



January 9, 2018

VIA ELECTRONIC MAIL

Christopher J. Kirkpatrick
Office of the Secretariat
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Rule Filing SR-OCC-2018-001 Rule Certification

Dear Secretary Kirkpatrick:

Pursuant to Section 5c(c)(1) of the Commodity Exchange Act, as amended (“Act”), and Commodity Futures Trading Commission (“CFTC”) Regulation 40.6, enclosed is a copy of the above-referenced rule filing submitted by The Options Clearing Corporation (“OCC”). The date of implementation of the rule is at least 10 business days following receipt of the rule filing by the CFTC or the date the proposed rule is approved by the Securities and Exchange Commission (“SEC”) or otherwise becomes effective under the Securities Exchange Act of 1934 (“Exchange Act”). This rule filing has been submitted to the SEC under the Exchange Act.

OCC has requested confidential treatment for Exhibit 5 to SR-OCC-2018-001, the Fee Policy, contained in pages 22-25 of the enclosed filing.

In conformity with the requirements of Regulation 40.6(a)(7), OCC states the following:

Explanation and Analysis

The proposed change by OCC would make certain revisions to OCC’s Fee Policy to reduce the permitted implementation time for proposed changes to its Schedule of Fees. Under the proposed rule change, the Fee Policy would provide that any change to the Schedule of Fees resulting from a review of OCC’s fees by the Board of Directors (“Board”) as stipulated under the Fee Policy would be implemented no sooner than 30 days from the date of the filing of the proposed fee change, rather than the minimum 60-day period provided for currently in the Fee Policy.

The Fee Policy is attached as confidential Exhibit 5 of the filing. Material proposed to be added to the Fee Policy as currently in effect is marked by underlining and material proposed to be deleted is marked in strikethrough text.

The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules. 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.¹

Fee Policy

The purpose of this proposed rule change is to amend OCC's Fee Policy² to provide that any change to OCC's Schedule of Fees resulting from a review of OCC's fees by the Board as stipulated under the Fee Policy³ would be implemented no sooner than 30 days following the filing of the revised Schedule of Fees as a proposed rule change, rather than no sooner than 60 days after filing.⁴ This proposed rule change specifically concerns the time frame in which OCC permits itself to implement any proposed fee change under its Fee Policy.

In General, Article IX, Section 9 of OCC's By-Laws requires that OCC's fee structure be designed to: (1) cover OCC's operating expenses plus a business risk buffer; (2) maintain reserves deemed reasonably necessary by OCC's Board; and (3) accumulate an additional surplus deemed advisable by the Board to permit OCC to meet its obligations to its Clearing

¹ OCC's By-Laws and Rules can be found on OCC's public website:
<http://optionsclearing.com/about/publications/bylaws.jsp>.

² OCC's Fee Policy was adopted as part of OCC's plan for raising additional capital ("Capital Plan"), which was put in place in light of proposed regulatory capital requirements applicable to systemically important financial market utilities, such as OCC. See Exchange Act Release No. 34-74452 (March 6, 2015), 80 FR 13058 (March 12, 2015) (SR-OCC-2015-02); Exchange Act Release No. 34-74387 (February 26, 2015), 80 FR 12215 (March 6, 2015) (SR-OCC-2014-813) ("Approval Orders"). BATS Global Markets, Inc., BOX Options Exchange LLC, KCG Holdings, Inc., Miami International Securities Exchange, LLC, and Susquehanna International Group, LLP each filed petitions for review of the Approval Order, challenging the action taken by delegated authority. Following review of these petitions, on August 8, 2017, the U.S. Court of Appeals for the D.C. Circuit remanded the Approval Orders to the SEC to further analyze whether the Capital Plan is consistent with the Securities Exchange Act of 1934. Susquehanna Int'l Grp., LLP v. SEC, 866 F.3d 442 (D.C. Cir. 2017). While the SEC further analyzes the Capital Plan, it remains in effect as originally approved by the SEC. See id.

³ OCC notes that authority to review and approve changes to OCC's fees pursuant to the Capital Plan has been delegated to the Compensation and Performance Committee of the Board. See OCC Compensation and Performance Committee Charter available at:
http://www.optionsclearing.com/components/docs/about/corporate-information/performance_committee_charter.pdf.

