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**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 34-86436; File No. SR-OCC-2019-006]**

**Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Make Administrative Updates to The Options Clearing Corporation's Risk Management Policies**

July 23, 2019

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 12, 2019, 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. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii)<sup>3</sup> of the Act and Rule 19b-4(f)(3)<sup>4</sup> 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. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change**

OCC is filing a proposed rule change to make administrative changes to its Risk Management Framework Policy ("RMF Policy"), Clearing Fund Methodology Policy ("CFM Policy"), Collateral Risk Management Policy ("CRM Policy"), Counterparty

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b-4(f)(3).

Credit Risk Management Policy (“CCRM Policy”), Default Management Policy (“DM Policy”), Margin Policy, and Model Risk Management Policy (“MRM Policy”) (collectively, “OCC Policies”).

The proposed changes to the OCC Policies are included in confidential Exhibits 5A-5G. Material proposed to be added to the OCC Policies as currently in effect is underlined and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.<sup>5</sup>

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

**Background**

On September 28, 2016 the Commission adopted amendments to Rule 17Ad-22<sup>6</sup> and added new Rule 17Ab2-2<sup>7</sup> pursuant to Section 17A of the Exchange Act<sup>8</sup> and the

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<sup>5</sup> OCC’s By-Laws and Rules can be found on OCC’s public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

<sup>6</sup> 17 CFR 240.17Ad-22.

<sup>7</sup> 17 CFR 240.17Ab2-2.

Payment, Clearing, and Settlement Supervision Act of 2010<sup>9</sup> to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a “covered clearing agency,” as defined by Rule 17Ad-22(a)(5)<sup>10</sup> (collectively, the new and amended rules are herein referred to as “CCA Rules”). The CCA Rules require that covered clearing agencies “establish, implement, maintain and enforce written policies and procedures reasonably designed to . . .” comply with these enhanced standards. OCC is a covered clearing agency under the CCA Rules and therefore is subject to the CCA Rules. Accordingly, OCC maintains a number of policies that have been filed with the Commission and which need to be updated periodically so that those policies remain accurate and consistent with other OCC rules.

On February 13, 2019, the Commission approved a proposed rule change by OCC concerning changes in OCC’s management structure specifically related to, at that time, OCC’s Executive Chairman and Chief Executive Officer (“CEO”), Chief Operating Officer (“COO”), and Chief Administrative Officer (“CAO”) (collectively referred to as the “Office of the Chief Executive Officer” or “Office of the CEO”).<sup>11</sup> The primary purpose of the proposed rule change was to: (1) reestablish the separation of the roles of Executive Chairman and CEO and reallocate authority and responsibilities between the

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<sup>8</sup> 15 U.S.C. 78q-1.

<sup>9</sup> 12 U.S.C. 5461 et seq.

<sup>10</sup> 17 CFR 240.17Ad-22(a)(5).

<sup>11</sup> See Securities Exchange Act Release No. 85129 (February 13, 2019), 84 FR 5129 (February 20, 2019) (SR-OCC-2018-015) (Order Approving Proposed Rule Change, as Modified by Partial Amendment No. 1, Concerning Changes to The Options Clearing Corporation's Management Structure). Upon adoption of the proposed rule change, the Office of the CEO is now comprised of the Executive Chairman, CEO, and COO.

two roles and (2) remove the requirement from OCC's By-Laws that the Board of Directors ("Board") elect a CAO and delete the references to a CAO throughout OCC's By-Laws, Rules, and Board/Board Committee charters.

OCC proposes to revise the OCC Policies to align the policies with these recently approved changes to OCC's By-Laws and Rules and to otherwise enhance the accuracy, clarity, and consistency of the OCC Policies.

### **Proposed Changes**

OCC proposes to make administrative changes to the OCC Policies to: (1) conform them to the recently approved management structure changes implemented in OCC's By-Laws and Rules,<sup>12</sup> (2) update various internal OCC policy and procedure names, and (3) make other non-substantive clarifying and conforming changes.

#### **1. Changes to Conform to By-Laws and Rules**

As noted above, OCC recently adopted a proposed rule change that separated the roles of Executive Chairman and CEO, removed the requirement from OCC's By-Laws that the Board elect a CAO, and deleted references to the CAO throughout OCC's By-Laws, Rules, and Board/Board Committee charters. OCC now proposes to make conforming revisions to the OCC Policies to align any responsibilities or authority of members of the Office of the CEO in such policies with the recently approved changes to OCC's By-Laws and Rules. The proposed rule change is intended to ensure the accuracy of the OCC Policies and their consistency with OCC's By-Laws and Rules and is not intended to substantively change the responsibility or authority of members of the Office of the CEO.

