

with an expiration of nine months or greater.

In addition, if a technical failure or limitation of a system of the Exchange prevents a Market Maker from maintaining, or prevents a Market Maker from communicating to NOM, timely and accurate quotes, the duration of such failure or limitation shall not be included in any of the calculations under this subparagraph (i) with respect to the affected quotes.

As a whole, the proposed amendments are intended to improve the quality of NOM markets, while carefully considering the important role of Market Makers in the NOM marketplace. Adopting quotation spread parameters and requiring registration across the series of an option are intended to encourage market making in more series; at the same time, NASDAQ recognizes the need to balance these new, more burdensome obligations with a lower series quoting percentage requirement. This balance of obligations should help to make the market better for all participants. NASDAQ believes that it has crafted a reasonable balance in this proposal.

## 2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act<sup>16</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>17</sup> in particular, in that it is 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, and to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the proposal is appropriate and reasonable for Market Makers, similar to the rules of other options exchanges (as specified below) and should, at the same time, enhance the quality of the Exchange's options markets.

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

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

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

Within 45 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 self-regulatory organization consents, the Commission will:

- A. By order approve or disapprove 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 Exchange 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-NASDAQ-2011-012 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-NASDAQ-2011-012. 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 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 a.m. and 3 p.m. Copies of the 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-NASDAQ-2011-012 and should be submitted on or before February 28, 2011.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**Cathy H. Ahn,**

*Deputy Secretary.*

[FR Doc. 2011-2616 Filed 2-4-11; 8:45 am]

**BILLING CODE 8011-01-P**

## **SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-63811; File No. SR-OCC-2011-02]**

### **Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Accommodate the Clearance of Relative Performance Options**

February 1, 2011.

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 January 19, 2011, 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 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 would accommodate the clearance of options on certain indexes measuring the relative performance of one reference

<sup>18</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.

<sup>16</sup> 15 U.S.C. 78f(b).

<sup>17</sup> 15 U.S.C. 78f(b)(5).

security or reference index relative to a second reference security or reference index.

## 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 these statements.<sup>3</sup>

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

The purpose of this rule change is to accommodate the clearance of options on certain indexes measuring the relative performance of one reference security or reference index relative to a second reference security or reference index ("Relative Performance Options"). A reference security may be an exchange-traded fund ("ETF"). The revised rules have been broadly drafted to cover Alpha Options (described below) and any similar product that may be listed on any participant exchange in the future.

NASDAQ OMX PHLX LLC ("Phlx") is proposing to list options ("Alpha Options")<sup>4</sup> on NASDAQ OMX Alpha Indexes ("Alpha Indexes"), a family of indexes developed by NASDAQ OMX Group, Inc. ("Nasdaq"). Alpha Indexes are calculated based on two ETFs or other reference securities underlying options that are also traded on Phlx. For example, an Alpha Index may measure the relative total return of two non-ETF securities, two ETFs, or one ETF and one non-ETF security (the first component of each pair is referred to as the "Target Component," and the second component is referred to as the "Benchmark Component"). The Alpha Index is calculated by measuring the total return performance of the Target Component relative to the total return performance of the Benchmark Component based upon prices of transactions on the primary listing exchange of each underlying component. Each Alpha Index will initially be set at 100.00. Alpha Options

will be cash-settled, European-style options. In the event of a corporate event that eliminates one of the underlying components of an Alpha Index, Nasdaq will cease calculation of the Alpha Index for that pair of underlying components, and all outstanding option positions will be immediately settled at the last disseminated price of that Alpha Index.

Relative Performance Options are highly similar to other index options cleared by OCC except for the identity and nature of the underlying index. Therefore, OCC believes that the provisions of its By-Laws and Rules governing index options, as they are currently in effect, are generally sufficient to support the clearance and settlement of Relative Performance Options. However, minor modifications are needed to support Alpha Options and other types of Relative Performance Options that may be introduced in the future. For example, OCC's current Rules do not account for the possibility of an index having a negative value as could occur for certain Relative Performance Indexes. If this should ever occur, the index value would be deemed to be equal to zero or, because certain systems may not accept a zero index value, a near-zero positive amount. Therefore, OCC proposes to modify its By-Laws to provide for such potential adjustment of the index value by either the listing exchange or OCC.

