

allow a total of 20 series to be opened for trading in each class that participates in the Weeklys Program. The proposed rule would increase this to a total of 30 series per class that may be opened for trading.⁵

In the Notice, the Exchange stated that the principal reason for the proposed expansion is market demand for additional series in Weekly option classes in which the maximum number of series (20) has already been reached. Specifically, CBOE cited an increased demand for more series when market-moving events, such as corporate events and large price swings, have occurred during the life span of an affected Weekly option class. Currently, if the maximum number of series has been reached, the Exchange must delete or delist certain series in order to make room for more in-demand series. The Exchange deletes series with no open interest and delists series with open interest if those series are open for trading on another exchange.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.⁶ Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,⁷ which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove

impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposal strikes a reasonable balance between the Exchange's desire to offer a wider array of products and the need to avoid unnecessary proliferation of options series.

In approving this proposal, the Commission notes that the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority ("OPRA") have the necessary systems capacity to handle the potential additional traffic associated with trading of an expanded number of series for classes that participate in the Weeklys Program. The Commission expects the Exchange to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁸ that the proposed rule change (SR-CBOE-2011-086) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65789; File No. SR-OCC-2011-14]

Self-Regulatory Organizations; Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Clearing Options on the CBOE Silver Volatility Index

November 18, 2011.

I. Introduction

On September 27, 2011, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2011-14 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act")¹ and Rule 19b-4 thereunder.² The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change as amended.

II. Description

The purpose of the proposed rule change is to remove any potential cloud on the jurisdictional status of options on the CBOE Silver ETF Volatility Index, which is an index that measures the implied volatility of options on the iShares Silver Trust, an exchange-traded fund designed to reflect the performance of the price of silver.³ To accomplish this purpose, OCC is proposing to amend the interpretation and policy following the introduction in Article XVII of OCC's By-Laws to clarify that OCC will clear and treat as securities options any option contracts on the CBOE Silver ETF Volatility Index. On June 14, 2010, the Commission approved rule filing SR-OCC-2010-07, which added the existing interpretation, which relates to the treatment and clearing of options on the CBOE Gold ETF Volatility Index.⁴

In its capacity as a "derivatives clearing organization" registered as such with the CFTC, OCC has filed this proposed rule change for prior approval by the CFTC pursuant to provisions of the Commodity Exchange Act (the "CEA") in order to foreclose any potential liability under the CEA based on an argument that the clearing by OCC of such options as securities options constitutes a violation of the CEA.

III. Discussion

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 and derivative transactions.⁵ The proposed rule change is similar to a proposed rule change the Commission approved previously with respect to the jurisdictional status CBOE Gold ETF Volatility Index and clarifies that OCC will clear and treat as securities any relative performance index, including in situations in which one of the reference securities of a relative performance index is an ETF designed to measure the return of gold

Release No. 59824 (April 27, 2009), 74 FR 20518 (May 4, 2009) (SR-CBOE-2009-018).

⁵ The Exchange previously increased the total number of series per Weeklys option class from seven to 20 series. See Securities Exchange Act Release No. 58870 (October 28, 2008), 73 FR 65430 (November 3, 2008) (SR-CBOE-2008-110). The existing rules provide that series must be added pursuant to CBOE Rules 5.5 and 24.9. Initial series shall be within 30% above or below the closing price of the underlying security on the preceding day. Any additional strikes listed by the Exchange shall be within 30% above or below the current price of the underlying security. The existing rules also provide that the Exchange may open additional strikes of Short Term Options Series that are more than 30% above or below the current price of the underlying security if demonstrated customer interest exists for such series, as expressed by institutional, corporate, or individual customers or their brokers. Market-Makers trading for their own account are not considered when determining customer interest.

⁶ 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).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78s(b)(2).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The staff notes that on August 11, 2011, the Commission issued an Order granting approval of a proposed rule change to trade options on the CBOE Silver ETF Volatility Index. See Securities Exchange Act Release No. 34-65116, 76 FR 51099 (August 17, 2011).

⁴ Securities Exchange Act Release No. 62290 (June 14, 2010), 75 FR 35861 (June 23, 2010).

⁵ 15 U.S.C. 78a-1(b)(3)(F).

or silver. Any uncertainty regarding the jurisdictional status of a product could presumably interfere with OCC's ability to provide clearance and settlement services with respect to the product. The proposed rule change, by allowing OCC confirm in its rules the treatment of a relative performance index, should facilitate the clearance and settlement of such products and, thus, should help promote the prompt and accurate clearance and settlement of securities transactions and of derivative transactions.

IV. 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 Act⁶ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,⁷ that the proposed rule change (File No. SR-OCC-2011-14) be, and hereby is, approved.⁸

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Kevin M. O'Neill,
Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-65768; File No. SR-NASDAQ-2011-151]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Routing Fees to BATS Exchange, Inc.

November 17, 2011.

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 November 8, 2011, The NASDAQ Stock Market LLC ("NASDAQ" or "Exchange") 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 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 modify Rule 7050, governing pricing for NASDAQ members using the NASDAQ Options Market ("NOM"), NASDAQ's

facility for executing and routing standardized equity and index options. In addition the Exchange is also proposing to make minor amendments to Rule 7053, entitled "NASDAQ Options Market—Access Services."

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative on December 1, 2011.

The text of the proposed rule change is set forth below. Proposed new text is in *italics* and deleted text is in *brackets*.

* * * * *

7050. NASDAQ Options Market

The following charges shall apply to the use of the order execution and routing services of the NASDAQ Options Market for all securities.

* * * * *

(4) Fees for routing contracts to markets other than the NASDAQ Options Market shall be assessed as provided below. The current fees and a historical record of applicable fees shall be posted on the NasdaqTrader.com Web site.

Exchange	Customer	Firm	MM	Professional
BATS	\$0.36	\$0.55	\$0.55	\$0.[36]48
BOX	0.06	0.55	0.55	0.06
CBOE	0.06	0.55	0.55	0.26
CBOE orders greater than 99 contracts in NDX, MNX ETFs, ETNs & HOLDRs	0.24	0.55	0.55	0.26
C2	0.50	0.55	0.55	0.51
ISE	0.06	0.55	0.55	0.24
ISE Select Symbols*	0.18	0.55	0.55	0.34
NYSE Arca Penny Pilot	0.50	0.55	0.55	0.50
NYSE Arca Non Penny Pilot	0.06	0.55	0.55	0.06
NYSE AMEX	0.06	0.55	0.55	0.26
PHLX (for all options other than PHLX Select Symbols)	0.06	0.55	0.55	0.26
PHLX Select Symbols**	0.30	0.55	0.55	0.46

* These fees are applicable to orders routed to ISE that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See ISE's Schedule of Fees for the complete list of symbols that are subject to these fees.

** These fees are applicable to orders routed to PHLX that are subject to Rebates and Fees for Adding and Removing Liquidity in Select Symbols. See PHLX's Fee Schedule for the complete list of symbols that are subject to these fees.

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7053. NASDAQ Options Market—Access Services

[(a) Financial Information Exchange (FIX)]

[Part A: The following charges are assessed by Nasdaq for connectivity to the NASDAQ Options Market for NOM 1.0:]

⁶ 15 U.S.C. 78q-1.

⁷ 15 U.S.C. 78s(b)(2).

⁸ In approving this proposed rule change the Commission has considered the proposed rule's impact of efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.