

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 96945 / February 16, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21304

In the Matter of

**THE OPTIONS
CLEARING CORPORATION**

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS
PURSUANT TO SECTIONS 19(h) AND 21C
OF THE SECURITIES EXCHANGE ACT OF
1934, MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 19(h) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against The Options Clearing Corporation (“OCC” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 19(h) and 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

1. These proceedings arise out of OCC's failure to implement and comply with its Stress Testing and Clearing Fund Methodology rule in violation of Rule 17Ad-22(e)(4)(iii) under the Exchange Act and Section 19(g) of the Exchange Act from October 2019 until May 2021. OCC's failure to implement and comply with its own rule was the result of its failure to establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage its operational risks by identifying the plausible sources of operational risk and mitigating their impact through the use of appropriate systems, policies, procedures, and controls in violation of Rule 17Ad-22(e)(17)(i) under the Exchange Act. As a result of these failures, OCC's Clearing Fund was underfunded nearly \$600 million during certain times in the period October 2019 through May 2021. OCC's failure to implement the rule involved OCC's Comprehensive Stress Testing ("CST") System, one of OCC's critical SCI systems, which it had failed to modify as required by its rule. OCC failed to provide timely notification to the Commission of this event, as required under Regulation SCI. OCC also failed to comply with its margin methodology, margin policy, and stress testing and clearing fund methodology relating to specific wrong way risk and holiday margin in violation of Section 19(g) of the Exchange Act.

2. OCC serves as the sole registered clearing agency for exchange listed option contracts in the United States and has been designated as a systemically important financial market utility ("SIFMU") under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"). Disruption to OCC's operations, or failure by OCC to manage risk, could result in significant costs not only to OCC itself and its members, but also to other market participants or the broader U.S. financial system.

3. As a registered clearing agency, OCC is a self-regulatory organization under the Exchange Act. Self-regulatory organizations are charged with an important public trust to carry out their self-regulatory responsibilities effectively and fairly, while fostering free and open markets, protecting investors, and promoting the public trust. OCC, as a self-regulatory organization, is required to comply with its own rules after they are approved by the Commission.

4. The U.S. Congress and the Commission have established a legal framework to facilitate the prompt and accurate clearance and settlement of securities transactions, having due regard for, among other things, the public interest, the protection of investors, and the safeguarding of securities and funds.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

5. In October 2016, the Commission adopted Rule 17Ad-22(e) under the Exchange Act, which established enhanced standards for registered clearing agencies that meet the definition of a “covered clearing agency.” OCC is a covered clearing agency for purposes of Rule 17Ad-22(e). The Commission adopted Rule 17Ad-22(e) to “impos[e] consistent, higher minimum risk management standards across all covered clearing agencies” and “further mitigate the potential for moral hazard associated with risk management at a covered clearing agency.”²

6. In November 2014, the Commission adopted Regulation Systems, Compliance, and Integrity under the Exchange Act (“Regulation SCI”) to “strengthen the technology infrastructure of U.S. securities markets” and “reduce the occurrence of systems issues, improve resiliency when systems problems do occur, and enhance the Commission’s oversight and enforcement of securities market technology infrastructure.”³ Regulation SCI requires SCI entities to take corrective action with respect to SCI events, defined to include systems disruptions, systems compliance issues, and systems intrusions, notify the Commission of such events, and disseminate information about certain SCI events to affected members or participants.⁴

7. Rule 17Ad-22(e)(4)(iii) under the Exchange Act requires OCC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the participant family that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions.

8. Rule 17Ad-22(e)(17)(i) under the Exchange Act requires OCC to establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage the covered clearing agency’s operational risks by, among other things, identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls. In adopting Rule 17Ad-22(e)(17), the Commission stated that the rule concerns operational risks that stem from deficiencies in internal controls, human errors, and management failures.

9. As a result of its conduct, OCC violated Section 17A(d)(1) of the Exchange Act⁵

² 81 Fed. Reg. 70786, 70850.

³ 81 Fed. Reg. 70786, 70789.

⁴ 17 CFR 242.1002.