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<sup>12</sup> Id.

OCC proposes to revise sections of its CFM Policy concerning (i) temporary increases to the minimum Clearing Fund cash requirement, (ii) temporary increases in the overall size of the Clearing Fund, (iii) escalation of intra-day margin calls that exceed 100% of a Clearing Member's net capital, (iv) notification and approvals of intra-month resizing of the Clearing Fund, and (v) authority to make proportionate changes against the Clearing Fund to reflect the new composition the Office of the CEO. OCC also proposes to revise its CCRM Policy to reflect that the CEO and COO now have the authority to approve Clearing Members, banks, liquidity providers, investment counterparties, and financial market utility relationships to align with the recently approved changes to OCC's By-Laws and Rules re-assigning responsibility for routine day-to-day business decisions to these senior officers.<sup>13</sup> OCC also proposes to revise sections of the CCRM Policy concerning the Watch Level Reporting process to reflect the new composition of the Office of the CEO and appropriately describe Watch Level notification and escalation requirements under the new management structure.

In addition, OCC proposes to revise its DM Policy to reflect the new composition of the Office of the CEO and their responsibilities in the default management process, including the authority for any member of the Office of the CEO to (i) suspend a Clearing Member, (ii) authorize a draw on OCC's credit facilities, (iii) authorize an extension of daily settlement times under OCC Rule 505, (iv) defer the close-out of some or all positions of a suspended clearing member, and (v) make proportionate charges against and require the replenishment of OCC's Clearing Fund consistent with OCC's By-Laws and Rules. OCC also proposes to revise its Margin Policy to reflect the new composition

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<sup>13</sup> See supra note 11.

of the Office of the CEO and the authority of the officers thereof to approve intra-day margin calls outside of standard equity trading hours. OCC would also revise certain of the OCC Policies to include a defined term for “Office of the Chief Executive Officer.”

## **2. Related Policy and Procedure Updates**

As discussed above, the CCA Rules require OCC to “establish, implement, maintain and enforce written policies and procedures reasonably designed to . . .” comply with the objectives and standards of the CCA Rules.<sup>14</sup> The OCC Policies currently contain references to certain related policies and procedures that OCC maintains in support of the OCC Policies. These policies and procedures are reviewed and updated on a periodic basis, which at times may result in the consolidation of certain related procedures or changes in policy or procedure names. OCC proposes to revise the OCC Policies to update internal policy and procedures names to reflect any changes resulting from these periodic reviews to ensure the accuracy, consistency, and clarity of the OCC Policies. The proposed changes are administrative in nature and are not intended to change the substance of the OCC Policies.

## **3. Other Non-substantive Clarifying and Conforming Changes**

OCC also proposes to make a number of other administrative changes to the OCC Policies that would improve the accuracy, consistency, and clarity of those documents but would not change the substance or requirements of those policies. OCC proposes to revise its RMF Policy to clarify that the term “Residual Risk” represents the level of risk exposure posed “to” (as opposed to “from”) a process or activity after the application of controls or other risk-mitigating factors and to align the definition and usage of the term

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<sup>14</sup> See 17 CFR 240.17Ad-22.

throughout the policy. OCC would also revise a section header in the RMF Policy to note that the section in question discusses OCC's use of risk tolerances in addition to OCC's Risk Appetite Framework.

OCC proposes to revise its DM Policy to update cross-references to certain provisions of OCC's By-Laws relating to the Clearing Fund that were recently relocated to Chapter X of OCC's Rules.<sup>15</sup> The DM Policy would also be revised to eliminate an incorrect reference to Rule 913, which does not currently exist in OCC's Rules. OCC also proposes to revise its Margin Policy to update cross-references to relevant chapters of OCC's Margins Methodology. Additionally, OCC would update the Recalibration section of the policy to clarify that, consistent with current practice, the standard historical data look-back period used for econometric estimation is ten years for univariate parameters and 500 days for correlations.<sup>16</sup> Finally, OCC proposes to revise its MRM Policy to clarify that OCC's Model Risk Working Group is responsible for tracking "model issues and activities" as opposed to "model defects and remediation."

