



8011-01p  
SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-73579; File No. SR-OCC-2014-807)

November 12, 2014

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of an Emergency Change to OCC's Procedures to Resize the Clearing Fund in Response to Market Conditions

Pursuant to Section 806(e)(2) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled Payment, Clearing, and Settlement Supervision Act of 2010 ("Payment, Clearing and Settlement Supervision Act")<sup>1</sup> and Rule 19b-4(n)(1)(i) under the Securities Exchange Act of 1934 ("Act"),<sup>2</sup> notice is hereby given that on October 16, 2014, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the emergency notice as described in Items I and II below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the emergency notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Emergency Notice

This notice is filed by OCC in connection an increase in the size of OCC's Clearing Fund that it has implemented on an emergency basis pursuant to Section 806(e)(2) of the Payment, Clearing, and Settlement Supervision Act.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Emergency Notice

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the advance notice and discussed any comments it received on

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<sup>1</sup> 12 U.S.C. 5465(e)(2).

<sup>2</sup> 17 CFR 240.19b-4(n)(1)(i).

the advance notice. 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 and B below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement on Comments on the Emergency Notice Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the emergency notice and none have been received.

(B) Emergency Notices Filed Pursuant to Section 806(e)(2) of the Payment, Clearing and Settlement Supervision Act

***Description of Change***

*Emergency Notice*

This notice is being filed in connection with an emergency waiver of the provision of OCC's Rules calling for monthly adjustments of its Clearing Fund that would otherwise have required an advance notice under Section 806(e)(1) of the Payment, Clearing and Settlement Supervision Act. Pursuant to Section 806(e)(2) of the Payment, Clearing, and Settlement Supervision Act, a designated financial market utility such as OCC may implement a change that would otherwise require an advance notice if it determines that an emergency exists and immediate implementation is necessary to continue to provide services in a safe and sound manner.<sup>3</sup> For the reasons discussed below, OCC believes that the change was appropriate under this framework, and OCC is now filing this emergency notice in accordance with the requirements under Sections 806(e)(2)(B) and (C) of the Payment, Clearing and Settlement Supervision Act.<sup>4</sup>

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<sup>3</sup> 12 U.S.C. 5465(e)(2).

<sup>4</sup> 12 U.S.C. 5465(e)(2)(B), 12 U.S.C. 5465(e)(2)(C).

### *Sizing of the Clearing Fund*

Under Commission Rule 17Ad-22(b)(3), OCC is obligated to maintain sufficient financial resources to withstand, at a minimum, a default by the Clearing Member Group to which OCC has the largest exposure in extreme but plausible market conditions.<sup>5</sup> As part of OCC's ongoing compliance with this obligation, it readjusts the size of its Clearing Fund monthly pursuant to OCC's Rule 1001(a). Under Rule 1001(a), the monthly readjustment is based upon daily calculations by OCC during the preceding month of the size of the Clearing Fund that would be necessary, within certain confidence levels, to protect OCC from loss under simulated default scenarios. Recent increased volatility in the financial markets has affected these calculations such that OCC's daily results indicate that the size of the Clearing Fund should be increased to address the potential risk that it could be underfunded in the event of a Clearing Member default. OCC recently proposed a rule change and advance notice that would permit the Clearing Fund to be resized intra-month in the event that the five-day rolling average of projected draws against the Clearing Fund are 150% or more of its then current size.<sup>6</sup> Although that proposal remains pending, OCC calculates that the recent increase in market volatility would have caused that proposed threshold to be exceeded as of October 15, 2014 and determined that an intra-month increase was necessary to minimize the risk of an underfunding of the Clearing Fund.

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<sup>5</sup> 17 CFR 240.17Ad-22(b)(3).

<sup>6</sup> *See*, Securities Exchange Act Release No. 72752 (August 4, 2014), 79 FR 46490 (August 8, 2014) (SR-OCC-2014-17). *See also*, Securities Exchange Act Release No.72804 (August 11, 2014), 79 FR 48276 (August 15, 2014) (SR-OCC-2014-804).

