

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-103521; File No. SR-OCC-2025-010]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Options Clearing Corporation Concerning Changes to Codify in OCC's By-Laws That a Clearing Member May Submit Adjustments to Its Positions with OCC for Any Purpose Permissible Under Exchange Rules.

July 22, 2025.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on July 15, 2025, The Options Clearing Corporation (“OCC” or “Corporation”) filed with the Securities and Exchange Commission (“SEC” or “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)³ of the Act and paragraph (f)(6) of Rule 19b-4⁴ thereunder, such that the proposed rule change was immediately effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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)(6).

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

This proposed rule change would amend OCC's By-Laws to codify in OCC's By-Laws that a Clearing Member may submit adjustments to its positions with OCC for any purpose permissible under Exchange⁵ rules, thus ensuring that OCC's By-Laws would remain current and would align with Exchange rules, as amended from time to time, as they apply to off-floor adjustments⁶ of option contracts. OCC also proposes to delete a duplicative term, "futures market", from OCC's By-Laws.

OCC filed as Exhibit 5 [sic] to File No. SR-OCC-2025-010 the text of the proposed changes to Article VI of OCC's By-Laws, Section 1, Interpretation and Policy .01(a). Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.⁷

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

⁵ The term "Exchange" is defined in Article I of OCC's By-Laws to mean a Securities Exchange, a futures market, a security futures market or an international market. See OCC's By-Laws at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

⁶ Adjustments may include, among other things, off-floor transfers of options.

⁷ 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>.

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

OCC is the clearing agency for all standardized equity options listed on national securities exchanges ("Exchanges") registered with the Commission. One distinguishing feature of the listed-options market is that functionally, options transactions must occur on an Exchange,⁸ except when otherwise permitted by Exchange rules. Such exceptions include, among others, an adjustment or transfer in connection with the correction of a bona fide error; the transfer of positions from one account to another account where no change in ownership is involved; the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership assumes the positions; and the donation of positions to a not-for-profit corporation.⁹ As the clearing agency for such options positions, OCC supports "off-floor" transfers (i.e., off of the Exchange) through the adjustment of its Clearing Member's options positions in accordance with Interpretation and Policy .01(a) to Section 1 of Article VI of OCC's By-Laws, which was last amended in 2012.¹⁰ More recently,¹¹ Exchanges have adopted exceptions in their

⁸ See, e.g., Cboe Rule 5.12 (Transactions Off the Exchange), NYSE Arca Rule 6.78-O (Transactions Off the Exchange).

⁹ See, e.g., Cboe Rule 6.7 (Off-Floor Transfer of Positions), NYSE Arca Rule 6.78A-O (Off-Floor Transfer of Positions).

¹⁰ See Exchange Act Release No. 68434 (Dec. 14, 2012), 77 FR 75243 (Dec. 19, 2012) (SR-OCC-2012-14) (amending Interpretation and Policy .01 to By-Law Article VI, Section 1 to provide clarity regarding adjustment of positions for over-the-counter (OTC) index options).

¹¹ See, e.g., Exchange Act Release No. 90552 (Dec. 2, 2020), 85 FR 79049 (Dec. 8, 2020) (SR-NYSEArca-2020-102); Exchange Act Release No. 87340 (Oct. 17, 2019), 84 FR 56877 (Oct. 23, 2019) (SR-CBOE-2019-048).

rules permitting off-floor transfers of options positions in connection with the creation and redemption process for exchange traded funds or unit investment trusts (“ETFs”).¹² Such “in-kind” exchanges of options positions support options-based ETFs (i.e., ETFs that hold options contracts).¹³

The purpose of the proposed rule change is to revise Interpretation and Policy .01(a) to Section 1 of Article VI of OCC’s By-Laws to codify that in addition to the existing purposes for which a Clearing Member currently may submit adjustments to its options positions, a Clearing Member also may submit adjustments to its options positions for any purpose permissible under Exchange rules.¹⁴ The proposed change was identified after a recent review of OCC’s By-Laws on this topic and is intended to align OCC’s By-laws with Exchange rules related to position transfers, including off-floor transfers of options positions. The proposed rule change would provide Clearing Members with additional certainty regarding the circumstances under which they may submit adjustments to their positions with OCC by aligning OCC’s By-Laws with Exchange rules regarding off-floor transfers of options positions. Accordingly, the proposed rule change would remove any uncertainty about whether adjustment of options

¹² See, e.g., Cboe Rule 6.9 (In-Kind Exchange of Options Positions and ETF Shares and UIT Units), NYSE Arca Rule 6.78C-O (In-Kind Exchange of Options Positions and ETF Shares and UIT Units).

¹³ See Exchange Act Release No. 87340, supra note 911, 84 FR at 56877-78 (discussing certain tax advantages and cost savings for such ETFs by allowing for in-kind creations and redemptions).

