

interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>19</sup> and Rule 19b-4(f)(6) thereunder.<sup>20</sup>

At any time within 60 days of the filing of such 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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-NYSEMKT-2012-68 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-NYSEMKT-2012-68. This file number should be included on the subject line if email 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 10:00 a.m. and 3:00 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-NYSEMKT-2012-68 and should be submitted on or before December 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>21</sup>

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2012-29216 Filed 12-3-12; 8:45 am]

**BILLING CODE 8011-01-P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-68308; File No. SR-OCC-2012-21]

### **Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Changes to Explicitly State That OCC May Reject a Request for Withdrawal of Margin or Make an Intra-Day Margin Call in Situations Where a Clearing Member's Projected Settlement Obligations Could Exceed OCC's Available Liquidity Resources**

November 28, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 26, 2012, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II and III below, which items have been prepared primarily by OCC. OCC filed the proposal pursuant to Section

19(b)(3)(A)(i) of the Act,<sup>3</sup> and Rule 19b-4(f)(1)<sup>4</sup> thereunder 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**

OCC proposes to explicitly state that OCC may reject a request for withdrawal of margin or make an intra-day margin call in situations where a clearing member's projected settlement obligations could exceed OCC's available liquidity resources.

#### **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.<sup>5</sup>

##### *A. Self-Regulatory Organization's Statement of Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to adopt certain interpretations under existing OCC Rules 608 and 609 in order to place clearing members on notice of situations in which OCC may exercise existing authority to reject a margin withdrawal request, or to make an intra-day margin call, including where a Clearing Member's projected settlement obligations could exceed OCC's available liquidity resources. For this purpose OCC would consider as liquidity resources only margin assets in the form of cash. In its sole discretion, OCC might also consider margin assets in the form of U.S. Government securities, which could be quickly converted to cash, and/or amounts that OCC would be able to borrow on short notice under its credit facility or otherwise.

Rule 609 currently provides that "[OCC] may require the deposit of such additional margin by any Clearing Member in any account at any time during any business day, as such officer

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

<sup>5</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>20</sup> 17 CFR 240.19b-4(f)(6).

<sup>21</sup> 17 C.F.R. 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.

deems advisable to \* \* \* protect [OCC], other Clearing Members or the general public.” Rule 609 further provides that such intra-day margin calls must be satisfied in immediately available funds within one hour (or other prescribed time frame) after the issuance of the call. Ordinarily, clearing members are permitted to substitute other acceptable forms of margin assets to replace cash collected via an intra-day margin call. If a sufficient amount of such assets has been deposited to meet the clearing member’s then current margin requirement, the clearing member may make a request to withdraw any excess margin pursuant to Rule 608. The return of specific excess margin assets, including cash, also may be requested, subject to the Rule’s limitation that no clearing member may withdraw margin in any form or currency in excess of the amount of margin of that form or currency deposited in the clearing member’s account from which the withdrawal is to be made. However, Rule 608 also provides that “[OCC] may, if it deems advisable for any of the reasons described in Rule 609, reject any such withdrawal request.” Accordingly, in the event OCC determines that such actions are necessary for the protection of OCC, other clearing members, or the general public, OCC may require a clearing member to deposit additional margin in the form of cash through an intra-day margin call and preclude the withdrawal of some or all of such assets from OCC’s system.

OCC wishes to put Clearing Members on notice of certain specific circumstances in which OCC may take such actions under Rule 608 and 609 by adopting a similar interpretation under each Rule. Specifically, OCC wishes to state expressly that it may refuse a margin withdrawal request or request additional intra-day margin where a Clearing Member’s future settlement obligations could result in a need for liquidity in excess of available liquidity resources. Such action might be taken even though OCC has made no adverse determination as to the financial condition of the Clearing Member, the market risk of the Clearing Member’s positions, or the adequacy of the Clearing Member’s total overall margin deposited in the accounts in question.

A circumstance in which OCC might desire to reject a margin withdrawal request or make an intra-day margin call to ensure that it had sufficient liquidity in connection with a pending settlement obligation involves the “unwinding” of a “box spread” position. A box spread position involves a combination of two long and two short options on the same

underlying interest with the same expiration date that results in an amount to be paid or received upon settlement that is fixed regardless of fluctuations in the price of the underlying interest. Box spreads can be used as financing transactions, and they may require very large fixed payments upon expiration. In this situation, if much of the margin deposited by the relevant Clearing Member is in the form of common stock and if the Clearing Member failed to make the settlement payment, the available liquidity resources might be insufficient to cover the settlement obligation. In anticipation of this settlement, OCC might therefore require the Clearing Member to deposit intra-day margin in the form of cash, or reject a requested withdrawal of cash or U.S. Government securities, so that liquidity resources would be sufficient to cover the Clearing Member’s settlement obligations. Under the proposed interpretations, OCC would always include margin assets of the relevant Clearing Member in the form of cash in determining available liquidity resources and could, in its discretion, consider the amount of margin assets in the form of highly liquid U.S. Government securities and/or the amount that OCC would be able to borrow on short notice. The proposed interpretations make it clear that OCC might exercise its authority under these Rules to address liquidity needs.

