

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-71769; File No. SR-OCC-2014-05)

March 21, 2014

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Reflect the Elimination of a Discount to OCC's Clearing Fee Schedule

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 March 21, 2014, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I and II below, which Items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and Rule 19b-4(f)(2)⁴ thereunder, so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the rule change from interested parties.

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

OCC proposes to amend its Schedule of Fees, effective April 1, 2014, to reflect the elimination of a discount to OCC's clearing fee schedule.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(2).

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

The purpose of this proposed rule change is to amend OCC's Schedule of Fees to reinstate the permanent reduced fee schedule adopted, effective May 1, 2007, for securities options and securities futures.⁵ In conjunction with adopting this permanent reduced fee schedule, OCC simultaneously discounted the permanent schedule. Effective January 1, 2008, OCC replaced the May 1, 2007, discounted schedule⁶ with the discount remaining in effect until further action of by the Board. Implementation of this schedule was premised on the discounts not adversely affecting OCC's ability to meet its expenses and maintain an acceptable level of retained earnings. Article IX, Section 9 of OCC's By-Laws permits OCC to establish a fee structure to cover operating expenses, to maintain reserves as are deemed reasonably necessary by the Board to provide facilities for the conduct of OCC's business and to accumulate such

⁵ See Exchange Act Release No. 34-55709 (May 4, 2007), 72 FR 26669 (May 10, 2007) (SR-OCC-2007-05). This schedule is applied to futures and futures options as well.

⁶ See Exchange Act Release No. 34-57192 (January 24, 2008), 73 FR 5618 (January 30, 2008) (SR-OCC-2007-17).

additional surplus as the Board deems advisable to allow OCC to meet its obligations to clearing members and the general public.

OCC has determined to reinstate its permanent reduced fee schedule. OCC's revenues principally are derived from clearing fees charged to clearing members and OCC's current and projected operating expenses have increased due to current and anticipated regulatory requirements.⁷ These requirements include those proposed by the Commission at its meeting on March 12, 2014, requiring OCC to be in a position to cover potential general business losses so that it can continue operations if those losses materialize.⁸ OCC's current and anticipated operating expenses have also increased as a result of costs associated with the engagement of outside professionals to address various regulatory issues arising under the Dodd-Frank Act, notably additional expectations and requirements arising from OCC's status as a Systemically Important Financial Market Utility ("SIFMU"), and OCC's assessment of and compliance with international standards applicable to clearing agencies. Employee costs additionally are expected to rise further in 2014 as resources are enhanced to meet current and anticipated regulatory obligations, including increased requirements to produce data, analysis and information to the Commission in connection with its exercise of its supervisory authority over OCC.

⁷ See Statements of Income and Comprehensive Income in OCC's 2013 Annual Report available on OCC's website, www.theocc.com. In 2013, clearing fees represented over 90% of OCC's total revenues. Between 2012 and 2013, OCC's annual expenses increased by approximately 9%. OCC's currently projects a greater increase in expenses in 2014.

⁸ See Exchange Act Release No. 34-71699 (March 12, 2014). OCC anticipates that these requirements will need to be met by the end of 2014. The determination to reinstate the permanent reduced fee schedule was based on an analysis of such requirements and such reinstatement being effective April 1, 2014. Implementation thereafter potentially could have required an increase in the fees beyond the reinstatement of the permanent reduced fee schedule.

As noted above, the Board unanimously determined to reinstate the permanent reduced fee schedule to compensate for these increased expenses. In making this determination, the Board carefully considered the requirements of Article IX, Section 9 of OCC's By-Laws as well as the expectations and obligations imposed upon OCC as a SIFMU in the national system for clearance and settlement. The Board further evaluated the potential for a refund of clearing fees in 2014. While no affirmative decision has been made by the Board regarding such refund, the Board recognized that OCC's current funding, reserve and surplus needs might result in refunds, if any, which are significantly lower in 2014 than in past years.⁹ OCC will monitor the impact of returning to the permanent reduced fee schedule as well as OCC's needs to evaluate whether additional action should be taken. For example, changes in revenues as a result of significant fluctuations in cleared volume (upwards or downwards) may prompt a re-assessment of the fee schedule (downwards or upwards). Cleared volumes also will be evaluated in connection with considering potential refunds for 2014.

