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Ms. Vanessa Countryman
Office of the Secretary
U.S. Securities and Exchange Commission
100 F. Street NE
Washington, D.C. 20549

Re: File No. SR-OCC-2024-010; Notice of Filing of Proposed Rule Change by the Options Clearing Corporation ("OCC") To Establish a Margin Add-On Charge That Would Be Applied to All Clearing Member Accounts To Help Mitigate the Risks Arising From Intraday and Overnight Trading Activity

Dear Ms. Countryman:

The Securities Traders Association of New York ("STANY")[1] submits this comment letter to the Securities and Exchange Commission (the "Commission") in response to the proposal ("Proposal")[2] by the Options Clearing Corporation ("OCC") to establish a margin add-on charge ("Intraday Risk Charge") that would be applied to all clearing member accounts to help mitigate the risks faced by OCC from intraday and overnight trading activity.

We appreciate that OCC faces challenges managing risk considering the increase in expiration days/weeks/cycles, overnight Global Overnight Trading Hours ("GTH"), and the increased volume and popularity of "*zero-days-to-expiration options*" ("0DTE") and commend OCC for its efforts to address intraday risk. STANY is, however, concerned with certain aspects of the Proposal, as addressed herein, and does not believe that the solution to increased risk exposure attendant to increased intraday options activity is as simple as

[1] STANY, a membership association representing professionals engaged in the trading of securities since 1937, is committed to be a leading advocate of policies and programs that foster investor trust, professional ethics, and marketplace integrity and that support capital formation, marketplace innovation, and education of market participants. As an industry organization comprised of individuals employed in the securities markets, STANY does not represent a single business or business model, but rather provides a forum for trading professionals representing institutions, hedge funds, broker-dealers, ATSs, trading centers and technology companies to share their unique perspectives on issues facing the securities markets.

[2] See Release No. 34-100664; File No. SR-OCC-2024-010 [August 6, 2024]

implementing an across-the-board margin add-on-charge. While we recognize the importance of appropriately margining market participants who take on risk, we believe the Proposal's approach is overly broad and places an undue financial burden on Executing Brokers and Correspondent Clearing firms, which do not hold positions. We strongly urge the OCC to expedite the development and implementation of a more precise, transparent and effective solution that accurately allocates costs based on actual risks.

The Proposed Calculations Will Not Necessarily Lower Risk

The Proposal's reliance on a lookback period to determine margin based on the "average of the peak intraday risk increases" from the previous month is problematic. The assumption that a Clearing Member's activity will be consistent with the prior month is flawed, as market conditions, trading volumes, and volatility vary significantly from month to month. Consequently, this approach risks either over-margining or under-margining participants, which could destabilize the market rather than protect it.

STANY agrees with SIFMA[3] that there are alternatives to lookback period contemplated in the Proposal and suggests that OCC consider:

1. Shortening the Lookback Period: Instead of using a month-long lookback, OCC should consider a one-week period, using the "average of the peak" risk increases over the prior week. This would result in more accurate risk targeting based on a Clearing Member's recent trading activity.

2. Implementing a Tiered Framework: The Intraday Risk Charge could be applied in tiers, distinguishing between "normal" trading days and periods of heightened activity, such as monthly and quarterly options expirations. This would better reflect the varying levels of risk throughout the month. However, we caution that implementing a tiered framework may be complicated for Clearing Firms, depending on the rollout.

Either suggestion is more likely to mitigate the risk of over or under margining participants.

STANY is also concerned that OCC has not disclosed specific dollar amounts for the margin increases that may result from this rule. The use of percentage range may obfuscate the true impact on market participants, with some Clearing Members potentially facing increases of up to 35%. This lack of transparency raises significant concerns about the Proposal's effects on competition and operational costs.

Recommendation for Reevaluation of the 20-Minute Threshold Window

We urge the OCC to reconsider the proposed 20-minute threshold window for intraday margin calculations. Implementing such a frequent schedule would require significant adjustments across the industry, and we believe it would be more practical and effective to adopt a less frequent schedule. For instance, a 90-minute or 120-minute threshold, with risk snapshots at 11:00 AM ET, 12:30 PM ET, 2:00 PM ET, and so on, would be more manageable.

