

information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca-2015–19 and should be submitted on or before April 15, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74537; File No. SR–OCC–2015–04]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change, as Modified by Amendment 1 Thereto, To Expand the Officers Who May Declare That a Clearing Member Is Summarily Suspended

March 19, 2015.

On January 23, 2015, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change SR–OCC–2015–04 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on February 11, 2015.³ The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment 1.

I. Description

OCC is amending its Rules to permit OCC to expand the officers who may declare that a clearing member is summarily suspended from OCC. Currently, OCC Rule 1102 provides that only OCC’s Board of Directors (“Board”) and its Executive Chairman may summarily suspend a clearing member. OCC believes that, given the time sensitive nature of managing a clearing member default, it is prudent risk management to expand the number of officers with the authority to summarily suspend a clearing member so that OCC may begin its default management process and, in turn, take protective action as soon as possible.

Pursuant to OCC Rule 1102, OCC’s Board and Executive Chairman have the authority to summarily suspend a clearing member. As set forth in Interpretation and Policy .01 of Rule 1102, such action constitutes a “default” with respect to the clearing member. OCC’s ability to timely and effectively begin its clearing member default management process serves a key role in protecting OCC, non-defaulting clearing members and the public from potential consequential damage(s) that may be caused by the default of a clearing member. In order to provide OCC with the necessary tools to manage a clearing member default, Chapter XI of OCC’s Rules provides OCC with the authority to take certain protective action(s) once a clearing member has been summarily suspended (and declared to be in default).⁴ While OCC believes that the authority provided to it in Chapter XI of its Rules is sufficiently robust to manage a clearing member default, OCC may not exercise such authority unless and until a clearing member has been summarily suspended by either the Board or the Executive Chairman.

In order to provide greater assurance that OCC will be able to timely and effectively manage a clearing member default, pursuant to its proposal as approved, OCC is amending Rule 1102 to expand the list of officers who may summarily suspend a clearing member to include OCC’s President or a designee of the Executive Chairman ⁵ or President of the rank of Senior Vice President or higher (each a “Designed Officer”).⁶ OCC believes that the change will provide it with additional operational flexibility because more individuals will be able to timely summarily suspend a clearing member and thereby allow OCC to exercise its authority to manage a clearing member default. OCC’s clearing member default management process is designed to protect OCC, non-defaulting clearing members and the public from the defaulting clearing member without materially impacting financial markets.⁷ By providing additional officers with

the authority to summarily suspend a clearing member, and thereby allow OCC to begin its default management processes, there will be greater assurance that OCC will timely take action(s) necessary to protect itself, non-defaulting clearing members, and the public from a defaulting clearing member. OCC also is amending Rule 1102 to require notification to the Board as soon as practicable should a Designated Officer summarily suspend a clearing member.⁸ The addition of such a requirement will ensure that the Board is timely informed of such suspensions.

Furthermore, pursuant to this rule change as approved, OCC is making conforming amendments consistent with the above to Article VI, Section 25 of its By-Laws and OCC Rule 707, which concern the summary suspension of clearing members that participate in OCC’s cross-margining programs. Specifically, Article VI, Section of OCC’s By-Laws and OCC Rule 707 will explicitly state that the Board of Directors or a Designated Officer may summarily suspend a clearing member based on a cross-margining related default.

Except for the changes described above, no other changes are proposed to OCC’s suspension or default management processes as set forth in the Rules, including a clearing member’s right to appeal a summary suspension in accordance with OCC Rule 1110.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act ⁹ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.

The Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act, which requires, among other things, that the rules of a clearing agency are designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.¹⁰ By expanding the list of officers with the authority to summarily suspend a clearing member, OCC will be better able to ensure that has the ability to timely begin the clearing member default management processes. In turn, timely beginning the

⁴ For example, OCC Rule 1106(a) provides OCC with significant flexibility with respect actions it may take in order to close out a defaulting clearing member’s open long positions.

⁵ OCC filed Amendment No. 1 in order to correct an inadvertent grammatical error. Specifically, a comma after the word “Executive Chairman” was removed because it caused the description of the proposed rule change to not be consistent with the text of the proposed rule change.

⁶ OCC’s proposal is similar to the summary suspension process employed by the National Securities Clearing Corporation (“NSCC”). See NSCC Rule 46, Section 3.

⁷ A description of OCC’s default management process is located at: <http://www.theocc.com/risk-management/default-rules/>

⁸ OCC staff will notify the Board within two hours of the summary suspension.

⁹ 15 U.S.C. 78s(b)(2)(C).

¹⁰ 15 U.S.C. 78q–1(b)(3)(F).