⁴ Under Section 19(b)(3)(A)(ii) of the Exchange Act, a proposed rule change takes effect upon filing with the SEC if it is designated by OCC as establishing or changing a due, fee or other charge on any person. See 15 U.S.C. 78s(b)(3)(A)(ii). Regarding any such proposed rule change that becomes immediately effective, however, the SEC also has certain conditional authority to summarily temporarily suspend the change and institute proceedings to determine whether to approve or disapprove it. See 15 U.S.C. 78s(b)(3)(C).

Members and the public.⁵ In connection with these requirements, OCC has adopted a Fee Policy under which the Board determines OCC's fee structure. As part of the Fee Policy, the Board reviews the existing Schedule of Fees on a quarterly basis to determine its appropriateness. Central to the Board's determination of the appropriate level of fees is the requirement to cover OCC's operating expenses plus an additional amount referred to as a "Business Risk Buffer." The Business Risk Buffer is an amount of fee revenue that OCC targets above its anticipated operating expenses to allow for unexpected fluctuations in operating expenses, business capital needs, and regulatory capital requirements. Under the Fee Policy, OCC generally sets clearing fees at a level designed to cover operating expenses plus a Business Risk Buffer of 25%. In determining the proper level of fees to achieve this goal, the Board may rely on a recommendation of OCC staff that is based on an analysis of, among other things, year-to-date revenue and operating expenses and projected clearing volume and operating expenses.

OCC believes that the current 60-day implementation period under the Fee Policy (i) increases the difficulty of projecting appropriate fee levels needed to cover OCC's operating expenses plus the Business Risk Buffer given the amount of time that passes between OCC's analysis and the implementation of the fee change, (ii) increases the risk that by the time the fee change is implemented, the extended delay in implementation may result in revenues that diverge further from the target the Business Risk Buffer (either higher or lower), and (iii) increases the impact of a fee change due to the delayed implementation timing.⁶ As a result, OCC may need to make more frequent and/or more dramatic changes to its Schedule of Fees in order to maintain its target Business Risk Buffer, resulting in less stability in fees for OCC's participants. OCC believes that reducing the 60-day implementation period to 30 days would allow for fee adjustments that are based on revenue and expense data that is more current, and therefore projections that are more accurate. OCC believes the proposed rule change would therefore improve its ability to set fees at an appropriate level to meet its requirements under the Capital Plan while still providing adequate notice to its participants of any proposed fee changes.

OCC reviewed the derivatives clearing organization ("DCO") core principles ("Core Principles") as set forth in the Act. During this review, OCC identified the following Core Principles as potentially being impacted:

Public Information. OCC believes that implementing the proposed rule change will be consistent with the Core Principle L, which requires, in part, that each DCO provide to market participants sufficient information to enable the market participants to identify and evaluate accurately the costs associated with using the services of the DCO. OCC believes the proposed

⁵ OCC notes that clauses two and three above would be invoked only at the discretion of OCC's Board and in extraordinary circumstances.

⁶ OCC notes that, as a practical matter, it typically implements changes to its Schedule of Fees on the first of the month. As a result, the actual delay in implementing a proposed fee change may be significantly longer than 60 days depending on the timing of Board approval of any fee change and subsequent filing of the associated proposed rule change.

Christopher J. Kirkpatrick

January 9, 2018

Page 4

change is consistent with Core Principle L because it would continue to provide market participants with at least 30-days' public notice of any proposed change to OCC's Schedule of Fees prior to implementation.

In this regard, the proposed changes would further OCC's compliance with Core Principle L.

Opposing Views

No opposing views were expressed related to the rule amendments.

Notice of Pending Rule Certification

OCC hereby certifies that notice of this rule filing has been be given to Clearing Members of OCC in compliance with Regulation 40.6(a)(2) by posting a copy of the submission on OCC's website concurrently with the filing of this submission.

Christopher J. Kirkpatrick
January 9, 2018
Page 5

Certification

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Act and the CFTC's regulations thereunder.

