



**BOX**<sup>®</sup>  
OPTIONS EXCHANGE

March 3, 2015

Mr. Brent J. Fields  
Secretary  
Securities and Exchange Commission  
100 F Street, N.E.  
Washington, D.C. 20549-1090

Re: Options Clearing Corporation (“OCC”), Notice of Filing of Proposed Rule Change Concerning a Proposed Capital Plan for Raising Additional Capital; SEC File No. SR-OCC-2015-02 (January 30, 2015).

Dear Mr. Fields:

BOX submitted a comment letter on February 19, 2015 (“BOX Letter”) in response to the Options Clearing Corporation’s (“OCC”) rule filing to implement a new capital plan for raising additional capital that would support the OCC’s function as a systemically important financial market utility (the “Proposed Capital Plan” or “Plan”). The BOX Letter raised concerns about the structure of the recapitalization, the burden on competition and asked for clarity on additional issues, including the Plans duration, estimated dividend payments, cessation of the clearing member refund, available alternatives, current shareholder equity figures, how end user customers will benefit and how the plan will align the interests of shareholder exchanges and clearing members. The OCC responded to some of BOX’s concerns with a response letter on February 23, 2015. BOX submits this second comment letter to supplement the BOX Letter and request the Commission delay acting on the Plan until BOX can present a proposal to the OCC’s Board.

The OCC claims this process of determining the appropriate recapitalization structure has been going on for over a year behind closed doors; however, BOX only learned of it when the Plan was filed with the SEC earlier this year. BOX, along with the other non-equity Exchanges, should have been notified earlier and the OCC’s failure to provide such notice is contrary to their previous statements to the Commission and in direct violation of the OCC’s own by-laws. When the OCC removed the requirement that all national securities exchanges that the OCC provides clearing services for be owners of the OCC they stated that OCC management “will promptly pass on to non-equity exchanges any information that management considers to be of competitive significance to such exchanges disclosed to exchange directors at or in connection with any meeting or action of the OCC board or any board committee.”<sup>1</sup> Additionally, the OCC’s by-laws contain the following provision:

Non-Equity Exchanges will be promptly provided with information that the Executive Chairman considers to be of competitive significance to such Non-Equity Exchanges that was disclosed to Exchange Directors at or in connection

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<sup>1</sup> See footnote 6 to Securities Exchange Act Release No. 49729 (July 25, 2002), 67 FR 58093 (July 31, 2002)( SR-OCC-2002-02).



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with any meeting or action of the Board of Directors or any Committee of the Board of Directors.<sup>2</sup>

The OCC failed to provide such notice to BOX and therefore is in direct violation of their own by-laws and representations they made to the Commission.

BOX respectfully requests that the Commission delay action on the Plan to give time for BOX to submit a proposal to the OCC's Board as is permitted. In addition to providing the Non-Equity Exchanges with relevant information, the OCC also represented that OCC Management "will provide non-equity exchanges with the opportunity to make presentations to the OCC board or the appropriate board committee upon request."<sup>3</sup>

For the reasons stated above and in the BOX Letter, BOX respectfully requests that the Commission delay acting on the filing.

Sincerely,

Tony McCormick  
Chief Executive Officer

cc: The Honorable Mary Jo White, Chair  
The Honorable Luis A. Aguilar, Commissioner  
The Honorable Daniel M. Gallagher, Commissioner  
The Honorable Michael S. Piwowar, Commissioner  
The Honorable Kara M. Stein, Commissioner  
Stephen Luparello, Director, Division of Trading and Markets  
Gary L. Goldsholle, Deputy Director, Division of Trading and Markets  
David S. Shillman, Associate Director, Division of Trading and Markets

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<sup>2</sup> See Interpretations & Policies .01 to Article VIIB of the OCC's By-laws.

<sup>3</sup> See supra note 1.