³² 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ Securities Exchange Act Release No. 74212 (February 5, 2015), 80 FR 7668 (February 11, 2015) (SR–OCC–2015–04).

default management process will further the safeguarding of securities and funds which are in the custody or control of OCC, or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act¹¹ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹² that the proposed rule change (SR–OCC–2015–04), as modified by Amendment 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Brent J. Fields,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74536; File No. SR–OCC–2015–007]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Enhance the Measurement Used To Establish Minimum Capital Requirements for Banks Approved To Issue Letters of Credit

March 19, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹ and Rule 19b–4 thereunder² notice is hereby given that on March 6, 2015, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency’s Statement of the Terms of Substance of the Proposed Rule Change

OCC proposes to amend its By-Laws and Rules in order to enhance the measurement used to establish

minimum capital requirements for banks approved to issue letters of credit that may be deposited by clearing members as a form of margin asset.

II. Clearing Agency’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 these statements.

(A) Clearing Agency’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to enhance the measurement used by OCC to establish minimum capital requirements for banks approved to issue letters of credit that may be deposited by clearing members as a form of margin asset. Currently, OCC Rule 604 Interpretation and Policy .01 requires U.S. banks to have \$100,000,000 or more in shareholders’ equity, and non-U.S. banks to have \$200,000,000 or more in shareholders’ equity, in order to be approved as an issuer of letters of credit that may be deposited by clearing members to meet their margin obligation(s) at OCC. The purpose of these minimum capital requirements is to ensure that issuers of letters of credit whose letters of credit are deposited at OCC as a margin asset by clearing members have the ability to honor a demand for payment by OCC under such letters of credit should a need to do so arise, such as in the case of a clearing member default.

The financial requirements set forth in OCC Rule 604 Interpretation and Policy .01 concerning issuers of letters of credit have been in place for some time.³ In the years since OCC adopted OCC Rule 604 Interpretation and Policy .01, bank financial reporting standards have evolved and now place a greater emphasis on Tier 1 Capital as opposed shareholders’ equity.⁴ In fact, Tier 1

Capital is the primary component of a bank’s total regulatory capital.⁵ Tier 1 Capital is a more conservative measure of a bank’s financial health as it ignores subordinated debt, intermediate-term preferred stock, cumulative and long-term preferred stock and a portion of a bank’s allowance for loan and lease losses. In light of the more universal acceptance of Tier 1 Capital for bank financial reporting standards, OCC is now proposing to amend OCC Rule 604 Interpretation and Policy .01 to substitute Tier 1 Capital for shareholders’ equity.

OCC believes that by measuring a bank’s financial health based on Tier 1 Capital, instead of shareholders’ equity, OCC will reduce its credit risk to banks issuing letters of credit deposited by clearing members as a form of margin asset. As stated above, Tier 1 Capital is a more conservative measure of a bank’s financial health. Therefore, after implementation of the proposed rule change, should OCC need to demand payment on a letter of credit deposited by a clearing member as a margin asset, such as in the case of a clearing member default, it is less likely that the bank issuing such letter of credit would not perform upon its payment commitment because the bank would be required to hold a greater amount of capital in order to be an OCC letter of credit bank. In turn, credit risk presented to OCC as a result of accepting letters of credit as a form of margin asset is reduced.⁶

In order to effect the proposed rule change, and in addition to amending OCC Rule 604 Interpretation and Policy .01 as described above, OCC is proposing to add a paragraph “c” to Interpretation and Policy .01 of OCC Rule 604 in order to adopt a definition for Tier 1 Capital that leverages the definition of Tier 1 Capital employed by a bank’s regulatory agency. OCC believes that such a definition is appropriate given that OCC accepts letters of credit from banks regulated by different regulatory authorities.⁷ In addition, and for the reasons stated

measures, Basel III, is located at: <http://www.bis.org/publ/bcbs189.pdf>.

⁵ See <https://www.kansascityfed.org/Publicat/BasicsforBankDirectors/BasicsforBankDirectors.pdf>.

⁶ OCC does not anticipate that the proposed rule change would impact any of the banks already approved to issue letters of credit that may be deposited by clearing members as a form of margin since all such banks maintain amounts of Tier 1 Capital that exceed, as applicable, \$100 million for U.S. banks or \$200 million for Non-U.S. banks.

⁷ See OCC Rule 604(c). For example, OCC accepts letters of credit issued by banks regulated by The Federal Reserve Board, The Office of the Comptroller of the Currency, The Australian Prudential Regulation Authority and The German Federal Financial Supervisory Authority.

¹¹ In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹² 15 U.S.C. 78s(b)(2).

¹³ 17 CFR 200.30–3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities and Exchange Act Release No. 19422 (January 12, 1983), SR–OCC–1982–08 [sic].

⁴ Tier 1 Capital is the measure used by the Basel Committee on Banking Supervision to measure the financial health of a bank. The goal of the Basel Committee on Banking Supervision is to strengthen the regulation, supervision and risk management of the banking sector. The Basel Committee on Banking Supervision’s most recent set of reform