

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-100261; File No. SR-OCC-2024-007)

June 3, 2024

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Update The Options Clearing Corporation's Schedule of Fees

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 29, 2024, 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. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii)<sup>3</sup> of the Act and Rule 19b-4(f)(2)<sup>4</sup> thereunder 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

The proposed rule change would revise OCC's schedule of fees. Specifically, OCC proposes to update the Options Disclosure Document ("ODD")<sup>5</sup> fee and make

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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)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

<sup>5</sup> The ODD is written to meet the requirements of Rule 9b-1 under the Exchange Act that requires the U.S. options markets to prepare, and brokerage firms to distribute, a document that describes the characteristics of options and the risks to investors of maintaining positions in options. More specifically, such document will include information pertaining to the mechanics of exercising the options, the risks of being a holder or writer of the options, and the market or markets in which the options are traded, among other items identified in Rule 9b-1(c). See 17 CFR 240.9b-1.

certain other changes, including allowing OCC to charge applicable taxes and removing language related to authorization stamp fees, which are no longer in use. Proposed changes to OCC's schedule of fees are included as Exhibit 5 to File Number SR-OCC-2024-007. Material proposed to be added to OCC's schedule of fees as currently in effect is underlined and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.<sup>6</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

The purpose of this filing is to revise OCC's schedule of fees. As the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission, and with respect to OCC's clearance and settlement of futures and stock loan transactions, OCC maintains policies and procedures to manage the risks borne by OCC as a central counterparty. One such risk that OCC manages is

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<sup>6</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>.

general business risk — that is, the risk of potential impairment to OCC’s financial position resulting from a decline in revenues or an increase in expenses. To manage this risk and help to ensure that OCC can continue operations and services as a going concern if general business losses materialize, OCC has filed, and the Commission has approved, OCC’s Capital Management Policy,<sup>7</sup> which provides the framework by which OCC manages its capital. Amending OCC’s schedule of fees is one action used by OCC to manage its capital.

In accordance with the Capital Management Policy, OCC management reviews the fee schedule at regularly scheduled meetings and, considering factors including, but not limited to, projected operating expenses, projected volumes, anticipated cashflows, and capital needs, recommends to the Board (or a committee to which the Board has delegated authority), whether a fee change should be made. In accordance with such procedures, OCC management recommended, and the Compensation and Performance Committee of OCC’s Board approved certain fee changes. As further described below, these proposed changes are intended to promote cost management by facilitating OCC’s ability to break even on certain costs. Additional proposed changes are intended to ensure OCC’s schedule of fees remains current and clear.

### **ODD Fee Changes**

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<sup>7</sup> See Order Approving Proposed Rule Change to Establish OCC’s Persistent Minimum Skin-In-The-Game, Exchange Act Release No. 92038 (May 27, 2021), 86 FR 29861 (June 3, 2021) (SR-OCC-2021-003); Order Approving Proposed Rule Change, as Modified by Partial Amendment No. 1, Concerning a Proposed Capital Management Policy That Would Support the Option Clearing Corporation’s Function as a Systemically Important Financial Market Utility, Exchange Act Release No. 88029 (Jan. 24, 2020), 85 FR 5500 (Jan. 30, 2020) (SR-OCC-2019-007); see also Notice of Filing of Partial Amendment No. 1 and Notice of No Objection to Advance Notice, as Modified by Partial Amendment No. 1, Concerning a Proposed Capital Management Policy That Would Support the Option Clearing Corporation’s Function as a Systemically Important Financial Market Utility, Exchange Act Release No. 87257 (Oct. 8, 2019), 84 FR 55194 (Oct. 15, 2019) (SR-OCC-2019-805).

OCC proposes to update the fee charged for a printed version of the ODD to industry participants, including both Clearing Members and non-Clearing Members. The Characteristics and Risks of Standardized Options, also known as the ODD, explains the characteristics and risks of exchange traded options. Broker-dealers are required to distribute the ODD to customers pursuant to Rule 9b-1 under the Exchange Act.<sup>8</sup> Prior to buying or selling an option, investors must be given a copy of the ODD. Investors may also obtain a printed version of the ODD from any exchange on which options are traded or by placing an order on OCC's website. Additionally, OCC provides an option to electronically download the full version of the ODD on its website for no charge.<sup>9</sup> OCC advises broker-dealers to consult with their legal and compliance resources to determine the appropriate means of delivery of the ODD to investors.<sup>10</sup> Electronic delivery of the ODD is permissible if the requirements for electronic delivery as established by the Commission are met.<sup>11</sup> Additionally, OCC makes available a print-ready PDF version of the ODD to Clearing Members and non-Clearing Members so that firms who wish to print the ODD through their own printing services may do so.<sup>12</sup>

OCC proposes to update the fee charged for a printed copy of the ODD from \$0.45 to \$0.95. The current fee is charged when the order is placed with OCC. OCC has

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<sup>8</sup> 17 CFR 240.9b-1.