¹⁴ OCC had previously released an Information Memorandum on the mechanics for transferring options related to in-kind exchange traded fund (“ETF”) creations and redemptions. More specifically, in 2020, certain Exchanges submitted rule filings that would allow their members to effect options transfers in connection with the creation and redemption of options-based ETFs. OCC subsequently notified market participants by way of an Information Memorandum the method by which off floor transfers permitted under Exchange rules should be submitted to OCC. Available at <https://www.theocc.com/search?query=46854>. OCC made no changes to its By-Laws at that time to align the OCC By-Laws with this Exchange permitted purpose for off floor transfers.

positions at OCC is permissible to support ETF creation and redemption, which is not one of the circumstances currently listed under OCC's By-Laws. Such changes are thus designed to meet the needs of OCC's Clearing Members and the markets OCC serves. OCC also is proposing to delete one reference to "futures market" from Interpretation and Policy .01 to Section 1 of Article VI of OCC's By-Laws because it is duplicative and should only be referenced once in that section of the OCC By-Laws.

1. Purpose

OCC has rules in place regarding adjustments of Clearing Member options positions other than through opening or closing purchase or sale transactions on an Exchange. In particular, Article VI, Section 1, of the By-Laws states that Confirmed Trades, including transactions in exchange-listed options,¹⁵ will be cleared through OCC. Interpretation and Policy .01(a) to this provision further specifies that it is OCC's policy to permit a Clearing Member to submit adjustments to its positions with OCC for certain purposes. Such purposes include to: (1) effect a transfer of accounts between Clearing Members; (2) effect a Return;¹⁶ (3) effect a CMTA Retransfer;¹⁷ (4) correct a bona fide error or omission regarding a confirmed trade previously submitted to OCC; (5) grant a

¹⁵ The term "Confirmed Trade" is defined in Article I of OCC's By-Laws as a transaction for the purchase, writing, or sale of a cleared contract, or for the closing out of a long or short position in a cleared contract, that is (i) effected on or through the facilities of an Exchange and submitted to OCC for clearance or (ii) affirmed through the facilities of an OTC Trade Source and submitted to OCC for clearance.

¹⁶ The term "Return" is defined in Article I of OCC's By-Laws as the process by which a Carrying Clearing Member transfers back to an Executing Clearing Member, for one or more reasons specified in the CMTA Agreement between the Clearing Members, a position resulting from a confirmed trade transferred by the Executing Clearing Member to an account of the Carrying Clearing Member.

¹⁷ The term "CMTA Retransfer" is defined in Article I of OCC's By-Laws as the process by which an Executing Clearing Member, upon receiving the Return of a position because of the misidentification of the Carrying Clearing Member, transfers the position to the correct Carrying Clearing Member.

request for offset pursuant to Rule 1306;¹⁸ and (6) effect a retender in connection with the settlement of a physically-settled commodity future pursuant to Rule 1307.¹⁹ The intent of specifying these grounds was to set forth OCC's then-existing policies concerning certain adjustments.²⁰

The list in Interpretation and Policy .01(a) to Article VI, Section 1, of the By-Laws was not intended to prohibit or preclude other adjustments permitted by Exchange rules. For example, Interpretation and Policy .01(c) to Article VI, Section 1, of the By-Laws, contemplates other post-trade transactions not expressly listed in paragraph (a).²¹ To remove any uncertainty, including any uncertainty about whether Clearing Members may submit adjustments for in-kind transactions to support ETF creation and redemption as permitted by Exchange rules, OCC proposes to clarify in Interpretation and Policy .01(a) that a Clearing Member may submit adjustments to its positions with OCC for any purpose permissible under Exchange rules. OCC also proposes a typographical correction to remove duplicative language in Interpretation and Policy .01(a). The proposed rule change would not make any substantive changes to OCC policies or practices. The proposed rule change would further align OCC's By-Laws with Exchange rules related to position transfers and provide market participants with additional certainty regarding the circumstances under which Clearing Members may submit

¹⁸ See OCC Rule 1306 (Request for Offset of Futures Contracts).

¹⁹ See OCC Rule 1307 (Retendering).

²⁰ See, e.g., Exchange Act Release No. 198003 (May 23, 1983), 48 FR 24505, 24505-06 (June 1, 1983) (SR-OCC-83-11).