⁵ Section 17A(d)(1) of the Exchange Act prohibits registered clearing agencies from engaging in any activity as a clearing agency in contravention of such rules and regulations

and Rules 17Ad-22(e)(4)(iii) and 17Ad-22(e)(17)(i) thereunder; Rules 1002(b)(1) and 1002(b)(2) of Regulation SCI under the Exchange Act; and Section 19(g) of the Exchange Act.

Respondent

10. OCC is a Delaware corporation with its principal place of business in Chicago, Illinois. OCC is the sole clearing agency for standardized U.S. securities options listed on Commission-registered national securities exchanges. The Commission granted full registration as a clearing agency to OCC pursuant to the Exchange Act on September 23, 1983.⁶ As a registered clearing agency, OCC is a self-regulatory organization under the Exchange Act.

11. On July 18, 2012, the Financial Stability Oversight Council approved the designation of OCC as a SIFMU pursuant to Section 804 of the Dodd-Frank Act. A financial market utility is deemed to be systemically important if “the failure of or a disruption to the functioning of such [financial market utility] could create or increase the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability” of the U.S. financial system.⁷ For purposes of the Dodd-Frank Act, the Commission is OCC’s Supervisory Agency. As such, the Commission is required by Section 807(a) of the Dodd-Frank Act to examine OCC at least once annually. In addition, because it is a SIFMU and a registered clearing agency that provides the services of a central counterparty, OCC is a “covered clearing agency” subject to the Commission’s enhanced clearing agency standards set forth in Exchange Act Rule 17Ad-22(e).

12. On September 4, 2019, the Commission instituted settled Administrative and Cease-and-Desist proceedings and censured OCC based on its failures to establish and enforce policies and procedures involving financial risk management, operational requirements, and information-systems security. The Order found that OCC failed to come into compliance with the statutes and rules relating to these policies and procedures despite the Commission staff’s advance warnings and ample time to comply. OCC, without admitting or denying the Commission’s findings, agreed to pay a \$15 million penalty. The Commission’s Order found that OCC violated Section 17A(d)(1) of the Exchange Act and Rules 17Ad-22(b)(2), 17Ad-22(d)(1), 17Ad-22(e)(1), 17Ad-22(e)(3)(i), 17Ad-22(e)(4)(iii) and (vi), 17Ad-22(e)(6)(i), and 17Ad-22(e)(7)(i) and (vi) thereunder; Rules 1001(a)(1) and (2) of Regulation SCI under the Exchange Act; and Section 19(b) of the Exchange Act and Rule 19b-4 thereunder. OCC also was required to, and did hire an

as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.

⁶ Unless exempted, a clearing agency must register with the Commission pursuant to Exchange Act Section 17A. 15 U.S.C. 78q-1(b)(1). Such registration requires Commission determinations regarding the clearing agency and its rules. 15 U.S.C. 78q-1(b)(3).

⁷ 12 U.S.C. 5462(9).

independent compliance auditor to assess its remediation of the violations and subsequent compliance efforts. *In the Matter of Options Clearing Corporation*, Exchange Act Release No. 86871 (Sept. 4, 2019).

Facts

The Commission Approved OCC's Proposed Rule Change to its Margin Methodology, Margin Policy and Stress Testing and Clearing Fund Methodology

13. In February 2017, OCC began working on a Liquidation Cost Model Enhancements ("LCME") project, which it commissioned to address deficiencies in its margin methodology that had been previously identified by the Commission staff in regulatory examinations. Among other things, the project provided for the development of a model to properly account for the Liquidation Cost Charge ("LC Charge") as an addition to OCC's base margin requirements.

14. The LC Charge is an estimate of the cost to be incurred by OCC in the event it is required to close out a Clearing Member's portfolio in the event of a default by the Clearing Member. In calculating OCC's margin requirements, the LC Charge was to be added to its base margin calculation to address the potential costs associated with closing out a defaulted Clearing Member's portfolio.⁸ OCC also proposed to change its stress testing and Clearing Fund methodology to reflect the inclusion of the LC Charge as an add-on to OCC's base margin requirements and how the liquidation cost charge add-on would be incorporated in Clearing Fund shortfall calculations.

