



8011-01p
SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-75260; File No. SR-OCC-2015-013)

June 22, 2015

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change to Codify Procedures for Resizing the Options Clearing Corporation's Clearing Fund on a Monthly Basis and Increasing Such Clearing Fund Size on an Intra-Month Basis

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 June 19, 2015, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The Commission recently approved a proposed rule change, and issued a Notice of No-Objection to an Advance Notice Filing, concerning the establishment of procedures to resize OCC's Clearing Fund and the addition of financial resources through intra-day margin calls and/or an intra-month increase of the Clearing Fund.³ This proposed rule change by OCC would codify the authority granted to OCC through such approval and non-objection by amending the second sentence of Rule 1001(a).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 74980 (May 15, 2015), 80 FR 29364 (May 21, 2015) (SR-OCC-2015-009). See also Securities Exchange Act Release No. 74981 (May 15, 2015), 80 FR 29367 (May 21, 2015) (SR-OCC-2014-811).

II. Clearing Agency'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.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC is submitting this proposed rule change to amend Rule 1001(a) in order to codify the Commission's recent approval of and non-objection to procedures for resizing the Clearing Fund on a monthly basis and increasing such Clearing Fund size on an intra-month basis to ensure OCC maintains sufficient financial resources consistent with regulatory requirements.⁴

On October 16, 2014, OCC filed a notice reflecting emergency action taken to permit it to increase the size of the Clearing Fund intra-month to ensure that it had sufficient financial resources to cover the potential loss associated with a Clearing Member default that presented the largest exposure to OCC under extreme but plausible market conditions.⁵ The Commission since has approved, pursuant to Section 19(b)(2) of

⁴ *Id.*

⁵ See Securities Exchange Act Release No. 73579 (November 12, 2014), 79 FR 68747 (November 18, 2014) (SR-OCC-2014-807). On November 13, 2014, OCC filed SR-OCC-2014-21 with the Commission to delete the second sentence

the Act,⁶ and issued a Notice of No-Objection to, pursuant to Section 806(e)(1)(I) of the Payment, Clearing, and Settlement Supervision Act of 2010,⁷ OCC's adoption of procedures designed to clarify for Clearing Members and market participants the manner in which OCC would resize the Clearing Fund on a monthly basis and, if necessary, collect additional financial resources through intra-day margin calls and intra-month increases of the Clearing Fund ("Procedures").⁸ Under the Procedures, OCC continues to size the Clearing Fund on the first business day of each month, with the Clearing Fund size equal to a base amount and an additional prudential margin of safety determined by OCC, currently set at \$1.8 billion. The base amount is equal to the peak five-day rolling average of Clearing Fund draws⁹ observed over the preceding three calendar months. However, under the Procedures, OCC must issue an intra-day margin call in the event that a projected draw on the Clearing Fund under stress tests conducted by OCC exceeds

of Rule 1001(a), preserving the suspended effectiveness of that sentence until such time as the Commission approves or disapproves SR-OCC-2014-21. *See* Securities Exchange Act Release No. 73685 (November 25, 2014), 79 FR 71479 (December 2, 2014) (SR-OCC-2014-21). SR-OCC-2014-21 remains pending because on March 2, 2015 the Commission published an order instituting proceedings to determine whether to approve or disapprove the filing. *See* Securities Exchange Act Release No. 74406 (March 2, 2015), 80 FR 12232 (March 6, 2015) (SR-OCC-2014-21).

⁶ 15 U.S.C. 78s(b)(2).

⁷ 12 U.S.C. 5465(e)(1)(I).

⁸ *See* Footnote 3 above. Since the Commission issued such approval and Notice of No-Objection, OCC has amended the Procedures as set forth in SR-OCC-2015-012.

⁹ Clearing Fund draws are the amounts that OCC would have been required to draw against the Clearing Fund under the daily idiosyncratic default and minor systemic default scenario calculations conducted by OCC (*i.e.*, the amount of projected losses not covered by margin deposits or deposits in lieu of margin).

75% of the then-current size of OCC's Clearing Fund. In addition, OCC must increase the size of the Clearing Fund intra-month where a projected draw, after taking into account intra-day margin collected under the Procedures, exceeds 90% of the then-current size of the Clearing Fund.

OCC is proposing to amend Rule 1001(a) to codify, in accordance with the Procedures, the process by which such Clearing Fund size: i) is determined and set on a monthly basis, and ii) may be increased on an intra-month basis. The proposed rule change provides greater transparency to Clearing Members and other market participants, because OCC's practices with regard to the monthly sizing of the Clearing Fund and OCC's ability to increase the Clearing Fund intra-month in accordance with the Procedures would be codified in the text of Rule 1001(a).

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,¹⁰ and the rules and regulations thereunder because it would safeguard securities and funds in the custody and control of OCC. The Commission has already found that the Procedures are consistent with the Act, and the rules and regulations thereunder – more specifically, the Commission found that the Procedures are consistent with Rule 17Ad-22(b)(3) since they should ensure that OCC is capable of obtaining sufficient financial resources in a timely manner to withstand the default of a clearing member presenting the largest exposure to OCC.¹¹ By codifying the Procedures, as described above, as well as permitting OCC to take action pursuant to the Procedures, the proposed

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 CFR 240.17Ad-22(b)(3).

rule change would provide OCC with the authority necessary to resize its Clearing Fund pursuant to the Procedures and thereby safeguard securities and funds in the custody and control of OCC. In addition, the proposed rule change would ensure that market participants have sufficient information to identify and evaluate the risks and costs of using OCC's services since the proposed rule change would be incorporated into OCC's Rules (which are made available to the public on OCC's public website), in compliance with Rule 17Ad-22(d)(9).¹² The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.¹³ OCC believes that the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user because OCC would continue to size and increase the size of the Clearing Fund as per the Procedures for which the Commission issued its approval and non-objection to and without regard to any particular user or Clearing Member that makes Clearing Fund contributions.

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

¹² 17 CFR 240.17Ad-22(d)(9).

¹³ 15 U.S.C. 78q-1(b)(3)(I).

Written comments on the proposed rule change 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

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. Please include File Number SR-OCC-2015-013 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-2015-013. 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 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_15_013.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-2015-013 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.¹⁴

Robert W. Errett
Deputy Secretary

[FR Doc. 2015-15693 Filed: 6/25/2015 08:45 am; Publication Date: 6/26/2015]

¹⁴ 17 CFR 200.30-3(a)(12).