

An important aspect of the integration plan is to insulate MBSCC, its participants, its limited purpose participants, its Electronic Profile Network users, and its participants fund from the risks and obligations that may arise from the activities of the other Synergy Companies.⁷ The proposed rule change will specifically add a new Rule 15 to Section V of MBSCC's rules that states that MBSCC will not be liable for the obligations of any other entity or member of any other entity and that such other entity or member of such other entity shall not be liable for any obligations of MBSCC.

MBSCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act⁸ and the rules and regulations thereunder applicable to MBSCC because it promotes the safeguarding of securities and funds in MBSCC's custody or control or for which it is responsible.

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

MBSCC 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

No written comments relating to the proposed rule change have been solicited or received.

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

Within thirty-five 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 ninety 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 self-regulatory organization 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. 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, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at MBSCC's principal office. All submissions should refer to File No. SR-MBSCC-2001-04 and should be submitted by January 4, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,
Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-45152; File No. SR-OCC-2001-16]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to Clearing Certain Commodity Futures and Options Thereon

December 12, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on October 24, 2001, 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 primarily by OCC. 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 proposed rule change amends OCC's by-laws and rules to provide for the clearance and settlement of transactions in commodity futures on broad-based stock indexes and options on such futures, both of which are subject to the exclusive jurisdiction of the Commodity Futures Trading Commission ("CFTC").

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.²

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Introduction

The proposed rules would provide for the clearance and settlement of futures on broad-based stock indexes and options on such futures under the same basic rules and procedures currently applicable to the clearance and settlement of other OCC-cleared contracts, including options and security futures. Because such contracts are within the exclusive jurisdiction of the CFTC, OCC submitted to the CFTC on October 9, 2001, an application for registration as a derivatives clearing organization ("DCO") under section 5b(c) of the Commodity Exchange Act ("CEA") and part 39 of the CFTC's regulations. The CFTC granted OCC's application for registration on December 10, 2001.

Commodity futures would be cleared pursuant to the same basic OCC rules and procedures recently approved by the Commission for the clearance of

⁷ Similarly, the integration plan attempts to insulate GSSC and EMCC from the risks of MBSCC's business. Securities Exchange Act Release Nos. 45155 (Dec. 14, 2001) (SR-GSCC-2001-14); 45154 (Dec. 14, 2001) (SR-EMCC-2001-04). See also Securities Exchange Act Release Nos. 42013 (Oct. 15, 1999), 64 FR 57168 (Oct. 22, 1999) (SR-DTC-99-11) and 42014 (Oct. 15, 1999), 64 FR 57171 (Oct. 22, 1999) (SR-NSCC-99-07) (DTC and NSCC have adopted rules similar to this proposed rule as part of their 1999 integration with DTCC.)

⁸ 15 U.S.C. 78q-1.

⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

security futures.³ There is not significant difference between the mechanics of the clearance and settlement of a future on a narrow-based stock index (a security future) and a future on a broad-based stock index. Accordingly, many of the changes proposed in this filing merely expand the provisions applicable to security futures to include commodity futures. Likewise, futures options are substantially similar in most respects to other options cleared by OCC. Thus, for example, procedures governing premium payments and exercise are the same. Accordingly, OCC is proposing to permit futures options to be governed by many of the same by-laws and rules applicable to other options. Where special provisions for futures options are needed, they are contained primarily in Article XII of the by-laws and Chapter XIII of the Rules, which would be amended to apply to commodity futures and futures options as well as security futures.

2. New and Amended Definitions

OCC proposes to define several additional terms applicable to commodity futures and futures options and to include those terms in Article I of the by-laws because they are used throughout the by-laws and rules. New futures terms would be adopted and defined to correspond as closely as possible to the terminology used in the existing futures markets while also being consistent with terminology in OCC's rules. Various existing security futures definitions are proposed to be amended to apply to commodity futures as well as security futures. The new definitions are mostly self-explanatory, but the following are a few terms that are of particular significance.