15. OCC described the proposed changes to OCC's Margin Methodology, Margin Policy, and Stress Testing and Clearing Fund Methodology Description to add a risk-based liquidation charge to adjust the value of positions to account for the costs of liquidating a defaulting Clearing Member's portfolio in a proposed rule change that OCC filed with the Commission in April 2019 (the proposed LCME rule).⁹ The proposed rule change stated that a charge for liquidation costs using the same values as calculated for margins was to be included in Clearing Fund shortfall calculations to ensure that the liquidation cost charge was part of its required total credit financial resources.

⁸ OCC's base margin requirements are intended to cover potential losses due to price movements, as opposed to the additional liquidation costs OCC may incur in closing out a defaulted Clearing Member's portfolio.

⁹ See Exchange Act Release 85755 (Apr. 30, 2019), 84 Fed. Reg. 19815 (May 6, 2019) (File No. SR-OCC-2019-004).

16. On June 17, 2019, the Commission approved OCC's proposed LCME rule pursuant to Section 19(b) of the Exchange Act and Rule 19b-4 thereunder.¹⁰ Consistent with the proposed rule change, OCC did not implement the LCME rule immediately upon approval.

17. In accepting OCC's offer of settlement and determining the sanctions to be imposed as part of the 2019 enforcement action against OCC, the Commission considered OCC's remedial efforts, which included, among other things, the rule change described above.

OCC Failed To Establish and Implement Policies and Procedures Reasonably Designed To Manage Its Operational Risks And Failed to Implement and Comply With Its LCME Rule With Regard To Its Stress Testing and Clearing Fund Methodology

18. In October 2019, OCC incorporated the LC Charge into its margin methodology. However, OCC failed to implement its LCME rule with regard to its stress testing and Clearing Fund methodology. Due to deficiencies in certain internal controls, human errors, and management failures, discussed below, OCC did not incorporate the LC Charge into its Clearing Fund systems until June 2021. OCC's failure to implement and comply with its own rule was due to its failure to establish and implement policies and procedures reasonably designed to manage its operational risk stemming from such deficiencies, errors, and failures.

19. Beginning in or about 2018, in addition to working on the LCME project, and also in response to deficiencies identified by Commission staff, OCC was in the process of developing new Clearing Fund systems policies, procedures and controls and developing software to incorporate these changes into its CST System (the "CST project"). The CST project was in process at the same time as the LCME project.

20. The LCME project was primarily margin focused and the CST project was primarily Clearing Fund focused, and the two projects were managed by different OCC teams.

21. Despite the fact that the LC Charge was required to be incorporated into both the margin and Clearing Fund methodologies, the teams operated in silos, and there was limited interaction between the LCME and CST project teams. Although both the CST and margin methodologies referenced the LC Charge, neither the CST nor the LCME project teams included incorporating the LC Charge into the CST System in the scope of its work. The CST project team believed the incorporation of the LC Charge into the CST System was outside the scope of its work and would be addressed by the LCME project team. As discussed below, there were several times in 2018 when the need to implement the Clearing Fund-related requirement for the LC Charge functionality was raised within the LCME project team and not addressed. The LCME project team did not coordinate with the CST team to ensure that the LC Charge was incorporated into both the margin and Clearing Fund methodologies.

¹⁰ See *In the Matter of Options Clearing Corporation*, Exchange Act Release No. 86871 (Sept. 4, 2019) (paragraph 61(c)(vi)).

22. In February 2017, at the inception of the LCME project, OCC used a “Waterfall” project management methodology that included a number of project documents, such as a Business Requirements document, a Quality Assurance System Test Strategy, and a Project Development Checklist, to guide the project team through the project’s development, testing and implementation.

23. The Business Requirements Document stated: “The LC add-on charge will be excluded from Clearing Fund calculations in the same way other add-on charges are excluded.” It also stated: “The new Liquidity charge will not be implemented [sic] comprehensive stress testing.” OCC also created a Quality Assurance System Test Strategy that included similar language, including a requirement for the Quality Assurance (“QA”) to “Verify the LC add-on charge will be excluded from Clearing Fund calculations in the same way other add-on charges are excluded.” Similarly, the Project Development Checklist stated that “The LC add-on charge will be excluded from Clearing Fund calculations in the same way other add-on charges are excluded.”