Should you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Justin W. Byrne". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Justin W. Byrne
Vice President, Regulatory Filings

Enclosure

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 25	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4	File No.* SR - 2018 - * 001	Amendment No. (req. for Amendments *)
----------------	--	-----------------------------	---------------------------------------

Filing by Options Clearing Corporation
Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934

Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>	Section 19(b)(3)(B) * <input type="checkbox"/>
Pilot <input type="checkbox"/>			Rule		
Extension of Time Period for Commission Action * <input type="checkbox"/>		Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input checked="" type="checkbox"/> 19b-4(f)(4)	<input type="checkbox"/> 19b-4(f)(5)
			<input type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(6)	
			<input type="checkbox"/> 19b-4(f)(3)		

Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010	Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934
Section 806(e)(1) * <input type="checkbox"/>	Section 806(e)(2) * <input type="checkbox"/>
	Section 3C(b)(2) * <input type="checkbox"/>

Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>
---	---

Description

Provide a brief description of the action (limit 250 characters, required when Initial is checked *).

Proposed rule change concerning The Options Clearing Corporation's Fee Policy.

Contact Information

Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.

First Name * Justin Last Name * Byrne

Title * Vice President, Regulatory Filings

E-mail * jbyrne@theocc.com

Telephone * (202) 971-7238 Fax (312) 322-6280

Signature

Pursuant to the requirements of the Securities Exchange Act of 1934,

has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

(Title *)

Date 01/08/2018 Vice President, Regulatory Filings

By Justin W. Byrne

(Name *)

Justin Byrne, jbyrne@theocc.com

NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

Form 19b-4 Information *

Add Remove View

The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

Exhibit 1 - Notice of Proposed Rule Change *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies *

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications

Add Remove View

Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

Exhibit 3 - Form, Report, or Questionnaire

Add Remove View

Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

Exhibit 4 - Marked Copies

Add Remove View

The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

Exhibit 5 - Proposed Rule Text

Add Remove View

The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

Partial Amendment

Add Remove View

If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 19b-4

Proposed Rule Change
by

THE OPTIONS CLEARING CORPORATION

Pursuant to Rule 19b-4 under the
Securities Exchange Act of 1934

Item 1. Text of the Proposed Rule Change

This proposed rule change by The Options Clearing Corporation (“OCC”) would make certain revisions to OCC’s Fee Policy to reduce the permitted implementation time for proposed changes to its Schedule of Fees. Under the proposed rule change, the Fee Policy would provide that any change to the Schedule of Fees resulting from a review of OCC’s fees by the Board of Directors (“Board”) as stipulated under the Fee Policy would be implemented no sooner than 30 days from the date of the filing of the proposed fee change with the Commission, rather than the minimum 60-day period provided for currently in the Fee Policy.

The Fee Policy is attached hereto as confidential Exhibit 5. Material proposed to be added to the Fee Policy as currently in effect is marked by underlining and material proposed to be deleted is marked in 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.¹

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved for filing with the Commission by OCC’s Board on December 15, 2016. The holders of all of the outstanding common stock of OCC also unanimously consented to the proposed changes to the Fee Policy on December 15, 2016.

Questions should be addressed to Justin W. Byrne, Vice President, Regulatory Filings, at (202) 971-7238.

¹ OCC’s By-Laws and Rules can be found on OCC’s public website:
<http://optionsclearing.com/about/publications/bylaws.jsp>.

Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Purpose

The purpose of this proposed rule change is to amend OCC’s Fee Policy² to provide that any change to OCC’s Schedule of Fees resulting from a review of OCC’s fees by the Board as stipulated under the Fee Policy³ would be implemented no sooner than 30 days following the filing of the revised Schedule of Fees as a proposed rule change with the Commission, rather than no sooner than 60 days after filing. Under Section 19(b)(3)(A)(ii) of the Securities Exchange Act of 1934, as amended (“Act”), a proposed rule change takes effect upon filing with the Commission if it is designated by OCC as establishing or changing a due, fee or other charge on any person.⁴ This proposed rule change, however, specifically concerns the time frame in

