

In addition, the following annual fees will apply to securities subject to Section 902.09:<sup>3</sup>

Shares outstanding	Fee
Up to 6 million .....	\$10,000
6+ to 7 million .....	12,000
7+ to 8 million .....	14,000
8+ to 9 million .....	16,000
9+ to 10 million .....	18,000
10+ to 15 million .....	20,000
15+ to 25 million .....	25,000
25+ to 50 million .....	42,000
In excess of 50 million .....	55,000

These Annual Fees will be billed in January for the forthcoming year.

The proposed \$2,500 fee for certain changes that involve modifications to Exchange records is applicable under the proposed fee schedule. This fee is consistent with the provisions of Sections 902.05 and 902.06 of the Manual.

The Exchange also proposes to amend Section 902.08 (Listing Fees for Debt Securities) of the Manual to reflect that the Automated Bond System is now "NYSE Bonds."

Finally, the Exchange currently applies the fee schedules set forth in Section 902.05 and 902.06 of the Manual to securities listed pursuant to Sections 703.15, 703.17 and 703.22 of the Manual. However, Sections 902.05 and 902.06 of the Manual do not identify Sections 703.15, 703.17 and 703.22 as securities to which the fees would apply. As a result, the Exchange requests permission to apply retroactively for the period from June 7, 2006 to October 2, 2007 the fee schedules set forth in Sections 902.05 and 902.06 of the Manual to all securities previously listed pursuant to Sections 703.15, 703.17 and 703.22 of the Manual. Beginning October 3, 2007, all securities listed pursuant to Sections 703.15, 703.17 and 703.22 of the Manual would be subject to the fee schedule set forth in Section 902.09 of the Manual.

## 2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act<sup>4</sup> in general, and Section 6(b)(4) of the Act<sup>5</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among its issuers and other persons using its facilities.

<sup>3</sup> The Exchange notes that it currently lists one Structured Product with 25 million shares or more outstanding.

<sup>4</sup> 15 U.S.C. 78f(b).

<sup>5</sup> 15 U.S.C. 78f(b)(4).

## 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 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

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

Within 35 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 90 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 NYSE consents, the Commission will:

- (A) By order approve 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 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-NYSE-2007-77 on the subject line.

### Paper Comments

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

All submissions should refer to File Number SR-NYSE-2007-77. 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 inspection and copying 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 available publicly. All submissions should refer to File Number SR-NYSE-2007-77 and should be submitted on or before November 16, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

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

[FR Doc. E7-21218 Filed 10-25-07; 8:45 am]

BILLING CODE 8011-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-56684; File No. SR-OCC-2007-12]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Options on Leveraged ETF Shares

October 22, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on October 4, 2007, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposal.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

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

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change would allow OCC to clear and settle options on exchange traded fund ("ETF") shares generally known as "Leveraged ETF Shares."

### **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.<sup>2</sup>

#### *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 accommodate the introduction of options on ETF shares that represent interests in entities making a broad array of investments in order to provide investment returns that are equivalent to (a) a multiple of the percentage return of a specific stock index ("Multiple Fund Shares" or "Index Multiple ETFs") or (b) a multiple of the inverse percentage return of a specific stock index ("Inverse Fund Shares" or "Index Inverse ETFs") (Multiple Fund Shares, Index Multiple ETFs, Inverse Fund Shares, and Index Inverse ETFs are collectively "Leveraged ETF Shares").<sup>3</sup> According to the proposed rule changes filed by the exchanges seeking to list and trade Leveraged ETF Shares, the ETF issuing the Leveraged ETF Shares may make a variety of exchange-traded and over-the-counter investments, including stock index futures contracts, options on futures, options on securities, options on indexes, caps on stock, collars on stock, floors on stock, swap agreements, forward contracts, repurchase agreements, and reverse repurchase agreements.<sup>4</sup>

<sup>2</sup> The Commission has modified parts of these statements.

<sup>3</sup> The ProShares Ultra Funds, which trades on the American Stock Exchange ("Amex"), is an example of a Multiple Fund Share or Index Multiple ETF. The Short Funds and the UltraShort Funds, which also trade on Amex, are examples of Inverse Fund Shares Index Inverse ETFs.