In addition, OCC's current By-Laws do not account for the possibility that an expiration date may be accelerated when a reference security (*i.e.*, an individual reference security and not a reference index) that is one of the components of an underlying relative performance index ceases to be published as a result of a cash-out merger or similar corporate event. If the value of an underlying Relative Performance Index ceases to be published as a result of such an event, the value of the overlying options would become fixed. OCC therefore proposes to modify its By-Laws to provide that OCC will either accelerate or not accelerate the expiration in consultation with the relevant exchange on which the index underlying a Relative Performance Option is listed.

OCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act<sup>5</sup> because it is designed to promote the prompt and accurate clearance and settlement of transactions in, including the expiry of, Relative Performance Options, and to foster cooperation and coordination with persons engaged in

the clearance and settlement of such transactions, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. The proposed rule change accomplishes this purpose by applying substantially the same rules and procedures to these transactions as OCC applies to transactions in other index options. The proposed rule change is not inconsistent with the existing rules of OCC, including any 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 any burden on competition.

### (C) Self-Regulatory Organization's Statement on Comments Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. OCC will notify the Commission of any written comments received by OCC.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate 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 or disapprove the 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-OCC-2011-02 on the subject line.

<sup>3</sup> The Commission has modified the text of the summaries prepared by OCC.

<sup>4</sup> See SR-Phlx-2010-176, Release No. 34-63575, December 17, 2010.

<sup>5</sup> 15 U.S.C. 78q-1.

*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-2011-02. 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 Web site viewing and printing in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549-1090, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filings will also be available for inspection and copying at the principal office of OCC and on OCC's Web site at [http://www.optionsclearing.com/components/docs/legal/rules\\_and\\_bylaws/sr\\_occ\\_11\\_02.pdf](http://www.optionsclearing.com/components/docs/legal/rules_and_bylaws/sr_occ_11_02.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-2011-02 and should be submitted on or before February 22, 2011.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**Elizabeth M. Murphy,**  
Secretary.

[FR Doc. 2011-2570 Filed 2-4-11; 8:45 am]

BILLING CODE 8011-01-P

**DEPARTMENT OF STATE****[Public Notice 7317]****Culturally Significant Objects Imported for Exhibition Determinations: "Birth of the Modern: Style and Identity in Vienna 1900"**

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition "Birth of the Modern: Style and Identity in Vienna 1900," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Neue Galerie, New York, New York, from on or about February 24, 2011, until on or about June 27, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202-632-6469). The mailing address is U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: January 31, 2011.

**Ann Stock,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2011-2644 Filed 2-4-11; 8:45 am]

BILLING CODE 4710-05-P

**DEPARTMENT OF STATE****[Public Notice: 7318]****Culturally Significant Objects Imported for Exhibition Determinations: "Heinrich Kühn"**

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and

Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236-3 of August 28, 2000, I hereby determine that the objects to be included in the exhibition "Heinrich Kühn," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Museum of Fine Arts, Houston, TX, from on or about March 6, 2011, until on or about May 30, 2011, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (*telephone:* 202-632-6467). The mailing address is U.S. Department of State, SA-5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522-0505.

Dated: January 31, 2011.

**Ann Stock,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2011-2646 Filed 2-4-11; 8:45 am]

BILLING CODE 4710-05-P

**DEPARTMENT OF STATE****[Public Notice: 7319]****Culturally Significant Objects Imported for Exhibition Determinations: "Splendors of Faith/Scars of Conquest: The Arts of the Missions of Northern New Spain, 1600-1821"**

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition "Splendors of Faith/Scars of Conquest: The Arts of the Missions of Northern New Spain, 1600-1821," imported from abroad for temporary exhibition within the United

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