² OCC’s Fee Policy was adopted as part of OCC’s plan for raising additional capital (“Capital Plan”), which was put in place in light of proposed regulatory capital requirements applicable to systemically important financial market utilities, such as OCC. See Exchange Act Release No. 34-74452 (March 6, 2015), 80 FR 13058 (March 12, 2015) (SR-OCC-2015-02); Exchange Act Release No. 34-74387 (February 26, 2015), 80 FR 12215 (March 6, 2015) (SR-OCC-2014-813) (“Approval Orders”). BATS Global Markets, Inc., BOX Options Exchange LLC, KCG Holdings, Inc., Miami International Securities Exchange, LLC, and Susquehanna International Group, LLP each filed petitions for review of the Approval Order, challenging the action taken by delegated authority. Following review of these petitions, on August 8, 2017, the U.S. Court of Appeals for the D.C. Circuit remanded the Approval Orders to the Commission to further analyze whether the Capital Plan is consistent with the Securities Exchange Act of 1934. Susquehanna Int’l Grp., LLP v. SEC, 866 F.3d 442 (D.C. Cir. 2017). While the Commission further analyzes the Capital Plan, it remains in effect as originally approved by the Commission. See id.

³ OCC notes that authority to review and approve changes to OCC’s fees pursuant to the Capital Plan has been delegated to the Compensation and Performance Committee of the Board. See OCC Compensation and Performance Committee Charter available at: http://www.optionsclearing.com/components/docs/about/corporate-information/performance_committee_charter.pdf.

⁴ See 15 U.S.C. 78s(b)(3)(A)(ii). Regarding any such proposed rule change that becomes immediately effective, however, the Commission also has certain conditional authority to

which OCC permits itself to implement any proposed fee change under its Fee Policy.

In General, Article IX, Section 9 of OCC's By-Laws requires that OCC's fee structure be designed to: (1) cover OCC's operating expenses plus a business risk buffer; (2) maintain reserves deemed reasonably necessary by OCC's Board; and (3) accumulate an additional surplus deemed advisable by the Board to permit OCC to meet its obligations to its Clearing Members and the public.⁵ In connection with these requirements, OCC has adopted a Fee Policy under which the Board determines OCC's fee structure. As part of the Fee Policy, the Board reviews the existing Schedule of Fees on a quarterly basis to determine its appropriateness. Central to the Board's determination of the appropriate level of fees is the requirement to cover OCC's operating expenses plus an additional amount referred to as a "Business Risk Buffer." The Business Risk Buffer is an amount of fee revenue that OCC targets above its anticipated operating expenses to allow for unexpected fluctuations in operating expenses, business capital needs, and regulatory capital requirements. Under the Fee Policy, OCC generally sets clearing fees at a level designed to cover operating expenses plus a Business Risk Buffer of 25%. In determining the proper level of fees to achieve this goal, the Board may rely on a recommendation of OCC staff that is based on an analysis of, among other things, year-to-date revenue and operating expenses and projected clearing volume and operating expenses.

OCC believes that the current 60-day implementation period under the Fee Policy (i)

summarily temporarily suspend the change and institute proceedings to determine whether to approve or disapprove it. See 15 U.S.C. 78s(b)(3)(C).

⁵ OCC notes that clauses two and three above would be invoked only at the discretion of OCC's Board and in extraordinary circumstances.

increases the difficulty of projecting appropriate fee levels needed to cover OCC's operating expenses plus the Business Risk Buffer given the amount of time that passes between OCC's analysis and the implementation of the fee change, (ii) increases the risk that by the time the fee change is implemented, the extended delay in implementation may result in revenues that diverge further from the target the Business Risk Buffer (either higher or lower), and (iii) increases the impact of a fee change due to the delayed implementation timing.⁶ As a result, OCC may need to make more frequent and/or more dramatic changes to its Schedule of Fees in order to maintain its target Business Risk Buffer, resulting in less stability in fees for OCC's participants. OCC believes that reducing the 60-day implementation period to 30 days would allow for fee adjustments that are based on revenue and expense data that is more current, and therefore projections that are more accurate. OCC believes the proposed rule change would therefore improve its ability to set fees at an appropriate level to meet its requirements under the Capital Plan while still providing adequate notice to its participants of any proposed fee changes.