The impact of the costs to comply with the new regulatory requirements and reinstate the permanent reduced fee schedule and the potential effect on a 2014 refund, if any, was discussed with each of the clearing members that would be most affected by these changes, most of which are represented on the Board. The vote of the Board to approve this filing included the affirmative votes of the six Member Directors present at the meeting.

⁹ See OCC's 2013 Annual Report, Footnote 8 to the Notes to the Financial Statements for a description of recent past refunds. Footnote 8 further discusses that OCC's Board sets clearing fees and determines the amounts of refunds, fee reductions and discounts, if any, based upon OCC's current funding needs.

The following chart sets forth the revised clearing fee schedule.

Contracts/Trade	Current Discounted Fee Schedule	Standard Fee Schedule (effective April 1, 2014)
1-500	\$0.03/contract	\$0.05/contract
501-1,000	\$0.024/contract	\$0.04/contract
1,001-2,000	\$18.00/trade	\$0.03/contract
>2,000	\$18.00/trade	\$55.00/trade
Market Maker/Specialist Scratch per side	\$0.01	\$0.02

OCC published an Information Memo on March 10, 2014, to all of its clearing members and exchanges notifying them of the changes to the Schedule of Fees that would become effective as of April 1, 2014,¹⁰ and a second Information Memo on March 13, 2014, notifying them of the likely effects on the refunds for 2014. The Information Memos informed clearing members and exchanges that due to current and projected increases in operating expenses related to regulatory requirements, OCC would reinstate the permanent reduced clearing fee schedule adopted May 1, 2007, and that refunds based on 2014 cleared volume are likely to be significantly lower in 2014 as a result of the new regulatory expectations and requirements, but that it was expected that such impacts should not extend beyond 2014 based on current projections.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(D)¹¹ of the Act, because by eliminating a discount but otherwise leaving the current clearing fee schedule intact, OCC will continue to equitably allocate fees among its clearing members and other

¹⁰ OCC has represented that notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this rule change is deemed certified under CFTC Regulation §40.6.

¹¹ 15 U.S.C. 78q-1(b)(3)(D).

market participants. OCC also believes that the proposed rule change is consistent with Rule 17Ad-22(d)(9)¹² because the fee schedule amended by this rule change is publicly available and therefore provides clearing members and other market participants with sufficient information to allow them to identify and evaluate the costs associated with OCC's services. The proposed rule change is not inconsistent with the existing rules of the OCC including any other rules proposed to be amended.

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 that is unnecessary or inappropriate in furtherance of the purposes of the Act.

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

OCC does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.¹³

Changes to the rules of a clearing agency may have an impact on the participants in a clearing agency, their customers, and the markets that the clearing agency serves. This proposed rule change primarily affects such users and OCC believes that the proposed modifications would not disadvantage or favor any particular user in relationship to another user because the discount is being eliminated for, and the clearing fees apply equally to, all users of OCC's services.

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

¹² 17 CFR 240.17Ad-22(d)(9).

¹³ 15 U.S.C. 78q-1(b)(3)(I).

agencies, and would not impose a burden on competition that is unnecessary or inappropriate in furtherance of the purposes of the Act.

(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)¹⁴ and Rule 19b-4(f)(2)¹⁵, the proposed rule change is filed for immediate effectiveness inasmuch as it pertains to fees charged to OCC clearing members. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule 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.¹⁶

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-2014-05 on the subject line.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(2).

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-2014-05. 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 of submission. 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 Section, 100 F Street, N.E., 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

http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_14_05.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-2014-05 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.¹⁷

Kevin M. O'Neill
Deputy Secretary

¹⁷ 17 CFR 200.30-3(a)(12).