

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-72266; File No. SR-OCC-2014-10)

May 28, 2014

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Require That Intraday Margin be Collected and Margin Assets Not be Withdrawn When a Clearing Member's Reasonably Anticipated Settlement Obligations to OCC Would Exceed the Liquidity Resources Available to OCC to Satisfy Such Settlement Obligations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 19, 2014, 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 proposal pursuant to Section 19(b)(3)(A) of the Act<sup>3</sup> and Rule 19b-4(f)(1) thereunder<sup>4</sup> 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

This proposed rule change by OCC would amend OCC's Rules to require (rather than continue to permit as a discretionary determination) that intraday margin be collected and margin assets not be withdrawn when a clearing member's reasonably

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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).

<sup>4</sup> 17 CFR 240.19b-4(f)(1).

anticipated settlement obligations to OCC would exceed the liquidity resources available to OCC to satisfy such settlement obligations.

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 the proposed rule change is to modify existing OCC Rules 608 and 609 (collectively, the "Rules"), which address the withdrawal of margin and deposit of intra-day margin, respectively. More specifically, OCC is proposing to modify these Rules to require that intraday margin be collected and to preclude margin assets from being withdrawn, to the extent that a clearing member's reasonably anticipated settlement obligations to OCC would exceed the liquidity resources available to OCC to satisfy such settlement obligations (a "Liquidity Situation").

OCC Rule 608 ("Rule 608") already permits OCC to prohibit margin withdrawals in a Liquidity Situation, and OCC Rule 609 ("Rule 609") already permits OCC to require the collection of intraday margin in a Liquidity Situation. In 2012,<sup>5</sup> OCC adopted an interpretation under each of the Rules to put clearing members on notice that

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<sup>5</sup> See Securities Exchange Act Release No. 68308 (November 28, 2012), 77 FR 71848 (December 4, 2012) (SR-OCC-2012-21).

OCC may refuse a margin withdrawal request or request additional intra-day margin where a clearing member's future settlement obligations could result in a need for liquidity in excess of liquidity resources available to OCC. In adopting the interpretations, OCC made it clear that such action might be taken even though OCC has made no adverse determination as to the financial condition of the clearing member,<sup>6</sup> the market risk of the clearing member's positions, or the adequacy of the clearing member's total overall margin deposit in the accounts in question.

OCC further identified that a circumstance in which OCC might desire to reject a margin withdrawal request or make an intra-day margin call to ensure it had sufficient liquidity concerned the "unwinding" of a "box spread" position. A box spread position involves a combination of two long and two short options on the same underlying interest with the same expiration date that results in an amount to be paid or received upon settlement that is fixed regardless of fluctuations in the price of the underlying interest. Box spreads can be used as financing transactions, and they may require very large fixed payments upon expiration. In this situation, if much of the margin deposited by the relevant clearing member is in the form of common stock and if the clearing member failed to make the settlement payment, the available liquidity resources might be insufficient to cover the settlement obligation. In anticipation of this settlement, OCC might therefore require the clearing member to deposit intra-day margin in the form of cash, or reject a requested withdrawal of cash or U.S. Government securities, so that liquidity resources would be sufficient to cover the clearing member's obligations. Under the adopted interpretations, OCC would always include margin assets of the

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<sup>6</sup> *Id* at 71849.

relevant clearing member in the form of cash in determining available liquidity resources and could, in its discretion, consider the amount of margin assets in the form of highly liquid U.S. Government securities and/or the amount that OCC would be able to borrow on short order.

Since the adoption of these interpretations, OCC has effected margin calls and precluded clearing members from withdrawing liquid forms of margin assets in three instances, each of which involved the “unwind” of a box spread.<sup>7</sup> In two instances, the affected clearing member had sufficient “liquid” forms of margin (i.e., cash and cash equivalents) already on deposit with OCC to meet the applicable intraday margin calls.<sup>8</sup> However, in the third instance, the affected clearing member did not have a sufficient amount of liquid forms of margin on deposit with OCC and was required to make a margin deposit in the form of cash.<sup>9</sup> In all of the instances, the amount of margin that OCC prohibited from being withdrawn was less than thirty percent of the affected clearing member’s total margin deposit at OCC.