B. Statutory Basis

Section 17A(b)(3)(D) of the Act⁷ requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. In addition, Rule 17Ad-22(e)(21)⁸ requires that a covered clearing agency establish, implement,

⁶ OCC notes that, as a practical matter, it typically implements changes to its Schedule of Fees on the first of the month. As a result, the actual delay in implementing a proposed fee change may be significantly longer than 60 days depending on the timing of Board approval of any fee change and subsequent filing of the associated proposed rule change.

⁷ 15 U.S.C. 78q-1(b)(3)(D).

⁸ 17 CFR 240.17Ad-22(e)(21).

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. OCC believes the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act⁹ and the rules thereunder because allowing earlier implementation of changes to OCC's Schedule of Fees would ensure that the fees charged to Clearing Members are based on more current projections, which in turn would foster the equitable allocation of reasonable dues, fees and other charges among Clearing Members. OCC also believes that the proposed rule change is consistent with Rule 17Ad-22(e)(21)¹⁰ because the shortened implementation period would improve OCC's ability to implement a Schedule of Fees that is based on revenue and expense data that is more current and indicative of OCC's business, and therefore, the change would enhance OCC's ability to be cost-effective in meeting the requirements of its Clearing Members.

Item 4. Self-Regulatory Organization's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act¹¹ requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the Act. OCC believes that the proposed rule change would not have any impact or impose a burden on competition. The proposed changes to the Fee Policy would not disadvantage or favor any particular user in relationship to another user because the potential for earlier implementation of changes to the Schedule of Fees would apply equally to all Clearing Members and market participants.

⁹ 15 U.S.C. 78q-1(b)(3)(D).

¹⁰ 17 CFR 240.17Ad-22(e)(21).

¹¹ 15 U.S.C. 78q-1(b)(3)(I).

Moreover, the proposed rule change would continue to allow for a notification period of at least 30 days following the filing of a revised Schedule of Fees with the Commission before such a proposed fee change could be implemented. As a result, OCC believes that the proposed rule change would not have any impact or impose a burden on competition.

Item 5. Self-Regulatory Organization’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.

Item 6. Extension of Time Period for Commission Action

OCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.¹²

Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)

Pursuant to Section 19(b)(3)(A)(iii) of the Act¹³ and Rule 19b-4(f)(4)(i)¹⁴ thereunder, the proposed rule change is filed for immediate effectiveness because it effects a change in an existing service of OCC that: (i) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service.

OCC believes that the proposed rule change would improve its ability to implement fee

¹² 15 U.S.C. 78s(b)(2).

¹³ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁴ 17 CFR 240.19b-4(f)(4)(i).

changes that are more accurately calibrated to meet the requirements of its Fee Policy and Capital Plan. While the proposed rule change would reduce the 60-day notification period prior to implementing fee changes under the Fee Policy, any proposed fee change would still require at least a 30-day notification period prior to implementation and would continue to be subject to the Commission's rule filing process, including the notice and public comment period. OCC believes that the proposed 30-day implementation period, along with the Commission's rule filing process, would continue to provide Clearing Members and other market participants with appropriate and adequate notice of fee changes so that they are able to take any necessary action to prepare for the proposed fee change. Moreover, participants would continue to have an opportunity to comment on any fee changes prior to such fee change being implemented, and the Commission would continue to review all such fee changes as part of the proposed rule change process. OCC notes that the proposed rule change would not alter the manner in which OCC determines potential fee changes under its Fee Policy or the applicability of any such fee changes to its Clearing Members and market participants. As a result, OCC believes that the proposed rule change would not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and would not significantly affect the respective rights or obligations of the clearing agency or persons using the service.

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.¹⁵

Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission

Not applicable.

Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act

Not applicable.

Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act

Not applicable.

Item 11. Exhibits

Exhibit 1A. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 5. Fee Policy.