OCC believes the proposed rule change is consistent with Section 17A of the Act because it is designed to promote the prompt and accurate clearance and settlement of securities transactions,<sup>6</sup> including the safeguarding of securities and funds related thereto, and to protect investors and persons facilitating transactions by and acting on behalf of investors. It does so by interpreting OCC’s existing authority to require deposits of additional margin or to reject requests to withdraw margin, minimize OCC’s liquidity risk, and preserve its liquidity resources. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules 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 a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

#### *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**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii)<sup>7</sup> of the Act and Rule 19b–4(f)(1)<sup>8</sup> thereunder because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. 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.<sup>9</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 email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR–OCC–2012–21 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–OCC–2012–21. This file number should be included on the subject line if email 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

<sup>7</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>8</sup> 17 CFR 240.19b–4(f)(1).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(C).

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 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of ICE Clear Credit and on ICE Clear Credit's Web site at [http://www.theocc.com/components/docs/legal/rules\\_and\\_bylaws/sr\\_occ\\_12\\_21.pdf](http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_12_21.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 Number SR-OCC-2012-21 and should be submitted on or before December 26, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>10</sup>

**Kevin M. O'Neill,**  
Deputy Secretary.

[FR Doc. 2012-29217 Filed 12-3-12; 8:45 am]

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## SECURITIES AND EXCHANGE COMMISSION

### Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Make Available a New Market Data Offering

November 28, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 15, 2012, the International Securities Exchange, LLC (the "Exchange" or the "ISE") 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 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 make available, through its member MEB Options LLC ("MEB"), a new market data offering referred to as "Spread Crawler." The text of the proposed rule change is available on the Exchange's Web site [www.ise.com](http://www.ise.com), at the principal office of the Exchange, and at the Commission's Public Reference Room.

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

In its filing with the Commission, the Exchange 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. The self-regulatory organization 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 the Purpose of, and Statutory Basis for, Proposed Rule Change

###### 1. Purpose

The Exchange proposes to make available, through MEB, a new market data offering referred to as "Spread Crawler," which will serialize spread book data produced by certain U.S. options exchanges and provide electronic alerts based on end-user defined filters (the "Service"). Spread Crawler, which was developed by MEB, listens to a streaming data feed from all of the U.S. options exchanges that broadcast open complex option orders (i.e. ISE, CBOE, C2, AMEX, ARCA, and PHLX) together with their instrument definition (i.e. option legs) over various multi-cast channels in a FIX format. Spread Crawler then serializes this enormous amount of data and turns each record back into a formal structure so it contains details of both sides of the order (i.e. bid and/or offer), as well as the instrument definition. In addition to actual order detail, this structure would contain the current option and underlying stock National Best Bid or Offer ("NBBO"), together with a calculated theoretical value based on the midpoint of the NBBO ("Order Object"). The Order Object is then run through MEB's filtering technology

which applies filtering rules to each record based on a registered end-user input (i.e. custom-set parameters for particular symbols or industry sectors, minimum/maximum sizes, edge and specific expirations, etc.) to determine which registered end-user(s), if any, would be interested in seeing this order. These filtering rules are contained in a relational database and are maintained by the registered end-user through the Spread Crawler Web site where they can add or update individual parameters in real-time. From the matching list of registered end-users, Spread Crawler then creates and transmits individual alerts that outline details of the order in an electronic format selected by the registered end-user (i.e. email, instant messaging, etc.).

The Exchange has entered into an agreement with MEB to offer Spread Crawler to both ISE members and non-ISE members on a subscription basis. Under the Agreement, MEB will operate and maintain the Service and the Exchange will provide certain marketing, first line technical support, accounting and contract administration services for Spread Crawler. In exchange for the provision of such services, the Exchange will receive a percentage of the total monthly subscription fees received by MEB from parties who have subscribed to the Service.

While Spread Crawler will be provided exclusively through the Exchange to both ISE members and non-ISE members, the Exchange represents that it would enter into a similar arrangement for a similar market data offering with any third party, including another ISE member, on the same terms and conditions as the arrangement with MEB, should any such third party request to do so. Furthermore, because MEB does not rely solely on the ISE complex option orders data feed to provide the Service and instead utilizes a general aggregation of data from all of the U.S. options exchanges that broadcast open complex option orders, any third party (regardless of whether it is an ISE-member or non-ISE member) may develop and/or establish a similar market data offering, with or without ISE's participation, and increase the competitive landscape for such market data offerings. In addition, the Exchange confirms that: (i) MEB has not (and will not) receive any preferential treatment as a result of being a ISE member which acts as a service provider to other ISE members and non-ISE members pursuant to this arrangement; (ii) MEB will not have any special, different, or preferential access to the Exchange's data as a result of this arrangement; and (iii) ISE, in the context of being one of

<sup>10</sup> 17 CFR 200.30-3(a)(12).

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

<sup>2</sup> 17 CFR 240.19b-4.