The term "commodity future" would be added to distinguish these products from security futures and would be defined as a futures contract within the exclusive jurisdiction of the CFTC and traded on a futures market. The term "future" would be added to encompass both security futures and commodity futures where, as is most often the case, no distinction is needed. A "futures market" would be defined to mean a contract market registered as such under the CEA. OCC does not currently propose to clear commodity futures products traded on markets other than registered contract markets. The definition of an "option" would be amended to include a "futures option"

which would be defined as an option traded on a futures market to buy or sell a commodity futures contract. The term "cleared contract" would be added to embrace all contracts cleared by OCC including securities options, security futures, and other cleared securities subject to the jurisdiction of the Commission as well as commodity futures and futures options that are not securities.⁴ Proposed changes of the definitions of "commencement time" and "series marker" are discussed below.

3. Clearing Member Qualifications

Section 1 of Article V of OCC's by-laws is proposed to be amended to permit futures commission merchants ("FCMs") that are not notice-registered as broker-dealers under section 15(b)(11)(A) of the Act to become clearing members. Interpretation and Policy .06 under section 1 was added in SR-OCC-2001-07 to provide that OCC may give expedited review and may waive certain non-financial criteria where appropriate in order to admit affiliates of existing clearing members for the purpose of clearing security futures.⁵ OCC proposes in this rule change to extend the same consideration to such affiliates that become clearing members for the purpose of clearing commodity futures and futures options. As stated in SR-OCC-2001-07, OCC believes that it is appropriate to give special consideration to such affiliates to the extent that their affiliation with an existing clearing member provides access to competent and experienced personnel able to assist the affiliate, if necessary, in meeting OCC's operational requirements.

OCC's financial requirements would remain substantially the same for all clearing members whether regulated primarily or exclusively as broker-dealers or as FCMs. In the case of a clearing member regulated primarily or exclusively as an FCM, OCC would permit such FCM to compute its net capital in accordance with the CFTC's regulations. OCC Rules 301(c), 303(c), and 307 are proposed to be modified to

provide appropriate references to CFTC regulations governing FCM financial requirements in order, as nearly as practicable, to provide requirements that are parallel to those applicable to clearing members regulated primarily as broker-dealers.

4. Accounts

Article VI, section 3 is proposed to be amended to clarify that commodity futures and futures options positions of futures customers may not be carried in the firm account. Additionally, Interpretation and Policy .01 would be added to require a clearing member carrying a customer account pursuant to Article VI, section 3(e) (*i.e.*, an account holding positions of securities customers) to be fully registered as a broker-dealer and to require a clearing member carrying a segregated futures account under Article VI, section 3(f) (*i.e.*, an account holding positions of futures customers) to be fully registered as an FCM. Whether a person is a futures customer or a securities customer would be determined by (i) agreement between the intermediary carrying the customer's account and the customer, subject to the provisions of the Act, the CEA, and regulations under either or both of those statutes as applicable to the particular intermediary (broker-dealer, FCM, or dual registrant), (ii) the types of cleared contracts involved (securities, security futures, or commodity futures products), and (iii) the identity of the person whose account is carried (including the nature of any affiliation such person has with the intermediary). Article VI, Section 3(a) would be modified to provide that positions in commodity futures and futures options of persons who are not futures customers (and whose accounts are therefore proprietary within the meaning of CFTC Regulation 1.3(y)) may be carried in the firm account regardless of that person's status under the Commission's hypothecation rules or Rule 15c3-3.

5. Amendments to Article XII of the By-Laws

Article XII sets out the basic provisions for security futures, including both physically-settled and cash-settled security futures. The article is proposed to be amended to apply to commodity futures and futures options as well. The major change would be the addition of subparagraph (b) to section 2, which would provide for the settlement of exercised futures options. When a futures option is exercised, OCC would (i) in the case of a call, open in the account from which the call was exercised the number of long futures

³ See Securities Exchange Act Release Nos. 44434, (June 15, 2001), 66 FR 33283 (File No. SR-OCC-2001-05) and 44727, (August 20, 2001), 66 FR 45351 (File No. SR-OCC-2001-07).