24. In approximately April, 2018, OCC changed from the “Waterfall” project management system methodology to the “Agile” methodology. As part of the Agile methodology, OCC began using electronic tickets to track specific tasks that needed to be completed in connection with the implementation of a project, including the requirement that the LC Charge be incorporated into the CST System. The LCME project was not migrated to the Agile system but was instead treated as a hybrid project that relied on the initial waterfall documents and subsequent tickets created as part of an Agile methodology for LCME project deliverables. However, the Project Development Checklist was not updated to include a requirement that the LCME project team review the open tickets created in the Agile system prior to project sign-off, and open tickets relating to the requirement that the LC Charge be incorporated into the CST System were not reviewed before the LCME project was closed out.

25. From June through August 2018, various OCC staff flagged the impact of the LC Charge on the Clearing Fund for the LCME project staff several times. In August 2018, the LCME project team deferred any work on that task, referencing the impending changes regarding the CST System. A QA team member noted the need for the functionality in a ticket in the Agile system as well.

26. Later in August 2018, IT flagged the issue of the treatment of the LC Charge in the Clearing Fund calculation for the LCME project team, who, in an August 2018 meeting, discussed that the requirement needed to be completed in the future and that the work should be performed after the CST System went into production. After this meeting, IT created a ticket in the Agile system documenting the need for completion of this work as part of the CST System, and other tickets were added documenting the need for implementation and testing of the functionality with regard to the CST System.

27. OCC Quantitative Risk Management (“QRM”) personnel discussed the LC Charge as it related to the Clearing Fund methodology at a meeting with Commission staff on October 24,

2018, and on November 13, 2018, Commission staff asked OCC to address the treatment of the LC Charge in the Clearing Fund calculation in its proposed LCME rule filing.

28. On or about October 30, 2018, OCC's Financial Risk Management Group ("FRM") assigned the tickets created in the Agile system, which documented the need to complete the work to incorporate the LC Charge into the CST System, a lower priority because OCC had other IT projects with near-term deadlines and the LCME project did not have a definitive implementation date because OCC was still working on its proposed rule filing relating to the project.

29. When the LC Charge Add-On software code was moved into production in October 2019 with regard to OCC's margin methodology, the LCME project team did not re-prioritize the incorporation of the LC Charge into the CST System as something to be implemented by the LCME project team or to be reassigned to the CST team. Instead, tickets relating to the need to incorporate the LC Charge into the CST System were categorized as "Business As Usual" items involving issues that were not material to the LCME project team. The Waterfall documents did not require the LCME project team to review open tickets created in the Agile system, and the LCME project team did not review the relevant open tickets before moving them into this category and closing out the LCME project.

30. As a result of the above, OCC's functional testing of the LCME methodology did not include testing of the CST System prior to or after it was put into production even though the CST System had already been implemented at the time that the LCME project code went into production in October 2019.

31. In addition, OCC's Model Validation Group ("MVG") team did not detect that the LC Charge had not been incorporated into OCC's Clearing Fund methodology through the CST System when it validated the LCME model. Pursuant to OCC's then existing Model Validation Procedure, MVG validated the LCME and CST models independently during its annual model validation process. OCC's policies and procedures did not require MVG to look at business logic or accounting functionality as part of its validation process or to look across models. As a result, MVG did not review whether the LC Charge was incorporated into the Clearing Fund methodology or CST System during its initial or annual validation of the LCME and CST models.

32. Further, OCC's Internal Audit Department ("IAD") did not detect that the LC Charge had not been incorporated into the Clearing Fund methodology through the CST System during its 2020 audits. IAD did not include testing the Clearing Fund LC Charge within the scope of the 2020 audits. As part of its audits, IAD obtained MVG's technical evaluations and engaged subject matter experts to determine if MVG's work was reasonably designed and effectively executed. In performing the audits, IAD relied on MVG's technical work, which did not look at business logic, accounting functionality or across models. Since MVG did not look across models and IAD did not reexamine MVG's technical work, the error continued to go undetected.

33. In 2020 and related to model testing, IAD performed validation of two regulatory findings relating to the LC Charge issue and one audit. IAD concluded that the margin model was

reasonably designed and that MVG's testing of the operational effectiveness of the model was reasonably designed. IAD also completed a Clearing Fund Audit in November 2020, in which it tested controls related to the Clearing Fund Resizing and Replenishment process and reviewed the model that supported Clearing Fund sizing. The scope of the Audit included auditing MVG's operational effectiveness testing. IAD concluded that the model design was reasonably effective and MVG's operational effectiveness testing was effective.