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[3] See Letter from Ellen Green, Managing Director, Equities & Options Market Structure, SIFMA and Joseph Corcoran, Managing Director and Associate General Counsel, SIFMA to Vanessa Countryman, Secretary, SEC on October 15, 2024, available at https://www.sec.gov/comments/sr-occ-2024-010/srocc2024010.htm

This adjustment would provide market participants with a reasonable timeframe to respond to margin requirements while still effectively managing risk. A less frequent threshold would also facilitate broader industry compliance and support a smoother transition to new expectations, as firms would have clearer, more achievable targets for adjusting their operations. We believe this approach would yield better overall compliance and risk management outcomes across the industry.

Impact on Market Participants

The broad application of the proposed Intraday Risk Charge could disproportionately affect smaller firms and those that facilitate trades without assuming the associated risk, such as executing brokers and market makers. Executing brokers, whose business models are based on facilitating trades and transferring positions by the end of the trading day, risk being unfairly penalized through double margining. Without adjustments to the allocation process or exclusion of “soon-to-be allocated trades” from intraday margin snapshots, both the executing broker and the end client could be subjected to margin calls for the same position. This would impose an unnecessary financial burden on firms that do not hold positions overnight, merely executing trades and transferring them to the client’s prime broker.

Furthermore, market makers would face significant uncertainties under this Proposal, as they are likely to be subjected to blended charges passed on by their Clearing Members without transparency into the margin calculations driving these costs. This lack of visibility could lead to wider spreads, reduced liquidity, and diminished willingness to provide quotes, ultimately harming investors.

The OCC conducts trade and transaction reconciliations at the EFID (Exchange Firm ID) level specifically for Clearing Firms. However, clients of these Clearing Firms typically receive reconciliations from the exchange, which might have different information or aggregation. Since Clearing Firms can net margin at the Clearing House level, they have flexibility with the proposed intra-day margin add-on. They can either choose to pass this additional margin cost on to their clients or absorb it internally. This choice is left to the discretion of each Clearing Firm. The U.S. capital markets generally benefit from having a simple, clear-cut margin system. Allowing Clearing Firms to decide whether to pass on the intra-day margin add-on could complicate this straightforward approach, leading to inconsistent practices across firms. This added complexity might influence business decisions based on how this margin add-on is applied, potentially undermining the simplicity and transparency of the margin regime.

Brokers operating in an agency-only capacity, who do not hold positions, funds, or securities, and transfer executed trades to a client’s prime broker on a timely basis, should be exempt from the Proposal. These brokers provide essential market functions, including sourcing liquidity, price improvement, and timely executions. Expecting Clearing Firms or Execution-Only Broker-Dealers to provide large amounts of capital (potentially in the hundreds of millions of dollars) to improve liquidity and narrow bid/ask spreads in the markets is a significant demand. These firms often operate as "RWA" (Risk-Weighted Assets) businesses, managing their capital based on regulatory requirements that account for the risk of their assets. Firms in this model are highly focused on managing capital efficiently to meet return-on-capital expectations.
The current Proposal would disincentivize these vital activities by shifting intraday risk to agency brokers, rather than assessing it at the client’s clearing firm, where the risk properly belongs. Treating executing brokers the same as market makers, prime brokers, and proprietary trading firms would impose undue costs on these

firms, weakening competition, and lowering execution quality to the detriment of investors—without addressing the actual risks involved in the trades.

Smaller and medium-sized executing brokers and market makers could be particularly impacted by the increased capital requirements. Many of these firms, which do not hold positions or take on balance sheet risk, may struggle to meet the new margin obligations. This would likely force some firms out of the market, reducing competition and concentrating margin obligations among a smaller number of highly capitalized firms. In turn, this would reduce participation in liquidity provision, which could increase market volatility and reduce execution quality for all investors. Similarly, correspondent clearing firms, which also don't hold positions, would face increased capital obligations under the rule, potentially leading to a reduced number of firms offering these services and further concentrating the market.

Untenable Timeline for Implementation

Several major firms, including large market maker clearing firms, have indicated they cannot responsibly implement the proposed changes by the early 2025 deadline contemplated by the Proposal. The intricacies involved in recalibrating margin calculations and updating operational systems would require significant time, and the current timeline will likely lead to operational disruptions for many.