⁴ Although the present rule filing provides only for the clearing of futures on broad-based indexes and options thereon, the terms commodity future and futures option are defined more broadly to facilitate the clearance by OCC of transactions in commodity futures and futures options on other underlying interests in the event that OCC undertakes to clear additional CFTC-regulated products in the future. Of course, OCC would need to further amend its rules to set forth the particular terms of any such additional products and would need to file a proposed rule change pursuant to Section 19(b) to do so.

⁵ Securities Exchange Act Release No. 44727, (August 20, 2001), 66 FR 45351 (File No. SR-OCC-2001-07).

contracts equal to the unit of trading for the option and (ii) in the case of a put, open in the account from which the put was exercised the number of short futures contracts and open in the account to which the exercise was assigned the number of long futures contracts equal to the unit of trading for the contract. Futures contracts that are opened in settlement of the exercise of a futures option contract would be deemed to have been opened on the day of exercise, and the exercise price for the futures option would be the contract price for the futures contract. After the futures contract is opened, the buyer and seller would have the same rights and obligations as the holders of other futures contracts.

6. Adjustments

As with security futures, OCC will determine adjustments to commodity futures that are required to reflect certain events affecting the underlying index. Futures on broad-based stock indexes would be subject to the same adjustment provisions in Article XII, sections 3 and 4 of the by-laws that are applicable to narrow-based stock index futures. These adjustment provisions are patterned after similar provisions in section 3 of Article XVII applicable to index options. Paragraph (b) of Article XII, section 3 would be modified in this filing, and a new paragraph (c) would be added to update the provisions to conform to changes in the adjustment provisions applicable to index options that were approved by the Commission earlier this year.⁶ New paragraph (d) of Article XII, section 3 would be added in order to provide for appropriate adjustments to outstanding futures options when the underlying index future is adjusted. In that case, the futures option would be adjusted to provide for delivery of the adjusted future. Where appropriate, the exercise prices and the number of outstanding options might be adjusted. Section 6 of Article XII, which provides that the final settlement price for any security futures contract at maturity is determined by a method approved by the market listing the future would be made applicable to both security futures and commodity futures. Interpretation and Policy .01 would be added to make clear that any such method of determining final settlement prices must be consistent with applicable regulations. This interpretation is proposed in light of the rules proposed

by the Commission and the CFTC,⁷ which propose to require that final settlement prices for security futures ordinarily must be based on opening prices and imposes other limits not specifically set forth in Article XII, section 6 of OCC's by-laws as approved by the Commission in SR-OCC-2001-07.

7. Trade Reporting and Matching

Trade reporting and matching would occur for commodity futures in the same manner as for security futures and for futures options in generally the same manner as for other options. As in the case of security futures, however, OCC would not require transactions in commodity futures and futures options to be identified as opening or closing. If a market elected to submit trade information without identification as to whether the transaction is opening or closing, OCC would treat all transactions as opening transactions. Each clearing member would then submit gross position adjustment information at the end of the day to reduce its positions to reflect the actual open interest in accounts carried by the clearing member. These procedures are consistent with current practice on many futures exchanges. As in the case of security futures, commodity futures and futures options might include, if a futures market so elected, a series marker to prevent contracts traded on that market from being treated as fungible with otherwise identical futures contracts traded on other markets cleared by OCC. The definition of a series marker in Article I of the by-laws would be amended to make clear that a series marker can be shared by mutual consent among more than one exchange or market. As a result, contracts might be fungible when traded on any market within the group but not fungible with contracts traded on markets outside the group. This is intended as a clarification of, rather than a change in, the existing rule.