<sup>9</sup> The ODD is available electronically at <https://www.theocc.com/company-information/documents-and-archives/publications>.

<sup>10</sup> See OCC's website for additional information regarding electronic delivery and print copies at <https://www.theocc.com/company-information/documents-and-archives/options-disclosure-document>.

<sup>11</sup> See Exchange Act Release No. 37183 (May 9, 1996), 61 FR 24652 (May 15, 1996) (adopting technical amendments to the Commission's rules that are premised on the distribution of paper documents).

<sup>12</sup> Firms may contact OCC to request the print-ready PDF version. See supra note 10.

not increased this fee since 1994 and it is out of sync with the current environment.

There has been notable inflation over the past 30 years. For instance, the dollar had an average inflation rate of 2.52% per year between 1994 and 2023, producing a cumulative price increase of approximately 106%.<sup>13</sup> The proposed fee constitutes a 111% increase from the fee adopted in 1994, which deviates only slightly from the cumulative rate.

OCC believes the proposed fee increase is reasonable given that the costs and expenses associated with the ODD (e.g., printing, preparation, and labor costs), as well as the form of the ODD itself,<sup>14</sup> have changed since 1994.

ODD costs are difficult to predict. New versions of the ODD may be issued at various times as needed to address new products or industry changes, and it may be necessary to distribute multiple new versions of the ODD within a year.<sup>15</sup> OCC proposes to increase the current fee to \$0.95 per copy, which reflects the current cost to print and distribute the ODD.<sup>16</sup> OCC does not intend to generate a profit through this change. This proposal is designed to facilitate OCC's ability to break even on the costs of printing and distributing the ODD. Additionally, as a clarification, OCC proposes to update the current reference to the ODD in the fee schedule from "Disclosure Documents" to

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<sup>13</sup> See the inflation calculator at <https://www.officialdata.org/us/inflation/1994?endyear=2023>.

<sup>14</sup> For example, in 2021, OCC integrated all prior ODD supplements into one document and eliminated the distribution of supplements. While the integration of the supplements created a more digestible document for investors, the change increased the printing costs for OCC.

<sup>15</sup> Because it is difficult to forecast the number of printed versions that OCC needs to purchase to fulfill orders, OCC may place several orders of different quantities throughout the year. OCC's printing costs generally depend on the quantity ordered.

<sup>16</sup> This fee is the sum of current per copy printing and distribution costs. Current per copy printing costs were derived through a weighted average based on the volume of ODD copies that OCC purchased at different price points from 2020 through 2023 from its printer. Current per copy distribution costs were derived using estimated yearly costs incurred by OCC in distributing the ODD, such as maintenance and storage, accounting, legal, waste, and growth.

“Options Disclosure Document.” The proposed changes to the fee schedule are set out below.

<b>Current Fee Schedule</b>		<b>Proposed Fee Schedule</b>	
Disclosure Documents	\$0.45	Options Disclosure Document	\$0.95

The proposed changes are designed to promote cost management in compliance with Rule 17Ad-22(e)(15) under the Exchange Act that, among other things, requires OCC to identify, monitor, and manage its general business risk,<sup>17</sup> which includes the risk of potential impairment to OCC’s financial position resulting from a decline in revenues or an increase in expenses. The proposed increase in the ODD fee is designed to facilitate OCC’s ability to break even on the costs of printing and distributing the ODD. OCC does not intend to make a profit with this increase and as discussed above, OCC makes available additional options for ODD distribution at no charge, including an electronic version and a print-ready PDF version. Implementation of the proposed fee increase is designed to bring the ODD fee in sync with the current environment as well as the current form of the ODD.

**Additional Fee Changes**

Additional proposed changes allow OCC to charge applicable taxes. OCC currently does not charge sales tax. For example, in connection with the ODD, OCC pays the sales tax and absorbs the cost. OCC believes it is reasonable to allocate rather than absorb the cost of applicable taxes because it will facilitate OCC’s ability to break even on these types of required costs. Under the amended fee schedule, OCC may charge

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<sup>17</sup> See 17 CFR 240.17Ad-22(e)(15).

state sales or use tax when due in connection with any of its listed fees. OCC does not believe such change would create a financial burden as it is limited to the cost of applicable taxes, which OCC does not control. Moreover, OCC believes charging sales or use tax where applicable is reasonable because it is similar to a practice currently employed by another self-regulatory organization.<sup>18</sup>

Finally, OCC proposes to remove an outdated fee for authorization stamps because authorization stamps are no longer used by OCC. OCC previously used authorization stamps as a security measure for authentication. OCC removed provisions in its Rules related to such stamps in 2023.<sup>19</sup> Such change is intended to ensure that the fee schedule remains current and accurate.