34. From October 2019, until May 17, 2021, OCC failed to properly account for the LC Charge in its Clearing Fund shortfall calculation.

35. As a result of these failures, OCC's Clearing Fund was underfunded by nearly \$600 million at certain times during the period October 2019 through May 2021. At its height in early May 2021, OCC's Clearing Fund was \$588 million smaller than was required under OCC's rules.¹¹

OCC Failed to Properly Notify Commission Staff of its Clearing Fund Shortfall Under Regulation SCI

36. OCC first realized that the LC Charge was not included in the shortfall calculation for its Clearing Fund in OCC's CST System on April 21, 2021. On April 21, 2021, in reviewing OCC's April 15 responses to the Commission staff's requests for information regarding a separate matter, a member of OCC's Stress Testing and Liquidity Risk Management Group in FRM observed that OCC's Comprehensive Stress Testing and Clearing Fund Methodology Description and Liquidity Risk Management Description stated that "a charge for LC using the same values as calculated for margins is included in shortfall calculations to ensure that LC is part of the required total credit financial resources." He noted that OCC had not incorporated the LC Charge into its calculation for the Clearing Fund.

37. Later that day, that OCC employee notified the executive director in OCC's Stress Testing and Liquidity Risk Management Group, who served as a responsible SCI personnel delegate. They scheduled a meeting to discuss the issue the next day with employees of FRM, Credit Risk Management ("CRM") and QRM, as well as a member of OCC Legal. The FRM and CRM teams continued to analyze and quantify the issue throughout the next week. After that work, the FRM team discussed this issue at two April 28 meetings. Later in the day on April 28, OCC's CEO and COO were briefed on the issue. On April 30, OCC's Chief Financial Risk Officer ("CFRO") briefed the Chairman of the Board and Chairs of the Regulatory Committee and Risk

¹¹ OCC's failure to implement and comply with its LCME Rule, resulting in the Clearing Fund being underfunded by nearly \$600 million at certain times during the relevant period, violated Rule 17Ad-22(e)(4)(iii) under the Exchange Act. However, as of the time that OCC discovered that the LC Charge was not included in the shortfall calculation for its Clearing Fund, OCC's Clearing Fund had maintained financial resources sufficient to meet its obligations in the event of a default by the single member or participant family creating the largest financial exposure in extreme but plausible market conditions.

Committee of OCC's Board. On Monday, May 3, the CFRO updated OCC's Management Committee.

38. OCC did not contact Commission staff to schedule a meeting to discuss the issue until May 4, 2021.

39. On May 5, 2021, OCC informed the Commission's staff that for more than 18 months, OCC had failed to incorporate the cost of liquidating a Clearing Member's portfolio when calculating the size of its Clearing Fund.

40. On May 16, 2021, OCC told the Commission's staff that it was going to use its authority to immediately resize its Clearing Fund by requiring additional financial resources from its Clearing Members the next day. On May 17, 2021, OCC increased the size of its Clearing Fund from \$11.23 billion to \$11.82 billion, an increase of \$588 million or 5.24%, in order comply with its LCME rule as approved by the Commission.

41. While OCC orally briefed certain members of the Commission's staff about the issue in May 2021, OCC did not submit an SCI event notification to the Commission until it submitted its quarterly de minimis SCI events list on July 30, 2021. OCC's failure to incorporate the LC Charge into the CST system resulting in the underfunding of the Clearing Fund as described above was not a de minimis SCI event.

OCC Failed to Comply With Its Margin Methodology, Margin Policy and Stress Testing and Clearing Fund Methodology Relating To Specific Wrong Way Risk and Holiday Margin

42. The 2019 OIP found that OCC violated Rule 17Ad-22(e)(6)(i) because, among other things, OCC's margin model failed to consider specific wrong way risk associated with cleared securities which are related to Clearing Members.¹² 2019 OIP at 5-6.

