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7 May 2024

To
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Subject: Comment on SR-OCC-2024-001: Concerns and Recommendations

On behalf of Xchange Now e.V., an EU-registered non-profit association dedicated to protecting the rights of household investors, I wish to express concern regarding the proposed rule change by The Options Clearing Corporation (SR-OCC-2024-001).

To begin, I echo what was already said by Xchange Chairwoman, Dr. Prothmann and other commentators about the lack of transparency and clarity in this rule. In particular:

- The definitions of “high volatility” and “less liquid” seem intentionally vague and convoluted. While I agree a definition “may” vary across asset classes, a definition consisting of, for example, “more than 2 standard deviations from the 3 year average volume and/or index value” would suffice for any asset class. Because the definition “may” vary does not excuse the OCC from establishing a definition.
- There is a greater need for transparency than this rule provides. Will the information from OCC’s Margin Policy regarding high-volatility states be made public? The public should know when the markets are in a state of high volatility so they can make proper financial investment decisions. This would be a first step. As further described below, US Household Investors need information about the risks being taken by OCC to make good investment decisions.

In addition, I will add that OCC fails to maintain adequate margin to protect against failure of member firms.

OCC is designated a Systemically Important Financial Market Utility (SIFMU) under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). Despite protestations from multiple government agencies, legislators and regulators, financial organizations with “Systemically Important” designations (and even some without it) have routinely received government bailouts in the past (e.g. 2009 and 2023). As of December 31, 2023, OCC had Clearing Fund deposits of only \$16.9 billion in their role as guarantor of \$90.6 billion in outstanding positions.¹ This is a margin of less than 19%. For brokers, who are far less important to the stability of US financial markets, FINRA Rule 4210 requires them to maintain a minimum 25% margin. Most brokers hold more than the 25% required minimum margin.

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¹ Source: OCC financial report, available at <https://www.theocc.com/Company-Information/Documents-and-Archives/Annual-Reports>.

One example of how dangerous it is for a SIFMU to hold less-than adequate margin balances can be found by examining the difficulty the National Securities Clearing Corporation, another SIFMU, had when it took nearly 10 years to close out the open positions left behind by the bankruptcy of Lehman. Although they claim they did not have to resort to taking clearing funds from other than Lehman's deposits, that was largely due to the reduction of Lehman's liabilities required by settlements reached in bankruptcy court.

Whatever new margin requirement calculations are put in place, I hope that the SEC, as the designated Supervisory Agency, will establish a robust required minimum margin for OCC.

Kind regards,



Dr. Susanne Trimbath, Ph.D.
Author, Scientific Board Member