*Nature of the Emergency and Reasons the Clearing Fund Resizing was Necessary*

To provide OCC with the necessary flexibility to respond to these dynamic market conditions and increase the size of its Clearing Fund prior to the next resizing scheduled to take place on the first business day in November, OCC has exercised certain emergency powers in Article IX, Section 14 of its By-Laws. In emergency circumstances and subject to certain conditions, that authority permits OCC's Board of Directors, Executive Chairman or President to waive or suspend its By-Laws, Rules, policies and procedures or any other rules issued by OCC or extend the time fixed thereby for the doing of any act or acts.<sup>7</sup> Consistent with that authority, OCC's Executive Chairman on October 15, 2014 determined to waive the provisions in the second sentence of Rule 1001(a) under which the Clearing Fund is readjusted monthly based upon an average of the daily calculations performed by OCC during the preceding calendar month. To respond to the potential risk under prevailing market conditions that the Clearing Fund could be underfunded, which could affect OCC's ability to continue to facilitate prompt and accurate clearance and settlement and to operate in a safe and sound manner, OCC increased the size of the Clearing Fund for the remainder of October 2014 as is otherwise provided for in Rule 1001(a). Accordingly, the original Clearing Fund sizing calculation for October 2014 of approximately \$3.8 billion was suspended by OCC and the size of the Clearing Fund was reestablished in an amount of approximately \$5.6 billion. The Executive Chairman consulted with the Risk Committee of OCC's Board of Directors

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<sup>7</sup> See Securities Exchange Act Release No. 71571 (February 19, 2014), 79 FR 10581 (February 25, 2014) (SR-OCC-2013-23). As noted in the Commission's approval order for that rule change, the change generally aligned OCC's authority in this area with the authority of other registered clearing agencies that already had similar rules allowing them in comparable circumstances to waive or suspend their rules or extend the time fixed thereby for the performance of any act or acts.

and senior staff of the Commission before making this decision. Senior staff of the U.S. Commodity Futures Trading Commission was also informed.

***Anticipated Effect on and Management of Risk***

Overall, the increase in the size the Clearing Fund reduces the risks to OCC, its Clearing Members and the options market in general because it provides OCC with proper flexibility under current market conditions to establish a Clearing Fund size that OCC believes would be sufficient to protect against losses under current market conditions for a period of not more than 30 calendar days as specified in Article IX, Section 14(c). The change allowed OCC to increase the overall size of its Clearing Fund as a result of a projected increase in potential draws. Accordingly, the change makes it less likely that the Clearing Fund will be insufficient should OCC need to use it to manage a Clearing Member default. The change therefore reduces OCC's overall level of risk and facilitates its management of risk.

***Consistency with the Payment, Clearing and Settlement Supervision Act***

OCC believes that the increase in the total size of the Clearing Fund was consistent with Sections 805(b)(1)<sup>8</sup> and 806(e)(2)<sup>9</sup> of the Payment, Clearing and Settlement Supervision Act. The change promotes robust risk management<sup>10</sup> by providing OCC with an amount of financial resources it believes would be sufficient to protect OCC against loss in an event of default. The change was appropriate on an emergency basis because OCC determined through daily calculations regarding the

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<sup>8</sup> 12 U.S.C. 5464(b)(1).

<sup>9</sup> 12 U.S.C. 5465(e)(2).

<sup>10</sup> 12 U.S.C. 5464(b)(1).

sufficiency of the Clearing Fund that increased financial market volatility represented a potential risk that the Clearing Fund could be underfunded if an event of default occurred. The determination to readjust the size of the Clearing Fund as described above was therefore necessary and advisable for the protection of OCC and in the public interest to ensure that OCC's Clearing Fund is sufficient for OCC to be able to provide its services in a safe and sound manner.

### III. Date of Effectiveness of the Advance Notice and Timing for Commission Action

OCC implemented a proposed change that otherwise would be required to be filed as an advance notice because OCC determined that (i) an emergency existed and (ii) immediate implementation was necessary for OCC to continue to provide its services in a safe and sound manner. The Commission may require modification or rescission of the proposed change if it finds it is not consistent with the purposes of the Payment, Clearing and Settlement Supervision Act or any applicable rules, orders, or standards prescribed under Section 805(a) of the Payment, Clearing and Settlement Supervision Act.<sup>11</sup>

Pursuant to Rule 19b-4(n) under the Act,<sup>12</sup> OCC shall post notice on its website of proposed changes that are implemented.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Comments may be submitted by any of the following methods:

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<sup>11</sup> See 12 U.S.C. 5465(e)(2)(D), 12 U.S.C. 5464(a).

<sup>12</sup> 17 CFR 240.19b-4(n).

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-2014-807 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2014-807. 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 emergency notice that are filed with the Commission, and all written communications relating to the emergency notice 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 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of OCC. 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-2014-807 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

By the Commission.

Kevin O'Neill  
Deputy Secretary

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