43. On December 11, 2019, OCC received Commission approval to revise its Margin Methodology and Clearing Fund and Stress Testing Methodology, in part to add a new specific wrong way risk ("SWWR") add-on charge for margin. The approved rule also required OCC to exclude the SWWR add-on charge from its stress testing scenarios.

44. Also on December 11, 2019, OCC received approval to introduce "idiosyncratic scenarios" to its suite of Clearing Fund sizing scenarios to be stress tested.

45. OCC maintains five Clearing Fund sizing stress test scenarios. OCC failed to exclude the SWWR add-on charge in one of these scenarios, the "idiosyncratic scenario," as required by its rules.

¹² "Specific wrong-way risk arises at a [central counterparty] when an exposure to a participant is highly likely to increase when the creditworthiness of that participant is deteriorating." 81 Fed. Reg. 70786, 70789 n.317.

46. OCC discovered that the SWWR add-on charge had not been excluded from the “idiosyncratic scenario” in late April 2021 in the course of assessing the impact of the LC Charge issue on the size of the Clearing Fund. It subsequently remediated the issue.

47. OCC’s rules require OCC to calculate and collect additional margin in advance of holidays, such as those U.S. holidays during which OCC and its settlement banks are closed but some futures exchanges are open (“OCC Closed Holiday”). The calculation of holiday margin is based on the greater of SPAN risk (on a gross basis) and STANS risk (on a net basis). From at least 2016 through May 2021, the process for calculating margin requirements for OCC Closed Holidays was not automated. Instead, the calculation was performed using a Visual Basic script, which did not specify whether margin requirements were based on STANS or SPAN risk.

48. In late May 2021, OCC discovered that margin for OCC Closed Holiday had been calculated based on 10% of the SPAN risk rather than the STANS risk since 2016 due to an error in the original Visual Basic script. Upon identification, the issue was remediated, and OCC ceased using this software.

49. OCC reported both of these issues to Commission staff on July 1, 2021.

Violations

50. As a result of the conduct described above, OCC violated Exchange Act Rule 17Ad-22(e)(17)(i), which requires that OCC establish, implement, maintain, and enforce written policies and procedures reasonably designed to manage the covered clearing agency’s operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.

51. As a result of the conduct described above, OCC violated Exchange Act Rule 17Ad-22(e)(4)(iii), which requires that OCC establish, implement, maintain, and enforce written policies and procedures reasonably designed to effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the participant family that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions.

52. As a result of the conduct described above, OCC violated Section 17A(d)(1) of the Exchange Act, which prohibits OCC from engaging in any activity in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate, in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange Act.

53. As a result of the conduct described above, OCC violated Rule 1002(b)(1) of Regulation SCI, which requires that OCC, upon having a reasonable basis to conclude that an SCI

event has occurred, notify the Commission of such SCI event immediately.

54. As a result of the conduct described above, OCC violated Rule 1002(b)(2) of Regulation SCI, which requires that OCC, within 24 hours of any responsible SCI personnel having a reasonable basis to conclude that the SCI event has occurred, submit a written notification pertaining to such SCI event to the Commission.

55. As a result of the conduct described above, OCC violated Section 19(g) of the Exchange Act, which requires a self-regulatory organization, including its members and persons associated with its members, to comply with its own rules.

Cooperation and Remediation

56. In determining to accept OCC's Offer, the Commission has considered remedial acts undertaken by OCC and the cooperation afforded to the Commission's staff.

57. OCC voluntarily conducted and shared with the Commission's staff the results of an internal investigation conducted by a third party. OCC provided documents and information regarding the key issues and events that significantly advanced the staff's investigation and conserved Commission resources. OCC executives voluntarily met with Commission staff to discuss OCC's root cause analysis regarding its failure to incorporate the LC Charge into its Clearing Fund methodologies and its related remediation efforts, and to answer questions from the Commission's staff.

58. In addition, OCC has taken and completed several remedial steps including, but not limited to, engaging an outside consultant to review its remediation efforts regarding incorporating the LC Charge into its Clearing Fund methodologies and to conduct a review of OCC's overarching risk management framework and governance. OCC has provided regular updates to the Commission staff regarding its remedial efforts.