CONFIDENTIAL TREATMENT IS REQUESTED FOR EXHIBIT 5

PURSUANT TO SEC RULE 24b-2

¹⁵ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

THE OPTIONS CLEARING CORPORATION

By:

Justin W. Byrne
Vice President, Regulatory Filings

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-[_____]; File No. SR-OCC-2018-001)

January __, 2018

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Concerning The Options Clearing Corporation's Fee Policy

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on January 8, 2018, 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)(iii)³ of the Act and Rule 19b-4(f)(4)(i)⁴ 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

OCC proposes to make certain revisions to its Fee Policy to reduce the permitted implementation time for proposed changes to OCC's Schedule of Fees. Under the proposed rule change, the Fee Policy would provide that any change to the Schedule of Fees resulting from a review of OCC's fees by the Board of Directors (“Board”) as

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(4)(i).

stipulated under the Fee Policy would be implemented no sooner than 30 days from the date of the filing of the proposed fee change with the Commission, rather than the 60 days provided for currently.

The Fee Policy is attached hereto as confidential Exhibit 5. Material proposed to be added to the Fee Policy as currently in effect is marked by underlining and material proposed to be deleted is marked in 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.⁵

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 proposed rule change is to amend OCC's Fee Policy⁶ to provide that any change to OCC's Schedule of Fees resulting from a review of OCC's

⁵ OCC's By-Laws and Rules can be found on OCC's public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

⁶ OCC's Fee Policy was adopted as part of OCC's plan for raising additional capital ("Capital Plan"), which was put in place in light of proposed regulatory capital requirements applicable to systemically important financial market utilities, such as OCC. See Exchange Act Release No. 34-74452 (March 6, 2015), 80 FR 13058 (March 12, 2015) (SR-OCC-2015-02); Exchange Act Release No.

fees by the Board as stipulated under the Fee Policy⁷ would be implemented no sooner than 30 days following the filing of the revised Schedule of Fees as a proposed rule change with the Commission, rather than no sooner than 60 days after filing. Under Section 19(b)(3)(A)(ii) of the Securities Exchange Act of 1934, as amended (“Act”), a proposed rule change takes effect upon filing with the Commission if it is designated by OCC as establishing or changing a due, fee or other charge on any person.⁸ This proposed rule change, however, specifically concerns the time frame in which OCC permits itself to implement any proposed fee change under its Fee Policy.

In General, Article IX, Section 9 of OCC’s By-Laws requires that OCC’s fee structure be designed to: (1) cover OCC’s operating expenses plus a business risk buffer; (2) maintain reserves deemed reasonably necessary by OCC’s Board; and (3) accumulate

34-74387 (February 26, 2015), 80 FR 12215 (March 6, 2015) (SR-OCC-2014-813) (“Approval Orders”). BATS Global Markets, Inc., BOX Options Exchange LLC, KCG Holdings, Inc., Miami International Securities Exchange, LLC, and Susquehanna International Group, LLP each filed petitions for review of the Approval Order, challenging the action taken by delegated authority. Following review of these petitions, on August 8, 2017, the U.S. Court of Appeals for the D.C. Circuit remanded the Approval Orders to the Commission to further analyze whether the Capital Plan is consistent with the Securities Exchange Act of 1934. Susquehanna Int’l Grp., LLP v. SEC, 866 F.3d 442 (D.C. Cir. 2017). While the Commission further analyzes the Capital Plan, it remains in effect as originally approved by the Commission. See id.

⁷ OCC notes that authority to review and approve changes to OCC’s fees pursuant to the Capital Plan has been delegated to the Compensation and Performance Committee of the Board. See OCC Compensation and Performance Committee Charter available at:

http://www.optionsclearing.com/components/docs/about/corporate-information/performance_committee_charter.pdf.

⁸ See 15 U.S.C. 78s(b)(3)(A)(ii). Regarding any such proposed rule change that becomes immediately effective, however, the Commission also has certain conditional authority to summarily temporarily suspend the change and institute proceedings to determine whether to approve or disapprove it. See 15 U.S.C. 78s(b)(3)(C).

an additional surplus deemed advisable by the Board to permit OCC to meet its obligations to its Clearing Members and the public.⁹ In connection with these requirements, OCC has adopted a Fee Policy under which the Board determines OCC's fee structure. As part of the Fee Policy, the Board reviews the existing Schedule of Fees on a quarterly basis to determine its appropriateness. Central to the Board's determination of the appropriate level of fees is the requirement to cover OCC's operating expenses plus an additional amount referred to as a "Business Risk Buffer." The Business Risk Buffer is an amount of fee revenue that OCC targets above its anticipated operating expenses to allow for unexpected fluctuations in operating expenses, business capital needs, and regulatory capital requirements. Under the Fee Policy, OCC generally sets clearing fees at a level designed to cover operating expenses plus a Business Risk Buffer of 25%. In determining the proper level of fees to achieve this goal, the Board may rely on a recommendation of OCC staff that is based on an analysis of, among other things, year-to-date revenue and operating expenses and projected clearing volume and operating expenses.

