

as noted above, other exchanges currently charge new ports on a prorated basis for the first month of service.¹¹ The proposed changes will help ensure that the Exchange's billing practices are commensurate with competitors.

The proposed change to the Exchange's port fee schedule is reflective of this competition because, as a threshold issue, the Exchange is a relatively small market so its ability to burden intermarket competition is limited. In this regard, even the largest U.S. equities exchange by volume only has 17–18% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members, participants, or competing order execution venues to maintain their competitive standing in the financial markets.

The proposed change to clarify that NTF ports are provided at no cost is designed to expressly state existing practice without changing its operation and, therefore, the Exchange believes that the proposed change will not impose a burden on competition.

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) of the Act¹² and paragraph (f) of Rule 19b–4¹³ thereunder.

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or 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 email to rule-comments@sec.gov. Please include File Number SR–PHLX–2022–34 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–PHLX–2022–34. This file number should be included on the subject line if email 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 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 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 the Exchange. 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–PHLX–2022–34 and should be submitted on or before October 6, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

J. Matthew DeLesDernier,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95717; File No. SR–OCC–2022–009]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Partial Amendment No. 1, by The Options Clearing Corporation Concerning One Multiplier Options

September 9, 2022.

I. Introduction

On July 18, 2022, the Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR–OCC–2022–009 pursuant to Section 19(b) of the Securities Exchange Act of 1934 (“Exchange Act”)¹ and Rule 19b–4² thereunder. The proposed rule change would amend provisions of OCC Rules to accommodate the issuance, clearance, and settlement of index options and flexibly-structured index options with an index multiplier of one.³ The proposed rule change was published for public comment in the **Federal Register** on August 1, 2022.⁴ On August 10, 2022, OCC filed Partial Amendment No. 1 to the proposed rule change.⁵ The Commission has received no comments regarding the proposed rule change. The Commission is publishing this notice to solicit comments on Partial Amendment No. 1 from interested persons, and is approving the proposed rule change, as

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Notice of Filing *infra* note 4, 87 FR at 47016.

⁴ Securities Exchange Act Release No. 95364 (July 26, 2022), 87 FR 47016 (Aug. 1, 2022) (File No. SR–OCC–2022–009) (“Notice of Filing”).

⁵ In Partial Amendment No. 1, OCC updated the description of Information Memo #50046 contained in Footnote 6 of SR–OCC–2022–009 to align with the proposed language for OCC Rule 1804 contained in Exhibit 5 to SR–OCC–2022–009 that an index or flexibly-structured index option with a multiplier of one will have an automatic exercise threshold amount of \$0.01 per contract. Partial Amendment No. 1 included a similar update to Item 4 of SR–OCC–2022–009.

¹¹ *Supra* note 6.

¹² 15 U.S.C. 78s(b)(3)(A).

¹³ 17 CFR 240.19b–4(f).

¹⁴ 17 CFR 200.30–3(a)(12).

modified by Partial Amendment No. 1, on an accelerated basis.⁶

II. Background ⁷

In 2021, the Commission approved a rule change proposed by the Cboe Exchange, Inc. (“Cboe”) providing for the listing of non-FLEX options with a multiplier of one (“micro-options”).⁸ In September 2021, the Commission approved a rule change proposed by Cboe to accommodate the listing and trading of a new product, namely flexible exchange (“FLEX”) index options with an index multiplier of one (“Micro FLEX Index Options”).⁹ Micro FLEX Index Options differ from other FLEX index options permitted under Cboe’s rules, which have a multiplier of 100. Now, OCC proposes to amend its rules related to the automatic exercise of index options and flexibly-structured index options with an index multiplier of one (collectively “One Multiplier Options”).

Currently, OCC’s rules provide for the automatic exercise of index options and flexibly-structured index options with a settlement value of \$1 or more without regard to the size of the index multiplier.¹⁰ OCC states that, with the proliferation of options with multipliers less than 100, OCC is proposing to modify its Rules to explicitly allow for a corresponding reduction in the automatic exercise threshold used for expiration processing for these products.¹¹

A. Current Rule 1804 Generally Does Not Account for Index Multipliers

OCC proposes to amend Rule 1804, which provides expiration exercise procedures for cash-settled options, to accommodate the automatic exercise of One Multiplier Options by adding a new threshold for automatic exercise. Currently, Rule 1804(b) allows for the automatic exercise of expiring cash-settled index options with standard expiration dates that are listed in a Clearing Member’s Expiration Exercise Report if the option’s expiration date is in-the-money by \$1.00 or more per

contract.¹² Under the current Rule 1804(c), with the exception of OTC index options, which have an automatic exercise threshold of one cent, the same \$1.00 automatic exercise threshold exists for expiring flexibly-structured index options, quarterly index options, monthly index options, weekly index options, and short-term index options that are listed in a Clearing Member’s Expiration Exercise Report.¹³ Generally, Rule 1804, which is silent regarding the size of index multipliers, does not set automatic exercise thresholds below one dollar, except for OTC index options.

B. Amending Expiration Exercise Procedures for One Multiplier Options

OCC’s proposed amendments to Rule 1804(b) and (c) would facilitate automatic exercise procedures for One Multiplier Options. OCC proposes to add a new threshold that would trigger automatic exercise of One Multiplier Options. Specifically, proposed Rule 1804(b) would explicitly state that for cash-settled options *with a multiplier of one*, each option contract that has an exercise settlement amount of \$0.01 or more per contract would be automatically exercised. Proposed Rule 1804(c) would maintain the current treatment of all other cash-settled options *with a multiplier of other than one*, by explicitly stating that each such option contract that has an exercise settlement amount of \$1.00 or more per contract would be automatically exercised. OCC’s proposed amendments would apply to cash-settled index options with standard expiration dates under Rule 1804(b); and to flexibly-structured index options, quarterly index options, monthly index options, weekly index options, and short-term index options under Rule 1804(c). OCC’s proposed changes would also ensure that the one-cent automatic exercise threshold for OTC index options would remain the same.