Undertakings

59. Respondent has undertaken to engage in the remedial measures set forth in its January 30, 2023 Remediation Plan letter (the "Remediation Plan letter") to the Commission staff. These remedial measures include, but are not limited to, revising its model validation policies and procedures; enhancing its approach to risk data governance; and implementing changes to elements of its control environment, including processes, procedures, and controls, and conducting appropriate training on the changes. To the extent any such remedial measures require a filing under Section 19(b) of the Exchange Act or Section 806(e) of the Dodd-Frank Act, no later than 30 days from the date of this Order, Respondent shall provide Division of Trading and Markets staff with a draft of such filing and include it on Tier 1 of the Filing Priority Chart described below in paragraph 61. Respondent will also file, within six (6) months of the date of this Order, a proposed rule change to update the Amended and Restated Stock Option and Futures Settlement Agreement ("Accord") between Respondent and the correspondent clearing corporation that is intended to

reduce settlement risk in the event of a common clearing member default. Respondent also will file, as part of the Accord filing, a proposed rule change intended to enhance Respondent's existing policies and procedures to account for the liquidity needs associated with the payment required to effect the transfer of the guaranty as contemplated by the Accord, using historical data provided by the correspondent clearing corporation to Respondent, and to include the results of this process in Respondent's existing liquidity stress testing practices. This filing shall be made in consultation with and in a manner not unacceptable to staff of the Division of Trading and Markets and consistent with the prioritized, three-tiered list of planned filings in Paragraph 61. All remaining remedial measures set forth in the Remediation Plan letter shall be completed no later than eighteen (18) months from the date of this Order.

60. Respondent shall provide the staff with written monthly updates regarding the remedial measures discussed in paragraph 59 and shall respond to any reasonable requests by staff, including promptly responding to staff questions and requests for relevant documents and meetings.

61. OCC has established a prioritized, three-tiered list of planned filings under Section 19(b) of the Exchange Act and Section 806(e) of the Dodd-Frank Act, which is titled OCC Prioritization of Advance Notice and Proposed Rule Change Filings ("Filing Priority Chart"). For thirty-six (36) months from the date of this Order, OCC shall use its best efforts to submit to the Commission filings included in Tiers 1 through 3 of the Filing Priority Chart prior to any other filings. Further, OCC will prioritize the filings included in Tiers 1 through 3 of the Filing Priority Chart in the order set forth in the Filing Priority Chart, which order shall be established and updated in consultation with and in a manner not unacceptable to staff of the Division of Trading and Markets. Nothing in this paragraph alters OCC's legal obligations, including OCC's ongoing obligation to respond to examination findings of the staff of the Commission.

62. Respondent's Chief Executive Officer shall certify, in writing compliance with the undertakings set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable requests for further evidence of compliance, and Respondent agrees to provide such evidence. The certification and supporting material shall be submitted to Charles J. Kerstetter, with a copy to the Office of Chief Counsel of the Enforcement Division, no later than thirty (30) days from the date of OCC's completion of all remedial measures identified in the Undertakings described in paragraphs 59 through 61 above.

IV.

In view of the foregoing, the Commission deems it appropriate, in the public interest, and for the protection of investors to impose the sanctions agreed to in OCC's Offer.

Accordingly, pursuant to Sections 19(h) and 21C of the Exchange Act, it is hereby ORDERED that:

A. Respondent OCC cease and desist from committing or causing any violations and any future violations of Section 17A(d)(1) of the Exchange Act and Rules 17Ad-22(e)(17)(i) and 17Ad-22(e)(4)(iii) thereunder; Rules 1002(b)(1) and (2) of Regulation SCI under the Exchange Act; and Section 19(g) of the Exchange Act.

B. Respondent OCC is censured.

C. Respondent OCC shall, within 30 days of this Order pay a civil money penalty in the amount of \$17,000,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made as specified above, additional interest shall accrue pursuant to 31 U.S.C. 3717.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying The Options Clearing Corporation as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Kathryn A. Pyszka, Associate Regional Director, Chicago Regional Office, Securities and Exchange Commission, 175 W. Jackson Boulevard, Suite 1450, Chicago, IL 60604.

D. Respondent shall comply with the undertakings enumerated in paragraphs 59-62 in Section III above.

By the Commission.

Vanessa A. Countryman
Secretary