

Thank you for the opportunity to comment on SR-OCC-2024-001 34-99393 entitled “Proposed Rule Change by The Options Clearing Corporation Concerning Its Process for Adjusting Certain Parameters in Its Proprietary System for Calculating Margin Requirements During Periods When the Products It Clears and the Markets It Serves Experience High Volatility”.

I have several concerns about the OCC rule proposal, HIGHLY OPPOSE THIS PROPOSAL, AND DO NOT SUPPORT Its APPROVAL!

I’m concerned about the lack of transparency in our financial system as evidenced by this rule proposal, amongst others. The details of this proposal along with supporting information are significantly redacted which prevents public review making it impossible for the public to meaningfully review and comment on this proposal, and this proposal should be rejected on that basis alone.

These rules create an unfair marketplace for market participants, especially retail investors, who are forced to face the consequences of long-tail risks while the OCC repeatedly waives margin calls for Clearing Members by repeatedly reducing their margin requirements. For this reason, this rule proposal should be rejected, and Clearing Members should be subject to strictly defined margin requirements as other investors are.

Per the OCC, this rule proposal and these special margin reduction procedures exist because a single Clearing Member defaulting could result in a cascade of Clearing Member defaults potentially exposing the OCC to financial risk. Thus, Clearing Members who fail to properly manage their portfolio risk against long tail events become de facto Too Big To Fail.

For this reason, this rule proposal should be rejected, and Clearing Members should face the consequences of failing to properly manage their portfolio risk, including against long tail events. Clearing Member failure is a natural disincentive against excessive leverage and insufficient capitalization as others in the market will not cover their loss.

This rule proposal codifies an inherent conflict of interest for the Financial Risk Management (FRM) Officer. While the FRM Officer’s position is allegedly to protect OCC’s interests, the situation outlined by the OCC proposal where a Clearing Member failure exposes the OCC to financial risk necessarily requires the FRM Officer to protect the Clearing Member from failure to protect the OCC.

Unfortunately, rubber stamping margin requirement reductions for Clearing Members at risk of failure vitiates the protection from market risks associated with Clearing Member’s positions provided by the margin collateral that would have been collected by the OCC. For this reason, this rule proposal should be rejected, and the OCC should enforce sufficient margin requirements to protect the OCC and minimize the size of any bailouts that may already be required.

As the OCC's Clearing Member Default Rules and Procedures Loss Allocation waterfall allocates losses to "3. OCC's own pre-funded financial resources" (OCC 's "skin-in-the-game" per SR-OCC-2021-801 34-91491 [10]) before "4. Clearing fund deposits of non-defaulting firms", any sufficiently large Clearing Member default which exhausts both "1. The margin deposits of the suspended firm" and "2. Clearing fund deposits of the suspended firm" automatically poses a financial risk to the OCC.

As this rule proposal is concerned with potential liquidity issues for non-defaulting Clearing Members as a result of charges to the Clearing Fund, it is clear that the OCC is concerned about risk which exhausts OCC's own pre-funded financial resources. With the first and foremost line of protection for the OCC being "1. The margin deposits of the suspended firm", this rule proposal is blatantly illogical and nonsensical.

If this rule proposal is approved, mitigating the procyclical margin requirements directly reduces the first line of protection for the OCC, margin collateral from at risk Clearing Member(s), so this rule proposal should be rejected, made fully available for public review, and approved only with significant amendments to address the issues raised herein.

In light of the issues outlined above, please consider the following modifications:

Increase and enforce margin requirements commensurate with risks associated with Clearing Member positions instead of reducing margin requirements. Clearing Members should be encouraged to position their portfolios to account for stressed market conditions and long-tail risks. This rule proposal currently encourages Clearing Members to become Too Big To Fail in order to pressure the OCC with excessive risk and leverage into implementing idiosyncratic controls more often to privatize profits and socialize losses.

Sincerely,

Andrew Mireles