

#### h. Implementation Timeframe

Assuming the SEC approves the proposal, several commenters requested additional time to comply with the proposed requirements, particularly if the monthly delivery obligations remain as originally proposed.<sup>62</sup> FINRA appreciates these factors and notes that in response to commenters' concerns, it is proposing to exclude certain activities from the monthly account statement requirement. Such change should significantly reduce the potential costs and burdens on firms. Nonetheless, FINRA intends to give firms sufficient time to comply with new FINRA Rule 2231.

As noted above, FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice* to be published no later than 90 days following Commission approval. The implementation date will be no later than 365 days following Commission approval.

#### 2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,<sup>63</sup> which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. FINRA believes that the proposed rule change will provide customers with critical information regarding their accounts and will allow them to review their statements in a timely manner, while also clarifying and streamlining the customer account rules for adoption as FINRA Rules in the Consolidated FINRA Rulebook.

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

FINRA does not believe that the proposed rule change will result in 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

Written comments on the proposed rule change were solicited by the Commission in response to the publication of SR-FINRA-2009-028.<sup>64</sup> The SEC received 12 comment letters. The comments are summarized above.

FINRA is submitting its response to comments on the original filing contemporaneously with this Amendment No. 1.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove such 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 Amendment No. 1, 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-FINRA-2009-028 on the subject line.

##### *Paper Comments*

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

All submissions should refer to File Number SR-FINRA-2009-028. 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 FINRA. 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-FINRA-2009-028 and should be submitted on or before August 23, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>65</sup>

**Elizabeth M. Murphy,**  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-64973; File No. SR-OCC-2011-09]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Allow for the Clearing of Real Estate Index Futures Contracts

July 27, 2011.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934,<sup>1</sup> notice is hereby given that on July 19, 2011, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I and II 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) thereunder<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 Terms of Substance of the Proposed Rule Change

The proposed rule change would accommodate the clearing and settling of certain futures on real estate indexes ("Real Estate Index Futures") proposed

<sup>62</sup> See Sutherland Asbill & Brennan Letter, TIAA-CREF June Letter and SIFMA Letter.

<sup>63</sup> 15 U.S.C. 78o-3(b)(6).

<sup>64</sup> See Proposing Release.

<sup>65</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. 78s(b)(3)(A)(iii).

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

to be traded by CBOE Futures Exchange, LLC (“CFE”).

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

The purpose of this proposed rule change is to accommodate Real Estate Index Futures that are currently proposed to be traded by CFE. Real Estate Index Futures are futures contracts on various proprietary indexes that are based on the aggregate residential real estate transaction prices in specific geographic regions over a 28-day calendar period. Unlike other index futures currently cleared by OCC, Real Estate Index Futures have a final settlement price determined as of a date well before the maturity date. The indexes underlying Real Estate Index Futures are based on real estate transaction prices in specific geographic regions over a 28-day calendar period, but the index value is not published until 63 days after the end of that 28-day calendar period. This publication date is also the maturity date for Real Estate Index Futures and the date on which the final settlement price is then determined. OCC is proposing to amend “maturity date” to include the day “as of which” the final settlement price is determined or, as in the case of Real Estate Index Futures, the day “on which” the final settlement price is determined.

OCC has submitted a copy of the Clearing Agreement and a new Schedule C–6 providing for the clearance of futures on non-securities indexes, such as Real Estate Index Futures, which is attached to File No. SR–OCC–2011–09 as Exhibit 5.

The proposed change is consistent with the purposes and requirements of Section 17A of the Act<sup>4</sup> because it is designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC’s obligations with respect to the prompt

and accurate clearance and settlement of securities transactions or the protection of investors and the public interest. The proposed rule change is not inconsistent with any rules of OCC.

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

OCC does not believe that the proposed rule change will have any impact or 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.

## 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)(iii) of the Act<sup>5</sup> and Rule 19b–4(f)(4)<sup>6</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–2011–09 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary,

Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–OCC–2011–09. 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 filings also will be available for inspection and copying at OCC’s principal office and OCC’s Web site ([http://www.theocc.com/components/docs/legal/rules\\_and\\_bylaws/sr\\_occ\\_11\\_09.pdf](http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_11_09.pdf)). 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–2011–09 and should be submitted on or before August 23, 2011.

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

**Elizabeth M. Murphy,**

*Secretary.*

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<sup>4</sup> 15 U.S.C. 78q–1.

<sup>5</sup> *Supra* note 2.

<sup>6</sup> *Supra* note 3.

<sup>7</sup> 17 CFR 200.30–3(a)(12).