While the current rule authority has achieved its intended purpose, going forward, and for the protection of its clearing members and the public, OCC believes it should

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<sup>7</sup> With respect to each of the three instances, there were several different dates on which OCC made an intraday margin call and prohibited the withdrawal of margin assets. Moreover, and with respect to the intraday margin calls, OCC required the clearing member to deposit additional cash, or cash equivalents, so that the clearing member’s anticipated settlement obligation less OCC’s liquid financial resources equaled the amount of the clearing member’s cash, or cash equivalent, margin on deposit at OCC on the day the intraday margin call was made. In this context, OCC only considers letters of credit to be cash equivalents.

<sup>8</sup> It is not uncommon for clearing members to deposit with OCC amounts in excess of their margin requirement.

<sup>9</sup> With respect to the one instance, there were several different dates when OCC required the deposit of additional intra-day margin.

make the margin withdrawal prohibition and the intra-day collection of margin mandatory, not discretionary, in a Liquidity Situation. Moreover, making these actions mandatory in a Liquidity Situation would create greater certainty that OCC's liquidity resources, under such circumstances, would be sufficient to cover the clearing member's settlement obligations.

Accordingly, the proposed changes to Rules 608 and 609 would make OCC's application of the withdrawal restriction and intraday margin collection requirement non-discretionary in a Liquidity Situation. Additional amendments to Interpretation & Policy .02 to Rule 608 and Interpretation & Policy .01 to Rule 609 are designed to remove any references suggesting that the margin withdrawal restriction or intraday margin collection requirement, respectively, is discretionary.

OCC has already provided its clearing members with notification concerning the proposed rule change. In addition, OCC individually contacted the clearing members that OCC identified to be most affected by the proposed rule change. No concerns were raised.

## 2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act,<sup>10</sup> and the rules and regulations thereunder, including Rule 17Ad-22(b)(3),<sup>11</sup> because the proposed rule change provides for the safeguarding of securities and funds in the custody and control of OCC for which it is responsible as well as ensuring that OCC maintains sufficient liquid financial resources to withstand the default of a clearing

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<sup>10</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>11</sup> 17 CFR 240.17Ad-22(b)(3).

member to which it has the largest exposure in extreme, but plausible, market conditions. The proposed change will enhance OCC's margin policies by making certain intra-day margin calls and certain prohibitions of margin withdrawals mandatory rather than discretionary, thereby strengthening OCC's risk management process as it relates to OCC's access to financial resources with minimal delay in the event of clearing member default (including the default of the clearing member to which OCC has the largest exposure) in extreme, but plausible, market conditions. Improving OCC's available liquid financial resources enhances OCC's financial stability and, consequently, reduces systemic risk within the financial system as a whole. Additionally, making the margin withdrawal restriction and intraday margin collection requirements mandatory, rather than applied only at OCC's discretion, furthers the goal of Rule 17Ad-22(d)(1)<sup>12</sup> by ensuring that OCC will maintain written policies and procedures that provide for a well-founded, transparent, and enforceable legal framework for its activities. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

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

OCC does not believe that the proposed rule change would impose a burden on competition.<sup>13</sup> This proposed rule change affects OCC clearing members and OCC believes that the proposed rule change would not disadvantage or favor any particular clearing member in relationship to another clearing member because the non-discretionary margin collection requirements and margin withdrawal restrictions will be

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<sup>12</sup> 17 CFR 240.17Ad-22(d)(1).

<sup>13</sup> 15 U.S.C. 78q-1(b)(3)(I).

applied equally to every clearing member in a Liquidity Situation. Accordingly, the proposed rule change will not impose any 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>14</sup> and paragraph (f)(1) of Rule 19b-4 thereunder.<sup>15</sup> 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>16</sup>

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

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<sup>14</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>15</sup> 17 CFR 240.19b-4(f)(1).

<sup>16</sup> Notwithstanding the foregoing, implementation of this rule change will be delayed until this rule change is deemed certified under CFTC Regulation §40.6.

- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2014-10 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-2014-10. 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 am and 3:00 pm. Copies of the filing also will be available for inspection and copying at the principal office of OCC and on OCC's website (<http://www.theocc.com/about/publications/bylaws.jsp>). 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-2014-10 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.<sup>17</sup>

Kevin M. O'Neill  
Deputy Secretary

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