

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-95073; File No. SR-OCC-2022-007)

June 8, 2022

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning the Implementation of Changes to Settlement Timing Previously Approved in File No. SR-OCC-2022-004

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 26, 2022, 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 primarily by OCC. 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 would amend the By-Laws and Rules to provide for delayed implementation of the proposed [sic] changes approved by the Commission in File No. SR-OCC-2022-004.<sup>3</sup> The proposed changes to OCC’s By-Laws and Rules are attached to File No. SR-OCC-2022-007 as Exhibit 5a and Exhibit 5b, respectively.

Proposed changes to the Clearing Fund Methodology Policy and Liquidity Risk

Management Framework are attached to File No. SR-OCC-2022-007 as confidential

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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> See Notice of Filing of Partial Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Partial Amendment No. 1, by The Options Clearing Corporation Concerning Settlement Timing, available at <https://www.sec.gov/rules/sro/occ/2022/34-94950.pdf>.

Exhibit 5c and confidential Exhibit 5d, respectively. Material added by File No. SR-OCC-2022-004 is marked by underlining and material deleted is marked with strikethrough text. Material proposed to be added to OCC's By-Laws and Rules as currently in effect is marked by double underlining and material proposed to be deleted is marked with double strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the By-Laws and Rules.<sup>4</sup>

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

**Background**

On May 19, 2022, the Commission approved a proposed rule change by OCC to change the time frame for collecting margin and Clearing Fund deficits as well as increases in the Clearing Fund cash requirement. As OCC announced in Information Memo 50390, OCC currently plans to implement the changes to the time for collecting margin and general Clearing Fund deficits on the morning of Monday, June 27, 2022, and

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<sup>4</sup> OCC's By-Laws and Rules can be found on OCC's public website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

changes to the collection of Clearing Fund deficit resulting from the monthly re-sizing of the Clearing Fund on the morning of Friday, July 1, 2022.<sup>5</sup>

### **Proposed Change**

Because the proposed changes as described in File No. SR-OCC-2022-004 did not discuss delayed implementation of those proposed rule changes, OCC is proposing to amend its By-Laws and Rules to retain the marked changes from File No. SR-OCC-2022-004 in its By-Laws and Rules until after the settlement time on the business day before the implementation date, which OCC will announce no less than two weeks prior to the implementation date. As discussed above, the implementation date will be no earlier than June 27, 2022. For clarity, OCC is also proposing a note to be placed before the affected By-Law and Rules provisions disclosing that the marked changes are not effective until that time, after which OCC will apply the marked changes and the notes automatically will be deleted.<sup>6</sup> At that time, OCC will also implement the changes to the Clearing Fund Methodology Policy and the Liquidity Risk Management Framework discussed in File No. SR-OCC-2022-004. For purposes of this filing, OCC is proposing to add the same note to those policies.

#### (2) Statutory Basis

OCC believes the proposed rule changes are consistent with Section 17A of the Securities Exchange Act and the rules and regulations thereunder. Section 17A(b)(3)(F)<sup>7</sup>

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<sup>5</sup> See Information Memo 50390, available at <https://infomemo.theocc.com/infomemos?number=50390>. Any changes to the dates announced in that memo would be communicated via a subsequent Information Memo.

<sup>6</sup> The affected By-Laws are the definition of “settlement time” in Article I, Section 1 and Article XV, Section 1. The affected Rules are OCC Rules 101, 605, 1002, 1004, 1005, and 1006.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(F).

of the Exchange Act requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and protect investors and the public interest. By clarifying that certain By-Laws and Rules changes approved by the Commission are not yet implemented, the proposed rule changes facilitate the administration of existing rules intended to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and protect investors and the public interest.

In addition, Rule 17Ad-22(e)(1) requires OCC to, among other things, maintain written policies and procedures reasonably designed to ensure a well-founded, clear, transparent, and enforceable legal basis for each aspect of OCC's activities.<sup>8</sup> By clarifying that the By-Laws and Rules in effect prior to File No. SR-OCC-2022-004 will remain in effect until the implementation of the changes approved therein, OCC would ensure that it maintains a well-founded, clear, transparent and enforceable legal basis for the collection of margin and Clearing Fund deficits prior to implementation of the changes approved in File No. SR-OCC-2022-004.

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

Section 17A(b)(3)(I) of the Act<sup>9</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the Act. OCC does not believe that the proposed rule change would impact or impose any burden on competition. The proposed rule change would provide for the By-Laws and Rules governing collection of margin and Clearing Fund deposits that existed prior to File No. SR-OCC-2022-004 to persist until the changes from that filing are ready to be

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<sup>8</sup> 17 CFR 240.17Ad-22(e)(1).

<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(I).

implemented. The proposed rule change would not affect the competitive dynamics between Clearing Members in that it would apply to all Clearing Members equally. The proposed rule change also would not inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another. In this regard, as described above, the proposed rule change is designed to further facilitate the prompt and accurate clearance and settlement of securities transactions.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments 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)(i)<sup>10</sup> of the Act, and Rule 19b-4(f)(1) thereunder,<sup>11</sup> the proposed rule change is filed for immediate effectiveness. 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. The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.<sup>12</sup>

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(i).

<sup>11</sup> 17 CFR 240.19b-4(f)(1).

<sup>12</sup> Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

#### 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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2022-007 on the subject line.

##### Paper Comments:

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2022-007. 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 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 <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-OCC-2022-007 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>13</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>13</sup> 17 CFR 200.30-3(a)(12).