Rule 401 would also be amended to provide that block trades and other non-competitively executed transactions, in addition to exchange-for-physicals, would be identified in the matched trade report. These provisions would apply to futures options as well as commodity futures and security futures. As defined in Article I, section 1, the commencement time for such trades would not occur until OCC has received the premium or initial variation payment on the transaction. This

provision would allow OCC to reject the trade if the clearing member fails to make such payment. These trades are proposed to be treated differently from other trades because when a transaction is effected at a price other than the current market price, OCC's loss may be greater in the event of a clearing member default. In addition, the regulations of the CFTC require the identification of non-competitive trades.⁸

8. Margins

OCC Rule 602, which is applicable to narrow-based index futures, index options, and other non-equity options, would be amended to include commodity futures and futures options in the calculation of the margin required for each account of a clearing member. Margin would be calculated for these new products in exactly the same way as for other futures and options subject to OCC rule 602.

9. Clearing Fund Contributions

Broad-based index futures and futures options thereon would be covered by the same clearing fund that stands behind all options and security futures cleared by OCC. Clearing activity in commodity futures and futures options would be taken into consideration in calculating the amount of a clearing member's contribution in the same way that activity in other contracts is considered. OCC rule 1001 would provide that affiliates of existing clearing members that become clearing members of OCC solely for the purpose of clearing transactions in broad-based index futures of futures options need not put up an additional \$150,000 minimum clearing fund contribution. This would merely expand the existing provision applicable to clearing member affiliates that become clearing members for purposes of clearing security futures.

10. Discipline

OCC rule 1202, regarding appeal from OCC-imposed discipline, would be amended to provide that if an OCC disciplinary proceeding relates solely to the clearing member's activities as an FCM, OCC must notify the clearing member in writing that it may have a right to appeal under section 8c of the CEA. The intent of this proposed rule change would be to subject clearing member disciplinary proceedings that relate to violations of customer segregated funds rules and other violations of the CEA or regulations thereunder to CFTC review.

⁶ See Securities Exchange Act Release No. 44184, (April 16, 2001), 66 FR 20342 (File No. SR-OCC-99-12), approving changes filed in SR-OCC-99-12.

⁷ Securities Exchange Act Release No. 44743, (August 24, 2001), 66 FR 45904 (File No. S7-15-01).

⁸ 17 CFR 1.38(b).

11. Amendments to Chapter XIII

OCC proposed and the Commission approved a new Chapter XIII of its rules to govern security futures.⁹ With the current filing, OCC is simply proposing to amend Chapter XIII to apply to commodity futures and futures options as well.

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act because it fosters cooperation and coordination with persons engaged in the clearance and settlement of securities transactions, removes impediments to and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, protects investors and the public interest. By clearing commodity futures and futures options under the same basic rules applicable to SEC-regulated products, OCC believes that its commodity clearing activities will be consistent with the prompt and accurate settlement of securities transactions.

(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.

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

Within thirty-five 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 ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

VI. 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the File No. SR-OCC-2001-16 and should be submitted by January 4, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-31294 Filed 12-19-01; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before January 22, 2002. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83-1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205-7044.

SUPPLEMENTARY INFORMATION:

Title: Settlement sheet.

No: 1050.

Frequency: On occasion.

Description of Respondents: SBA Borrower's to complete loan authorizations.

Responses: 39,988.

Annual Burden: 29,991.

Jacqueline White,
Chief, Administrative Information Branch.
[FR Doc. 01-31362 Filed 12-19-01; 8:45 am]
BILLING CODE 8025-01-P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determinations Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative has determined that Zambia has adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents in connection with shipments of textile and apparel articles and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the African Growth and Opportunity Act. Therefore, imports of eligible products from Zambia qualify for the textile and apparel benefits provided under the AGOA.

EFFECTIVE DATE: December 17, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Moore, Director for African Affairs, Office of the United States Trade Representative, (202) 395-9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Pub. L. 106-200) (AGOA) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan

⁹ Securities Exchange Act Release No. 44727, (August 20, 2001), 66 FR 45351 (File No. SR-OCC-2001-07).

¹⁰ 17 CFR 200.30-3(a)(12).