



SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-68308; File No. SR-OCC-2012-21)

November 28, 2012

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

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² 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,³ and Rule 19b-4(f)(1)⁴ 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(i).

⁴ 17 CFR 240.19b-4(f)(1).

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.⁵

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 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

⁵ The Commission has modified the text of the summaries prepared by OCC.

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,⁶ 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.

⁶ 15 U.S.C. 78q-1(b)(3)(F).

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.

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)⁷ of the Act and Rule 19b-4(f)(1)⁸ 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.⁹

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:

⁷ 15 U.S.C. 78s(b)(3)(A)(i).

⁸ 17 CFR 240.19b-4(f)(1).

⁹ 15 U.S.C. 78s(b)(3)(C).

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. 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, D.C., 20549-1090.

All submissions should refer to File Number SR-OCC-2012-21. 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 website (<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 website 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 website at 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 [insert date 21 days from publication in the Federal Register].

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

Kevin M. O'Neill
Deputy Secretary

[FR Doc. 2012-29217 Filed 12/03/2012 at 8:45 am; Publication Date: 12/04/2012]

¹⁰ 17 CFR 200.30-3(a)(12).