The OCC makes the point in its rebuttal letter of September 18, 2024, that it is not the OCC's role but rather clearing members role to assign and allocate Intraday Risk Charge to their customers. OCC points to the Risk Simulator in Encore, which will be replaced in 2025 by OCC, with the What-If Margining ("WIM") Simulation Editor (to enhance functionality). Like the Risk Simulator, WIM will be a tool that provides Clearing Members with a STANS margin calculation based on a submitted portfolio of their choice. This yet not implemented or tested program is suggested as a tool that Clearing Members can use to evaluate top-day trade risk combined with start-of-day positions. However, the industry will not be in a position within 120 of passage of this Proposal, should it be passed, to adopt systems changes in response to the Proposal. We have concerns that without additional preparation time, firms would resort to simplistic and unfair margin allocations

Operational and Implementation Challenges

Executing Brokers and Correspondent Clearing firms would face numerous operational challenges in complying with the proposed rule, including the need to enhance risk management tools and allocate margins more effectively. The lack of detailed guidance and estimates on how the proposed add-ons would affect specific types of portfolios further complicates the situation. For many Clearing Members, the nature of co-mingled accounts makes it challenging to allocate intraday margin calls to individual clients. The current Proposal falls short in addressing this issue, potentially placing the financial burden solely on Clearing Members. This is especially worrisome for firms providing execution-only brokerage services, as the inability to allocate trades could disproportionately strain their liquidity and disrupt operational stability. We recommend that the OCC consider either extending the time horizon for implementation or exempting execution business from these intraday snapshots to mitigate this risk. STANY requests clearer methodologies and asks that additional time be given to the industry to prepare for these changes to avoid undue disruptions.

Recommendations

STANY supports OCC's efforts to mitigate intraday risk, however, the current Proposal needs refinement to avoid unintended harm to market participants, including executing brokers and market makers. STANY recommends that OCC take a more targeted approach than that proposed, exempting or reducing the margin obligations for executing brokers and correspondent clearing firms. We suggest that OCC work with industry participants, this may even include outreach to other entities such as DTCC and CME who deal with similar issues, to identify a tailored solution to address its stated concerns.

To better address the actual risks faced by Clearing Members, industry participants have offered alternative solutions which we agree would more closely align risk with margin. We recommend that the OCC consider:

1. Either shortening the lookback period, implementing a tiered framework for calculating the Intraday Risk Charge or otherwise fashioning a more transparent and equitable way of assessing margin.

2. Using a longer 90- or 120-minute threshold window rather than 20 minutes contemplated by the Proposal.

3. Providing Clearing Members with tools that identify which of their clients are generating peak intraday exposures. This would allow firms to allocate Intraday Risk Charges more precisely, avoiding the need to impose blended fees that unfairly penalize clients who do not contribute to peak risk.

4. Extending the implementation timeline. To the extent that the Commission approves the Proposal as written, we strongly believe that the current 120-day window for implementing the Proposal is insufficient for affected market participants to adjust their systems and operations. This is especially concerning for clearing firms with options market maker clients who may not be prepared to account for new margin charges properly, including through appropriate allocation of any heightened margin requirement across their market maker client base. We urge the SEC to extend this timeline to ensure a smooth transition, minimize disruption to the options market and ensure that all major clearing firms are prepared to implement new requirements.

Conclusion

In conclusion, while STANY agrees with the OCC that managing intraday risk is important, we urge the Commission and OCC to reconsider the proposed rule's scope and timeline, keeping in mind the potential unintended consequences of acting hastily. STANY is concerned that the proposed rule could increase execution costs, reduce market competition, and lower execution quality, none of which benefits investors or the capital markets. Additionally, without detailed analysis of the expected margin costs and the potential for disproportionate burden on certain market participants, the rule may inadvertently destabilize the very markets it seeks to protect. Therefore, we urge the Commission to require OCC to provide a more detailed and transparent analysis of the Proposal's impacts.

Likewise, to the extent that the Proposal is implemented despite industry concerns, we strongly urge the Commission and OCC to reconsider the timeline for the implementation of this Proposal until such time as it has assurance that market participants' systems are prepared to implement new requirements.

The OCC plans to retire its current system, Encore, and introduce a new, state-of-the-art clearing system called Ovation in 2025. Even if all market participants could adapt to the changes required by this Proposal within the proposed timeline (which is highly unlikely), it would be more prudent for the industry to wait until Ovation is fully implemented. Moving forward with Phase 3 add-on margin adjustments during a major system migration poses significant risks and may lead to costly and potentially unnecessary changes to market participants' systems.

Respectfully submitted,
/s/ Kimberly Unger
Kimberly Unger
CEO

cc:
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