<sup>4</sup> File Nos. SR-Amex-2007-35 and SR-ISE-2007-87. The Commission recently issued an order

Currently, the definition of "fund share" in Article I, Section 1 of OCC's By-Laws lists the various underlying investments that may be made by the ETF issuing the fund share. In order to avoid creating an ever-lengthening list of possible investments that may prove to be non-exhaustive, OCC proposes to amend the definition of "fund share" to state that the term means "a publicly traded security (as defined in Section 3(a)(10) of the Securities Exchange Act of 1934, as amended) that represents an interest in a trust, investment company, commodity pool, or similar entity holding and/or trading in one or more investments."<sup>5</sup>

The proposed rule change is consistent with the requirements of Section 17A of the Act because it (1) promotes the prompt and accurate clearance and settlement of transactions in options on Leveraged ETF Shares by applying the same basic rules and procedures to such options as are applied to options on other equity interests, (2) fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, (3) removes impediments to and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and (4) protects investors and the public interest. The proposed rule change is not inconsistent with the rules of OCC, including any rule 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*

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

granting approval of SR-Amex-2007-35 that allows Amex to list and trade options on Multiple Fund Shares and on Inverse Fund Shares. Securities Exchange Act Release No. 56650 (October 12, 2007), 72 FR 59123 (October 18, 2007).

<sup>5</sup> The Commission previously approved a supplement to the "options disclosure document" defining "fund shares" in a similar manner. Part III of the May 2007 Supplement to Characteristics and Risks of Standardized Options provides that the term "fund shares" includes interests in exchange-traded funds and other entities holding or trading in one or more types of investments. Securities Exchange Act Release No. 55702 (May 3, 2007), 72 FR 26671 (May 10, 2007) (File No. SR-ODD-2007-02).

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

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.<sup>6</sup> By amending OCC's By-Laws so that OCC may clear and settle options on Leveraged ETF Shares that are to be listed and traded on Amex, the proposed rule change should help promote the prompt and accurate clearance and settlement of such securities transactions.

OCC has requested that the Commission approve the proposed rule prior to the thirtieth day after publication of the notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice because such approval will allow Amex to commence trading of options on Leveraged ETF Shares without any unnecessary delay.<sup>7</sup>

### **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-OCC-2007-12 on the subject line.

#### *Paper Comments*

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

All submissions should refer to File Number SR-OCC-2007-12. 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

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> *Supra* note 4.

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 inspection and copying 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 OCC. 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-OCC-2007-12 and should be submitted on or before November 16, 2007.

#### V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.<sup>8</sup>

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2007-12) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Florence E. Harmon,**

*Deputy Secretary.*

[FR Doc. E7-21179 Filed 10-25-07; 8:45 am]

BILLING CODE 8011-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2007-36]

#### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR.

<sup>8</sup> In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

<sup>9</sup> 17 CFR 200.30-3(a)(12).

The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATE:** Comments on this petition must identify the petition docket number involved and must be received on or before November 15, 2007.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2007-0007 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- *Fax:* Fax comments to the Docket Management Facility at 202-493-2251.

- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy:** We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

**Docket:** To read background documents or comments received, go to <http://www.regulations.gov> at any time or to the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Tyneka Thomas (202) 267-7626 or Frances Shaver (202) 267-9681, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on October 22, 2007.

**Pamela Hamilton-Powell,**  
*Director, Office of Rulemaking.*

#### Petition for Exemption

*Docket No.:* FAA-2007-0007.

*Petitioner:* Future Flight LLC.

*Section of 14 CFR Affected:*

§§ 21.191(i)(1)(3) and 21.193(e)(1).

*Description of Relief Sought:* The petitioner is seeking relief to allow it to produce and sell experimental, ready-to-fly gyroplanes for operation in the light-sport category. The gyroplanes would meet all other provisions of §§ 21.190, 21.191 and 21.193, including the requirement that such aircraft meet the applicable consensus standard.

[FR Doc. E7-21105 Filed 10-25-07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2007-38]

#### Petitions for Exemption; Summary of Petitions Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** This notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before November 15, 2007.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2007-29267 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590.

- *Fax:* Fax comments to the Docket Management Facility at 202-493-2251.

- *Hand Delivery:* Bring comments to the Docket Management Facility in