

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-89534; File No. SR-OCC-2020-009)

August 12, 2020

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

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 July 31, 2020, 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 by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii)³ of the Act and Rule 19b-4(f)(2)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

The proposed rule change by OCC would revise OCC's Schedule of Fees effective September 1, 2020, to implement a decrease in clearing fees. OCC's Schedule of Fees is included in Exhibit 5 to File No. SR-OCC-2020-009. Material proposed to be added to OCC's Schedule of Fees as currently in effect is underlined and material

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(ii).

⁴ 17 CFR 240.19b-4(f)(2).

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.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 revise OCC's Schedule of Fees effective September 1, 2020, to implement a decrease in clearing fees. Under OCC's capital management policy, if OCC's Equity exceeds 110 percent of the Target Capital Requirement plus the amount of approved capital expenditures, OCC's Board may reduce the cost of clearing by lowering fees, declaring a fee holiday, or issuing refunds.⁶ As of December 31, 2019, OCC maintained shareholders' equity of approximately \$351.3

⁵ 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>.

⁶ See Securities Exchange Release No. 88029 (Jan. 24, 2020), 85 Fed. Reg. 5500, 5502 (Jan. 30, 2020) (File No. SR-OCC-2019-007) and Securities Exchange Release No. 87257 (Oct. 8, 2019), 84 Fed. Reg. 55194, 55196 (Oct. 15, 2019) (File No. SR-OCC-2019-805).

million.⁷ OCC has experienced record volumes in 2020 while maintaining expenses at or around the budgeted amount. Accordingly, OCC proposes to modify its fee schedule to: (i) decrease its per contract clearing fee from \$0.055 to \$0.045 per contract; and (ii) adjust the quantity of contracts at which the fixed, per trade clearing fee begins from trades with more than 999 contracts per trade to trades with more than 1222 contracts per trade as set forth in the Schedule of Fees depicted below.⁸

Current Fee Schedule		Proposed Fee Schedule	
Clearing Fees		Clearing Fees	
Trades with contracts of 0-999	\$0.055/contract	Trades with contracts of 0-1222	\$0.045/contract
Trades with contracts of more than 999	\$55/trade	Trades with contracts of more than 1222	\$55/trade

OCC proposes to make the fee change effective September 1, 2020, because OCC believes that this date is the first date that the industry could be prepared to process the new fee without disruption based on consultations with market participants.⁹

(2) Statutory Basis

Section 17A(b)(3)(D) of the Act¹⁰ requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its

⁷ See OCC Audited Financials 2019 available at <https://www.theocc.com/getattachment/b12dec99-78ee-4ac0-b83e-94ec65ca7e94/attachment.aspx>.

⁸ These changes are also reflected in Exhibit 5 to File No. SR-OCC-2020-009.

⁹ OCC notes that a mid-month change to clearing fees could introduce operational disruption to Clearing Members due to the impact on their billing processes.

¹⁰ 15 U.S.C. 78q-1(b)(3)(D).

participants. OCC believes that the proposed fee change is reasonable because it is designed to decrease the cost of clearing while maintaining sufficient reserves in the form of liquid net assets to cover OCC's operating expenses and address potential business or operational losses so that OCC can continue to meet its obligations as a systemically important financial market utility to Clearing Members and the general public if such losses were to materialize (including through a recovery or orderly wind-down of critical operations and services) and thereby facilitate compliance with certain requirements of Rule 17Ad-22(e)(15)(ii).¹¹

In determining the appropriate level of the proposed fee decrease, OCC's Board and Compensation and Performance Committee considered a variety of factors, including projected average daily volume, operating income, and margin and a scenario analysis modeling the sensitivity of operating income and margin, adjusting for different volume levels, clearing fees and potential year-end refunds against the thresholds set forth in OCC's Capital Management Policy. The Compensation and Performance Committee also considered a sensitivity analysis assessing the minimum average daily volume required to support the proposed decrease.¹² OCC believes that the proposed decrease in clearing fees is reasonable and consistent with its existing By-Laws and Rules. OCC also believes that the proposed fee change would result in an equitable allocation of fees among its participants because it would be equally applicable to all market participants transacting at a given level of contract volume. As a result, OCC believes that the

¹¹ 17 CFR 240.17Ad-22(e)(15)(ii).

¹² A summary of the scenario and sensitivity analyses is included in confidential Exhibit 3 to File No. SR-OCC-2020-009.

proposed fee schedule provides for the equitable allocation of reasonable fees in accordance with Section 17A(b)(3)(D) of the Act.¹³

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

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

Section 17A(b)(3)(I) of the Act¹⁴ 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. Although this proposed rule change affects clearing members, their customers, and the markets that OCC serves, 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 clearing fees apply equally to all users of OCC. 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.

¹³ 15 U.S.C. 78q-1(b)(3)(D).

¹⁴ 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)(ii)¹⁵ of the Act, and Rule 19b-4(f)(2) thereunder,¹⁶ the proposed rule change is filed for immediate effectiveness as it constitutes a change in fees charged to OCC Clearing Members. 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.¹⁷

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-2020-009 on the subject line.

¹⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

¹⁶ 17 CFR 240.19b-4(f)(2).

¹⁷ 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-2020-009. 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-2020-009 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.¹⁸

J. Matthew DeLesDernier
Assistant Secretary

¹⁸ 17 CFR 200.30-3(a)(12).