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<sup>15</sup> See Securities Exchange Act Release No. 83714 (July 26, 2018), 83 FR 37570 (August 1, 2018) (SR-OCC-2018-803) (Notice of No Objection to Advance Notice, as Modified by Amendments No. 1 and 2, Concerning Proposed Changes to The Options Clearing Corporation's Stress Testing and Clearing Fund Methodology) and Securities Exchange Act Release No. 83735 (July 27, 2018), 83 FR 37855 (August 2, 2018) (SR-OCC-2018-008) (Order Approving Proposed Rule Change, as Modified by Amendments No. 1 and 2, Related to The Options Clearing Corporation's Stress Testing and Clearing Fund Methodology).

<sup>16</sup> See Securities Exchange Act Release No. 83305 (May 23, 2018), 83 FR 24536 (May 29, 2018) (SR-OCC-2017-811) (Notice of No Objection to Advance Notice Filing Concerning The Options Clearing Corporation's Margin Methodology) and Securities Exchange Act Release No. 83326 (May 24, 2018), 83 FR 25081 (May 31, 2018) (SR-OCC-2017-022) (Order Approving Proposed Rule Change Related to The Options Clearing Corporation's Margin Methodology).

(2) Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Act<sup>17</sup> and the rules thereunder applicable to OCC. Section 17A(b)(3)(F) of the Act<sup>18</sup> requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing or agency or for which it is responsible. The proposed rule change is designed to align the OCC Policies with previously approved changes to OCC's By-Laws, Rules, and risk models<sup>19</sup> and otherwise enhance the accuracy, clarity, and consistency of the OCC Policies. The proposed changes would, among other things, ensure that the OCC Policies maintain accurate descriptions of the roles and responsibilities of the Office of the CEO and reference the appropriate procedures maintained under the OCC Policies to effectively carry out the requirements of those policies and thereby facilitate the effective operation of OCC's core clearance, settlement, and risk management activities. OCC believes that the proposed rule change is therefore designed, in general, to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible in accordance with Section 17A(b)(3)(F) of the Act.<sup>20</sup>

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<sup>17</sup> 15 U.S.C. 78q-1.

<sup>18</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>19</sup> See supra notes 11, 12, 15, and 16 and associated text.

<sup>20</sup> 15 U.S.C. 78q-1(b)(3)(F).



Rule 17Ad-22(e)(2)(i)<sup>21</sup> requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent. As discussed above, the proposed rule change is designed to align the OCC Policies with previously approved changes to OCC's By-Laws and Rules and otherwise enhance the accuracy, clarity, and consistency of the OCC Policies. The proposed changes would, among other things, ensure that the OCC Policies maintain accurate descriptions of the roles and responsibilities of the Office of the CEO and reference the appropriate procedures maintained under the OCC Policies to effectively carry out the requirements of those policies. OCC therefore believes the proposed rule change is consistent with Rule 17Ad-22(e)(2)(i).<sup>22</sup> Moreover, OCC believes the proposed rule change promotes compliance with the CCA Rules<sup>23</sup> generally by improving the accuracy, clarity, and consistency of the OCC Policies so that they remain reasonably designed to achieve the standards and requirements thereunder.

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

Section 17A(b)(3)(I) of the Act<sup>24</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would have any impact or impose a burden on competition. The proposed rule change is intended to

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<sup>21</sup> 17 CFR 240.17Ad-22(e)(2)(i).

<sup>22</sup> Id.

<sup>23</sup> 17 CFR 240.17Ad-22.

<sup>24</sup> 15 U.S.C. 78q-1(b)(3)(I).

make clarifying and conforming changes to OCC's internal policies in connection with the implementation of a proposed rule change that was previously approved by the Commission<sup>25</sup> and other administrative updates that would have no impact on Clearing Members or other market participants. Accordingly, OCC does not believe that the proposed rule change would have any impact or impose a burden on competition.

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

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

Pursuant to Section 19(b)(3)(A)(iii)<sup>26</sup> of the Act, and Rule 19b-4(f)(3) thereunder,<sup>27</sup> the proposed rule change is filed for immediate effectiveness as it is concerned solely with the administration of OCC. 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.<sup>28</sup>

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<sup>25</sup> See supra notes 11, 12, 15, and 16 and associated text.

<sup>26</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>27</sup> 17 CFR 240.19b-4(f)(3).

<sup>28</sup> Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2019-006 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-2019-006. 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 OCC and on OCC's website at <https://www.theocc.com/about/publications/bylaws.jsp>.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-OCC-2019-006 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>29</sup>

**Jill M. Peterson,**  
*Assistant Secretary.*

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<sup>29</sup> 17 CFR 200.30-3(a)(12).