²¹ See Interpretation and Policy .01(c) to Article VI, Section 1, of the By-Laws (“[OCC] shall have the right to reject adjustments to Clearing Members’ positions and accounts contemplated by paragraphs (a) and (b), as well as any other post-trade transactions permitted by [OCC’s] By-Laws and Rules...”).

adjustments to their positions with OCC. Such changes would thus remove any uncertainty about whether OCC's rules permit a position adjustment for a reason permitted under the Exchanges' rules. The proposed rule change would further allow OCC to more effectively meet the needs of OCC's Clearing Members and the markets it serves by removing any uncertainty about whether OCC's rules permit position adjustments to support ETF creation and redemption.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Exchange Act²² and the rules and regulations thereunder applicable to OCC, including Rule 17ad-22(e)(1)²³ and Rule 17ad-22(e)(21) thereunder.²⁴ Section 17A(b)(3)(F) of the Act²⁵ requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable derivatives transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest. As described above, the proposed rule change would provide market participants with certainty regarding the circumstances under which Clearing Members may submit adjustments to their positions with OCC by clearly aligning OCC's By-Laws with Exchange rules related to position transfers, including off-floor transfers of options positions to support ETF creation and redemption. Harmonizing OCC's By-Laws with Exchange rules would

²² 15 U.S.C. 78q-1.

²³ 17 CFR 240.17ad-22(e)(1).

²⁴ 17 CFR 240.17ad-22(e)(21).

²⁵ 15 U.S.C. 78q-1(b)(3)(F).

remove impediments to and support prompt and accurate clearance and settlement by, for example, ensuring that provisions in the By-Laws related to the submission of position adjustments are consistent with the rules concerning off-floor transfers that are maintained by the exchanges for which OCC clears and settles transactions. Reducing uncertainty would remove impediments to and support prompt and accurate clearance and settlement, including with respect to options positions transferred as part of ETF creation and redemption. OCC believes that aligning its By-Laws with Exchange rules would also protect investors and the public interest by ensuring that OCC provides clearance and settlement services in a manner that supports applicable rules and regulations. For these reasons, OCC believes the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions, and, thereby, to protect investors and the public interest in accordance with Section 17A(b)(3)(F) of the Exchange Act.²⁶

OCC believes the proposed changes are also consistent with the requirements in Rule 17ad-22(e)(1) under the Act.²⁷ Rule 17ad-22(e)(1) requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.²⁸ The proposed rule change would allow OCC to maintain provisions and practices that are clear and consistent with Exchange rules and applicable regulations, which would help

²⁶ 15 U.S.C. 78q-1

²⁷ 17 CFR 240.17ad-22(e)(1).

²⁸ Id.

ensure that OCC's By-Laws remain well-founded, clear, transparent, and enforceable. The clean-up change to remove duplicative language would further ensure that OCC's By-Laws remain clear, accurate, and up-to-date. Therefore, OCC believes that the proposed changes promote compliance and consistency with the requirements in Rule 17ad-22(e)(1) to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent and enforceable legal basis.

OCC also believes that the proposed changes are consistent with the requirements in Rule 17ad-22(e)(21).²⁹ Rule 17ad-22(e)(21) requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.³⁰ By clearly aligning OCC's By-Laws with Exchange rules, the proposed rule change would provide market participants with certainty regarding the circumstances under which Clearing Members may submit adjustments to their positions with OCC, which would prevent any potential confusion associated with the reconciliation of OCC and Exchange rules by market participants. Such changes would make OCC more effective and efficient in meeting the requirements of its Clearing Members, including by reflecting permissible transfers pursuant to Exchange rules, and are thus designed to meet the needs of OCC's Clearing Members

²⁹ 17 CFR 240.17ad-22(e)(21).

³⁰ Id.

and the markets OCC serves. Accordingly, OCC believes that the proposal is consistent with Rule 17ad-22(e)(21).³¹

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

Section 17A(b)(3)(I) of the Act³² 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. The proposed changes to Article VI of OCC's By-Laws, Section 1, Interpretation and Policy .01(a) would not impose any burden on competition because the proposed changes consist of clarifications that would promote consistency with Exchange rules and reflect permissible options transfers pursuant to those Exchange rules. The proposed changes would not inhibit access to OCC's services in any way, would apply to all Clearing Members uniformly, and do not disadvantage or favor any particular user in relationship to another user. Accordingly, OCC does not believe that the proposed clarifications to its By-Laws 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 were not and are not intended to be solicited with respect to the proposed change and none have been received. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

³¹ Id.

³² 15 U.S.C. 78q-1(b)(3)(I).

(i) significantly affect the protection of investors or the public interest;

(ii) impose any significant burden on competition; and

(iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act³³ and Rule 19b-4(f)(6)³⁴ thereunder.

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.³⁵

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-regulations/self-regulatory-organization-rulemaking>); or

³³ 15 U.S.C. 78s(b)(3)(A).

³⁴ 17 CFR 240.19b-4(f)(6).

³⁵ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

- Send an e-mail to rule-comments@sec.gov. Please include file number SR-OCC-2025-010 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-2025-010. This file number should be included on the subject line if email 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-regulations/self-regulatory-organization-rulemaking>). Copies of such filing 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-2025-010 and should be submitted on or before [INSERT DATE 21 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁶

Sherry R. Haywood,

Assistant Secretary.

³⁶ 17 CFR 200.30-3(a)(12).