securities options notwithstanding that they may have a nominal exercise price such as one cent.<sup>2</sup> In its capacity as a "derivatives clearing organization" registered as such with the Commodities Futures Trading Commission ("CFTC"), OCC is also filing this proposed rule change with the CFTC for prior approval pursuant to provisions of the Commodity Exchange Act ("CEA") in order to foreclose any potential argument that the clearing by OCC of such options as securities options constitutes a violation of the CEA. The products involved here are essentially the same as cash-settled foreign currency options that OCC currently clears except for the low strike price.

OCC states that the proposed interpretation of OCC's By-Laws is

<sup>16</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

<sup>18</sup> 17 CFR 200.30-3(a)(12).

<sup>19</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> The exact language of the proposal can be seen at [http://www.theocc.com/component/docs/legal/rules\\_and\\_bylaws/sr\\_OCC\\_10\\_05.pdf](http://www.theocc.com/component/docs/legal/rules_and_bylaws/sr_OCC_10_05.pdf).

consistent with the purposes and requirements of Section 17A of the Act<sup>3</sup> because it is designed to promote the prompt and accurate clearance and settlement of transactions in securities options, 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 believes that the proposed rule change accomplishes these purposes by reducing the likelihood of a dispute as to the Commission's jurisdiction over cash-settled foreign currency options with an exercise price of one cent. OCC also states that the proposed rule change is not inconsistent with the By-Laws and Rules of OCC including those 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 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-2010-05 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-2010-05. 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.jsp](http://www.theocc.com/publications/rules/proposed_changes/proposed_changes.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-2010-05 and should be submitted on or before April 28, 2010.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

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## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-61819; File No. SR-FINRA-2009-061]

### **Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 2 to a Proposed Rule Change and Order Granting Accelerated Approval to the Proposed Rule Change, as Modified by Amendments Nos. 1 and 2 Thereto, To Require Members To Report OTC Transactions in Equity Securities Within 30 Seconds of Execution**

March 31, 2010.

#### **I. Introduction**

On September 16, 2009, the Financial Industry Regulatory Authority, Inc. ("FINRA") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to require members to report OTC transactions in equity securities within 30 seconds of execution. On October 30, 2009, FINRA filed Amendment No. 1 to the proposed rule change. The Commission published the proposed rule change, as amended, for comment in the **Federal Register** on November 17, 2009.<sup>3</sup> The Commission received two comment letters in response to the proposed rule change.<sup>4</sup> On March 22, 2010, FINRA responded to the comment letters and filed Amendment No. 2 to the proposed rule change.<sup>5</sup> This Commission is publishing this notice and order to solicit comments on Amendment No. 2 and to approve the proposed rule change, as

<sup>1</sup> 17 CFR 200.30-3(a)(12).

<sup>2</sup> 15 U.S.C. 78s(b)(1).

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

<sup>4</sup> See Securities Exchange Act Release No. 60960 (November 6, 2009), 74 FR 59272 ("Notice").

<sup>5</sup> See Letters from James R. Downing, CCO, Cheevers and Company, Inc., received November 12, 2009 ("Cheevers Letter"); and Neal E. Nakagiri, President, CEO, and CCO, NPB Financial Group, LLC, dated November 24, 2009 ("NPB Letter").

<sup>6</sup> See Amendment No. 2 dated March 22, 2010 ("Amendment No. 2"). The text of the Amendment No. 2 is available on FINRA's Web site at <http://www.finra.org>, at the principal office of FINRA, and on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>).

<sup>3</sup> 15 U.S.C. 78q-1.