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FOR SECURE
MARKETS[®]**

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February 2, 2023

VIA ELECTRONIC SUBMISSION

Vanessa Countryman, Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E. 100 F Street, N.E.
Washington, DC 20549-2000

Re: File No. SR-OCC-2022-012

Dear Ms. Countryman:

The Options Clearing Corporation (“OCC”) hereby respectfully submits this response to the comment letter from Lakeside Bank, dated January 26, 2023, on the above-referenced proposal. OCC writes to clarify its relationship with Lakeside Bank and to address the arguments Lakeside Bank has raised in its letter. As described below, Lakeside Bank is not providing Clearing Bank services to any OCC Clearing Member, no current Clearing Member has asked that Lakeside Bank commence providing Clearing Bank services to it, and Lakeside Bank has been on notice by OCC since 2021 that OCC planned to propose increasing its minimum Tier 1 capital standard for Clearing Banks.

Lakeside Bank does not currently provide settlement banking services as a Clearing Bank for any OCC Clearing Member. In 2021, OCC entered into an agreement with Lakeside Bank that allowed Lakeside Bank to serve as a Clearing Bank for a single, particular Clearing Member. That Clearing Member has since voluntarily terminated its membership at OCC. Lakeside Bank has not requested OCC’s approval to provide settlement services for any other Clearing Member, and no current Clearing Member has requested that OCC approve Lakeside Bank to do so.

When Lakeside Bank requested to become a Clearing Bank in 2021, OCC was transparent in communications with Lakeside Bank that OCC was in the process of preparing a proposed rule change that would increase the minimum Tier 1 capital standards for Clearing Banks. Among other things, the proposed standards also codify OCC’s expectation that Clearing Banks use Society of Worldwide Interbank Financial Telecommunication (“SWIFT”) messaging as the primary means to transmit daily cash settlement instructions—an operational change addressed in a prior regulatory

submission that all of the other Clearing Banks have since made.¹ OCC's agreement with Lakeside Bank required OCC's approval for Lakeside Bank to provide settlement services for other Clearing Members in part because Lakeside Bank was not prepared at that time to use SWIFT. Lakeside Bank has yet to demonstrate that it is SWIFT capable. The agreement also allows for termination if Lakeside Bank fails to meet any of the minimum standards in OCC's rules, as may be amended from time to time. Lakeside Bank voluntarily entered into the agreement with OCC subject to these conditions with the understanding that OCC would be amending its standards for Clearing Bank relationships. Lakeside Bank now seeks to employ the Commission to stop a proposal that it was aware of and agreed to abide by at the time it became a Clearing Bank.

Prior to expiration of the comment period on the above-reference proposal, OCC staff contacted Lakeside Bank to ascertain its plans, including whether Lakeside Bank would voluntarily terminate its agreement with OCC if the proposed rule change is approved. Such discussions are consistent with OCC's usual practice with respect to re-visiting other dormant banking relationships (e.g., escrow deposit banks with no current deposits) for possible termination.

OCC's mission is to serve the listed options industry, including to protect its Clearing Members, their customers and the markets OCC serves through robust risk management practices. OCC, as a self-regulatory organization, does not regulate Clearing Banks as providers of settlement bank services. Rather, it maintains standards under its rules for entering into such commercial relationships to provide transparency to its Clearing Members. OCC's proposal to codify its Clearing Bank standards as minimum standards, which Lakeside Bank characterizes as "carte blanche," is not, by itself, a change from OCC's current practice. As explained in Filing No. SR-OCC-2022-012, OCC's current rules do not obligate OCC to enter into a Clearing Bank relationship with a bank simply because the bank meets its present standards. Requiring OCC to enter into such relationships absent or, indeed, despite further due diligence would not be consistent with sound third-party risk management practices.

Furthermore, OCC does not believe the above-referenced proposal would impose a burden on competition not necessary or appropriate in furtherance of the Exchange Act.² While strengthening Clearing Bank standards could theoretically disadvantage a Clearing Member relative to other members if that Clearing Member was unable to establish or maintain a relationship with an eligible

¹ See Securities Exchange Act of 1934 ("Exchange Act") Release No. 82221 (Dec. 5, 2017), 82 FR 58230 (Dec. 11, 2017) (SR-OCC-2017-805). See also 17 CFR 240.17Ad-22(e)(22) (requiring OCC establish, implement, maintain and enforce written policies and procedures reasonably designed to use, or at a minimum, accommodate, relevant internationally accepted communication procedures and standards in order to facilitate effective payment, clearing and settlement). In adopting Rule 17Ad-22(e)(22), the Commission specified that relevant internationally accepted communication procedures and standards include SWIFT. See Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70842 n.510 (Oct. 13, 2016) (S7-03-14).

² See 15 U.S.C. 78q-1(b)(3)(I).

institution, Lakeside Bank provides no evidence that Clearing Members of a certain size are unable to establish relationships with OCC-approved Clearing Banks that meet the proposed standards. To the contrary, all OCC Clearing Members currently have established relationships with OCC-approved Clearing Banks that meet the proposed standards. Accordingly, as OCC explained in Filing No. SR-OCC-2022-012, the proposed changes are not expected to have any impact on OCC's Clearing Members. No current Clearing Member or prospective Clearing Member has submitted a comment expressing concern about the proposal or that the Clearing Banks presently providing such services are insufficient. Nor have any Clearing Members expressed interest in OCC mitigating its exposure to Clearing Banks by establishing caps on settlement activity through individual Clearing Banks, which would entail associated operational changes, controls, system updates and costs for both OCC and its Clearing Members to effect and maintain.

Moreover, OCC believes that strengthening OCC standards for entering into Clearing Bank arrangements is necessary and appropriate to ensure the overall safety and soundness of the markets OCC serves. OCC and its Clearing Members rely upon Clearing Banks to satisfy daily payment obligations. If a Clearing Bank is unable to timely make incoming payments on behalf of one or more Clearing Members, OCC may face liquidity challenges requiring it to draw on resources that could impose unexpected costs or other adverse consequences for its Clearing Members and, ultimately, market participants. OCC believes adequate capital requirements are necessary and appropriate given the critical importance of the functions performed by Clearing Banks in OCC's daily clearing and settlement processes. OCC determined the proposed Tier 1 Capital requirement to align with the Tier 1 Capital held by the Clearing Banks that have demonstrated records of performance, including the resources to devote to and meet OCC's operational expectations for providing such critical services. Accordingly, OCC believes the enhanced Clearing Bank standards are necessary and appropriate to promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds which are in OCC's custody or control, and, in general, to protect investors and the public interest.

For these reasons, OCC respectfully requests that the Commission approve File No. SR-OCC-2022-012.

Sincerely,

A handwritten signature in black ink that reads "Megan Malone Cohen". The signature is written in a cursive, flowing style.

Megan Cohen
Managing Director, Deputy General Counsel and Corporate Secretary