OCC believes that the current 60-day implementation period under the Fee Policy (i) increases the difficulty of projecting appropriate fee levels needed to cover OCC's operating expenses plus the Business Risk Buffer given the amount of time that passes between OCC's analysis and the implementation of the fee change, (ii) increases the risk that by the time the fee change is implemented, the extended delay in implementation may result in revenues that diverge further from the target the Business Risk Buffer (either higher or lower), and (iii) increases the impact of a fee change due to the delayed

⁹ OCC notes that clauses two and three above would be invoked only at the discretion of OCC's Board and in extraordinary circumstances.

implementation timing.¹⁰ As a result, OCC may need to make more frequent and/or more dramatic changes to its Schedule of Fees in order to maintain its target Business Risk Buffer, resulting in less stability in fees for OCC's participants. OCC believes that reducing the 60-day implementation period to 30 days would allow for fee adjustments that are based on revenue and expense data that is more current, and therefore projections that are more accurate. OCC believes the proposed rule change would therefore improve its ability to set fees at an appropriate level to meet its requirements under the Capital Plan while still providing adequate notice to its participants of any proposed fee changes.

(2) Statutory Basis

Section 17A(b)(3)(D) of the Act¹¹ requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. In addition, Rule 17Ad-22(e)(21)¹² requires that a 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. OCC believes the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act¹³ and the rules thereunder because allowing earlier implementation of changes to OCC's Schedule of Fees would ensure that the fees charged to Clearing Members are based on more current projections, which in turn would

¹⁰ OCC notes that, as a practical matter, it typically implements changes to its Schedule of Fees on the first of the month. As a result, the actual delay in implementing a proposed fee change may be significantly longer than 60 days depending on the timing of Board approval of any fee change and subsequent filing of the associated proposed rule change

¹¹ 15 U.S.C. 78q-1(b)(3)(D).

¹² 17 CFR 240.17Ad-22(e)(21).

¹³ 15 U.S.C. 78q-1(b)(3)(D).

foster the equitable allocation of reasonable dues, fees and other charges among Clearing Members. OCC also believes that the proposed rule change is consistent with Rule 17Ad-22(e)(21)¹⁴ because the shortened implementation period would improve OCC's ability to implement a Schedule of Fees that is based on revenue and expense data that is more current and indicative of OCC's business, and therefore, the change would enhance OCC's ability to be cost-effective in meeting the requirements of its Clearing Members.

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

Section 17A(b)(3)(I) of the Act¹⁵ requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the Act. OCC believes that the proposed rule change would not have any impact or impose a burden on competition. The proposed changes to the Fee Policy would not disadvantage or favor any particular user in relationship to another user because the potential for earlier implementation of changes to the Schedule of Fees would apply equally to all Clearing Members and market participants. Moreover, the proposed rule change would continue to allow for a notification period of at least 30 days following the filing of a revised Schedule of Fees with the Commission before such a proposed fee change could be implemented. As a result, OCC believes that the proposed rule change would not 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.

¹⁴ 17 CFR 240.17Ad-22(e)(21).

¹⁵ 15 U.S.C. 78q-1(b)(3)(I).

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

Pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁶ and Rule 19b-4(f)(4)(i)¹⁷ thereunder, the proposed rule change is filed for immediate effectiveness because it effects a change in an existing service of OCC that: (i) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible; and (ii) does not significantly affect the respective rights or obligations of the clearing agency or persons using the service.

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.¹⁸

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. Please include File Number SR-OCC-2018-001 on the subject line.

¹⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁷ 17 CFR 240.19b-4(f)(4)(i).

¹⁸ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

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-2018-001. 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/about/publications/bylaws.jsp>.

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-2018-001 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.¹⁹

Secretary

¹⁹ 17 CFR 200.30-3(a)(12).