OCC believes the amendments to Rule 1804 are necessary to accommodate the decrease in product size as the result of the smaller multiplier.¹⁴ One Multiplier Options are 1/100th the size of most index options or index flex options on

the same underlying index. OCC explained that, due to the difference in product size as the result of the smaller multiplier, Cboe requested a proportionate reduction to the exercise threshold amount as established in OCC’s Rule 1804(b) and (c).¹⁵

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization.¹⁶ After carefully considering the proposed rule change, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OCC. More specifically, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Exchange Act,¹⁷ as described in detail below.

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that a clearing agency’s rules are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.¹⁸ Based on its review of the record, and for the reasons described below, the Commission believes that the proposed rule change is consistent with facilitating the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions.

The Commission believes that, in amending Rule 1804(b) and (c) to introduce a \$0.01 automatic exercise threshold for One Multiplier Options, the proposed rule aligns OCC’s expiration processing of One Multiplier Options with already-existing procedures applicable to options with multipliers other than one, including multipliers of 100. The introduction of an automatic exercise threshold consistent with the size of One Multiplier Options would extend the operational convenience provided for other options to One Multiplier Options without removing a Clearing Member’s ability to prevent the exercise of an in-the-money option that would otherwise be deemed exercised by submitting

⁶ References to the proposed rule change from this point forward refer to the proposed rule change as modified by Partial Amendment No. 1.

⁷ Capitalized terms used but not defined herein have the meanings specified in OCC’s Rules and By-Laws, available at <https://www.theocc.com/about/publications/bylaws.jsp>.

⁸ Securities Exchange Release No. 91528 (Apr. 9, 2021), 86 FR 19933 (Apr. 15, 2021) (File No. SR-CBOE-2020-117).

⁹ Securities Exchange Act Release No. 93122 (Sept. 24, 2021), 87 FR 54269 (Sept. 30, 2021) (File No. SR-CBOE-2021-041).

¹⁰ See OCC Rule 1804.

¹¹ Notice of Filing, 87 FR at 47017.

¹² OCC states that options are exercised under Rule 1804(b) as an operational convenience for its Clearing Members, but that Clearing Members have the ability to prevent the exercise of an in-the-money option that would otherwise be deemed exercised by submitting contrary exercise instructions. Notice of Filing, 87 FR at 47017.

¹³ By product design, the flexibly-structured options covered by Rule 1804(c) are automatically exercised if they are in-the-money by the exercise threshold amount, and Clearing Members are not permitted to submit instructions to prevent such exercise.

¹⁴ Notice of Filing, 87 FR at 47017.

¹⁵ *Id.*

¹⁶ 15 U.S.C. 78s(b)(2)(C).

¹⁷ 15 U.S.C. 78q-1(b)(3)(F).

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

contrary exercise instructions. The Commission believes that the introduction of such processes would reduce the likelihood that a Clearing Member would lose the value of a contract that is in-the-money due to the failure to exercise such a contract. Further, the Commission believes that the reduction of such likelihood of loss would, in turn, facilitate the prompt and accurate clearance and settlement of securities transactions.

The Commission believes, therefore, that the proposal is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.¹⁹

IV. Solicitation of Comments on Partial Amendment No. 1 to the Proposed Rule Change

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Partial Amendment No. 1, is consistent with the Exchange 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 email to rule-comments@sec.gov. Please include File Number SR-OCC-2022-009 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-OCC-2022-009. This file number should be included on the subject line if email 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 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 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 the Exchange. 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-2022-009 and should be submitted on or before October 6, 2022.

V. Accelerated Approval of Proposed Rule Change, as Modified by Partial Amendment No. 1

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,²⁰ to approve the proposed rule change prior to the 30th day after the date of publication of notice of the filing of Partial Amendment No. 1 in the **Federal Register**. As discussed above, Partial Amendment No. 1 modified the original proposed rule change by updating the description of Information Memo #50046 contained in Footnote 6 of SR-OCC-2022-009 to align with the proposed language for OCC Rule 1804. Partial Amendment No. 1 does not change the purpose of or basis for the proposed changes.

For similar reasons as discussed above, the Commission finds that Partial Amendment No. 1 is consistent with the requirement that OCC's rules be designed to promote the prompt and accurate clearance and settlement of securities transactions under Section 17A(b)(3)(F) of the Exchange Act.²¹ Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act, to approve the proposed rule change, as modified by Partial Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Exchange Act.²²

VI. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change, as modified by Partial Amendment No. 1, is consistent with the requirements of the Exchange Act, and in particular, the requirements of Section 17A of the Exchange Act²³ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,²⁴ that the proposed rule change (SR-OCC-2022-009), as modified by Partial Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

J. Matthew DeLesDernier,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-95718; File No. SR-NASDAQ-2022-050]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Credits at Equity 7, Section 118 and Clarify Its Port-related Fees at Options 7, Section 3

September 9, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 1, 2022, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the 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 proposes to amend: (i) the Exchange's transaction credits at Equity 7, Section 118(a), and (ii) the Exchange's port-related fees at Options 7, Section 3, as described further below. The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁴ 15 U.S.C. 78s(b)(2).

²⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 15 U.S.C. 78q-1(b)(3)(F).

²² 15 U.S.C. 78s(b)(2).

²³ In approving this proposed rule change, the Commission has considered the proposed rules'

¹⁹ 15 U.S.C. 78q-1(b)(3)(F).