



8011-01p

**SECURITIES AND EXCHANGE COMMISSION**  
[File No. SR-OCC-2015-02]  
**Before the**  
**Securities and Exchange Commission**

Securities Exchange Act of 1934  
Release No. 81629 / September 14, 2017  
**In the Matter of the**

The Options Clearing Corporation

**For an Order Granting the Approval of**

Proposed Rule Change Concerning a Proposed Capital Plan for Raising Additional Capital That Would Support The Options Clearing Corporation’s Function as a Systemically Important Financial Market Utility; **Corrected Order Scheduling Filing of Statements on Review**

On February 11, 2016, the Commission issued an order (“Approval Order”) approving the plan of the Options Clearing Corporation’s (“OCC”) for raising additional capital (the “Plan”) to support its function as a systemically important financial market utility.<sup>1</sup> BOX Options Exchange LLC, KCG Holdings, Inc., Miami International Securities Exchange, LLC, and Susquehanna International Group, LLP (collectively “petitioners”)<sup>2</sup> filed a petition for review of the Approval Order in the U.S. Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”), challenging the Commission’s Approval Order as inconsistent with the Exchange Act and lacking in the reasoned decisionmaking required by the Administrative Procedure Act.

The D.C. Circuit concluded that the Approval Order did not “represent the kind of reasoned decisionmaking required by either the Exchange Act or the Administrative Procedure Act,” and therefore remanded the case to the Commission for further proceedings.<sup>3</sup> In so ruling,

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<sup>1</sup> Exchange Act Release No. 77112, File No. SR-OCC-2015-02.

<sup>2</sup> BATS Global Markets, Inc., was initially a petitioner, but later withdrew.

<sup>3</sup> *Susquehanna Int’l Grp., LLP v. SEC*, 866 F.3d 442, 443 (D.C. Cir. 2017).

the court did not reach the merits of any of petitioners' arguments that the Plan was inconsistent with the substantive requirements of the Exchange Act.<sup>4</sup>

The court specifically decided not to vacate the Approval Order prior to remand, instead leaving the Plan in place and remanding "to give the SEC an opportunity to properly evaluate the Plan."<sup>5</sup> The D.C. Circuit's mandate, which issued on August 18, 2017, returned the matter to the Commission for further proceedings.

Accordingly, to facilitate the Commission's further review of the Plan, IT IS ORDERED, that by October 14, 2017, OCC may file any additional statements or information that it considers relevant to the Commission's reconsideration, including but not limited to information OCC's board of directors considered in approving the Plan.

Furthermore, the Commission is providing other parties and persons thirty days to respond to any additional statements OCC may submit.

Accordingly, IT IS ORDERED, that by November 13, 2017, any party or other person may file any additional statement, which may include statements previously submitted or otherwise available, or any new information such party or other person considers relevant.

All submissions should refer to File Number SR-OCC-2015-02. The Commission will post submissions on the Commission's Internet website as they are received. Submissions received will be posted without change; the Commission does not edit personal identifying information from submissions. If a party or person wishes to submit information for the Commission to consider that is confidential, Rule 83 of the Commission Rules of Practice provides a procedure by which persons submitting information may request that it be withheld when requested under the Freedom of Information Act.<sup>6</sup> Any party or person seeking to submit information in this matter should make sure that their request complies with procedures specified by Rule 83. An explanation of the rule is available on the Commission's website at: <https://www.sec.gov/foia/conftrat.htm>.

By the Commission.

Brent J. Fields,  
Secretary.

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<sup>4</sup> *Id.* at 446.

<sup>5</sup> *Id.*

<sup>6</sup> 17 CFR 200.83.

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