



November 3, 2021

**VIA ELECTRONIC MAIL**

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

**Re: CFTC Regulation 40.6(a) Certification. Notification of Proposed Rule Change to Correct The Options Clearing Corporation's Schedule of Fees**

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(a), The Options Clearing Corporation ("OCC") hereby certifies to the CFTC amendments to OCC's schedule of fees. 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 as File No. SR-OCC-2021-012.

Amendments to OCC's schedule of fees are included in Exhibit 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.<sup>1</sup>

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

**Explanation and Analysis**

The purpose of this certification is to revise OCC's schedule of fees to correct an inadvertent omission in the prior rule filing to establish a fee holiday for the period from November 1, 2021, and

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<sup>1</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>.

ending December 31, 2021.<sup>2</sup> Based on OCC’s financial position as a result of historic contract volume, and consistent with OCC’s Capital Management Policy, the prior filing reduced its per contract and per trade clearing fees to \$0 for the last two months of 2021. However, through an inadvertent oversight, two line items in the schedule of fees related to clearing fees were not reduced accordingly: (1) the minimum monthly clearing fee of \$200 and (2) a fee of \$0.02 per side for linkage transactions, capped at \$55 per trade per side.<sup>3</sup> OCC is now proposing to correct the schedule of fees set forth in Exhibit 5 to File No. SR-OCC-2021-012 to reflect that OCC will not collect these fees during the fee holiday.

Clearing Fees effective June 1, 2021		Proposed Fee Holiday from November 1, 2021 to December 31, 2021	
<b>Linkage per side</b>	\$0.02 <i>*A Linkage transaction that includes more than 2,750 contracts will be charged a flat fee of \$55.00 per trade per side.</i>	<b>Linkage per side</b>	\$0.00
<b>Minimum Monthly Clearing Fee</b>	\$200.00	<b>Minimum Monthly Clearing Fee</b>	\$0.00

The listing of the fees in the schedule of fees would be reordered to group these two fees with the other clearing fees that are subject to the fee holiday. Like the changes to OCC’s clearing fees set forth in File No. SR-OCC-2021-009, the linkage per side fee and the minimum monthly clearing fee will revert to the fee schedule in effect before November 1, 2021 and OCC will remove the fee holiday from its schedule of fees effective the first trading day of 2022.

No fees for transactions occurring within the fee holiday period have been collected because clearing fees are due to OCC the month after the fees are incurred. OCC will not collect fees for transactions that occurred between November 1, 2021 through the first date it may implement the corrected fee schedule after completing all regulatory actions necessary to make the proposed corrections.

<sup>2</sup> See Exchange Act Release No. 93195 (Sept. 29, 2021), 86 FR 55039 (Oct. 5, 2021) (File No. SR-OCC-2021-009).

<sup>3</sup> The linkage fee was added to OCC’s schedule of fees in 2012 so that OCC could, for the purposes of charging a clearing fee, treat routing trades executed in accordance with the Options Order Protection and Locked/Crossed Market Plan the same as market maker/specialist scratch trades, which were subject to a reduced “scratch fee.” See Exchange Act Release No. 68025 (Oct. 10, 2012), 77 FR 63398 (Oct. 16, 2012) (File No. SR-OCC-2012-18). In 2016, OCC simplified its schedule of fees by, among other things, eliminating the scratch fee but retained the linkage per side fee. See Exchange Act Release No. 77336 (Mar. 10, 2016), 81 FR 14153 (Mar. 16, 2016) (File No. SR-OCC-2016-005).

OCC reviewed the DCO core principles (“Core Principles”) as set forth in the Act, regulations thereunder, and the provisions applicable to a DCO that elects to be subject to the provisions of 17 CFR Subpart C (“Subpart C DCO”). During this review, OCC identified the following Core Principles and regulations and provisions applicable to subpart C DCOs as potentially being impacted:

**Public Information.** OCC believes that correcting its schedule of fees so that it properly reflects the fee holiday will be aligned with Core Principle L,<sup>4</sup> 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. Correcting the schedule of fees will eliminate ambiguity that would otherwise persist about whether OCC intends to charge and collect the minimum monthly clearing fee and linkage per side fee while the fee schedule is pending, which it does not. Accordingly, OCC believes that by correcting its schedule of fees and by publishing the modified schedule of fees to its public website it would provide Clearing Members with sufficient information to enable them to identify and evaluate the costs associated with using the services of OCC.

#### 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 given to Clearing Members of OCC in compliance with Regulation 40.6(a)(2) by posting a copy of this certification on OCC’s website concurrently with the filing of this submission.

#### Certification

OCC hereby certifies that the rule set forth at enclosed Exhibit A 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,

/s/ Mark C. Brown  
Assistant General Counsel

Enclosure: Exhibit A

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<sup>4</sup> 7 U.S.C. 7a-1(c)(2)(L).