### **Implementation Timeframe**

OCC proposes to implement the fee changes within 60 days from the date that OCC receives all necessary regulatory approvals for the filing. OCC will announce the implementation date of the proposed fee changes by an Information Memorandum posted to its public website at least seven days prior to implementation. Such implementation is proposed to provide notice to industry participants and to allow OCC to complete any necessary steps in its order system to effect the fee changes. Additionally, OCC would not make the fee changes operative until after the time required to self-certify the proposed change with the Commodity Futures Trading Commission (“CFTC”).

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<sup>18</sup> See New York Stock Exchange (“NYSE”) Fee Schedule at [https://www.nyse.com/publicdocs/nyse/markets/nyse/nyse\\_price\\_list.pdf](https://www.nyse.com/publicdocs/nyse/markets/nyse/nyse_price_list.pdf). NYSE charges sales tax for various products where applicable.

<sup>19</sup> See Exchange Act Release No. 97439 (May 5, 2023), 88 FR 30373 (May 11, 2023) (SR-OCC-2023-002) (removing provisions related to authorization stamps in then-existing Rule 212).

(2) Statutory Basis

OCC believes the proposed rule change is consistent with the Act<sup>20</sup> and the rules and regulations thereunder. In particular, OCC believes that the proposed fee changes are also consistent with Section 17A(b)(3)(D) of the Act,<sup>21</sup> which requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

OCC believes that the proposed fee changes are reasonable. The current ODD fee has not increased since 1994 and is out of sync with the current environment. As discussed above, there has been notable inflation over the past 30 years. OCC believes the proposed fee increase is reasonable given that the costs and expenses associated with the ODD (e.g., printing, preparation, and labor costs), as well as the form of the ODD itself, have changed since 1994. The proposed fee is designed to reflect the current cost to print and distribute the ODD to facilitate OCC's ability to break even on these costs. In addition, OCC believes it is reasonable to allocate rather than absorb the cost of applicable taxes because it will facilitate OCC's ability to break even on these types of required costs. OCC does not believe such change would create a financial burden as it is limited to the cost of applicable taxes, which OCC does not control. Moreover, OCC believes charging appropriate sales or use tax is reasonable because it is similar to a practice currently employed by another self-regulatory organization.<sup>22</sup> Furthermore, OCC believes it is reasonable to remove the fee for authorization stamps, as OCC no

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<sup>20</sup> 15 U.S.C. 78a et seq.

<sup>21</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>22</sup> See supra note 18.



longer uses authorization stamps. This change would ensure that the fee schedule remains current and accurate.

OCC also believes that the proposed fee changes would result in an equitable allocation of fees. The ODD fee increase would apply equally to all industry participants that order printed copies of the ODD. Moreover, OCC makes available additional options for ODD distribution at no charge, including an electronic version and a print-ready PDF version. The additional changes, including allowing OCC to charge applicable taxes and removing outdated language, would also be applied equally to industry participants that utilize OCC's services. As a result, OCC believes that the proposed changes to OCC's fee schedule provide for the equitable allocation of reasonable fees in accordance with Section 17A(b)(3)(D) of the Act.<sup>23</sup>

In addition, OCC believes that the proposed rule change is consistent with Rule 17Ad-22(e)(15), which requires that OCC establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage OCC's general business risk.<sup>24</sup> The proposed fee changes are designed to promote cost management by facilitating OCC's ability to break even on certain costs, which would promote OCC's ability to manage its general business risk or the risk of potential impairment to OCC's financial position resulting from a decline in revenues or an increase in expense. Therefore, OCC believes that the proposed changes to OCC's schedule of fees are consistent with Rule 17Ad-22(e)(15).<sup>25</sup>

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<sup>23</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>24</sup> 17 CFR 240.17Ad-22(e)(15).

<sup>25</sup> Id.

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

Section 17A(b)(3)(I) of the Act<sup>26</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would have any impact or impose a burden on competition. OCC believes that the proposed rule change would not disadvantage or favor any particular user of OCC's services in relationship to another user because the proposed changes would equally apply to all industry participants. In addition, OCC does not believe the fee changes impose a significant burden, as the changes are intended to reflect current costs incurred by OCC rather than generate a profit. Accordingly, OCC does not believe that the proposed rule change would have any impact or impose a 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

Pursuant to Section 19(b)(3)(A)(ii)<sup>27</sup> of the Act, and Rule 19b-4(f)(2) thereunder,<sup>28</sup> the proposed rule change is filed for immediate effectiveness as it constitutes a change in fees. 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

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<sup>26</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>27</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>28</sup> 17 CFR 240.19b-4(f)(2).

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>29</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 (<https://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-2024-007 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-2024-007. 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 (<https://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

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<sup>29</sup> Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

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 a.m. and 3 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>. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection.

All submissions should refer to File Number SR-OCC-2024-007 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>30</sup>

**Vanessa A. Countryman,**  
*Secretary.*

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<sup>30</sup> 17 CFR 200.30-3(a)(12).