SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-100664; File No. SR-OCC-2024-010)

August 6, 2024

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by the Options Clearing Corporation to Establish a Margin Add-On Charge That Would Be Applied to All Clearing Member Accounts to Help Mitigate the Risks Arising from Intraday and Overnight Trading Activity

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 25, 2024, The Options Clearing Corporation ("OCC") 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. 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

This proposed rule change would establish a margin add-on charge that would be applied to all Clearing Member accounts to help mitigate the risks arising from intraday and overnight trading activity.

Proposed changes to OCC's Rules are contained in Exhibit 5A that OCC provided as part of File No. SR-OCC-2024-010. Proposed changes to OCC's Margin Policy are contained in confidential Exhibit 5B that OCC provided as part of File No. SR-OCC-2024-010. Material proposed to be added is marked by underlining and material proposed to be deleted is marked with strikethrough text. All terms with initial

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1 15 U.S.C. 78s(b)(1).

2 17 CFR 240.19b-4.

capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

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

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears stock loan and futures transactions. In its role as a clearing agency, OCC guarantees the performance of its Clearing Members for all transactions cleared by OCC by becoming the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). These clearing activities could expose OCC to financial risks if a Clearing Member fails to fulfil its obligations to OCC. In its role as guarantor for all transactions cleared through OCC, one of the more material risks related to a Clearing Member's failure to perform is credit risk arising from the activity of the Clearing Members whose performance OCC guarantees. OCC manages these financial risks through financial safeguards, including the collection of margin

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3 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.

collateral from Clearing Members designed to, among other things, address the market risk associated with a Clearing Member's positions during the period of time OCC has determined it would take to liquidate those positions.

At the start of each business day, OCC collects margin requirements for each marginable account calculated by OCC's proprietary System for Theoretical Analysis and Numerical Simulation ("STANS") based on the account's end-of-day positions from the previous business day. OCC also makes intraday margin calls in defined circumstances. For example, pursuant to OCC Rule 609 and OCC's Margin Policy, which has been filed with and approved as a rule by the Commission,[4] OCC requires the deposit of intraday margin to reflect changes in the value of securities deposited by the Clearing Member as margin when certain defined thresholds are breached.[5] OCC also issues intraday margin calls when unrealized losses observed for an account based on positions from extended trading hours ("ETH")[6] exceed certain thresholds.[7] In addition, OCC maintains broad

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4 See Exchange Act Release Nos. 99169 (Dec. 14, 2023), 88 FR 88163 (Dec. 20, 2023) (SR-OCC-2023-008); 98101 (Aug. 10, 2023), 88 FR 55775 (Aug. 16, 2023) (SR-OCC-2022-012); 96566 (Dec. 22, 2022), 87 FR 80207 (Dec. 29, 2022) (SR-OCC-2022-010); 91079 (Feb. 8, 2021), 86 FR 9410 (Feb. 12, 2021) (SR-OCC-2020-016); 90797 (Dec. 23, 2020), 85 FR 86592 (Dec. 30, 2020) (SR-OCC-2020-014); 87718 (Dec. 11, 2019), 84 FR 68992 (Dec. 17, 2019) (SR-OCC-2019-010); 86436 (July 23, 2019), 84 FR 36632 (July 29, 2019) (SR-OCC-2019-006); 86119 (June 17, 2019), 84 FR 29267 (June 21, 2019) (SR-OCC-2019-004); 83799 (Aug. 8, 2018), 83 FR 40379 (Aug. 14, 2018) (SR-OCC-2018-010); 82658 (Feb. 7, 2018), 83 FR 6646 (Feb. 14, 2018) (SR-OCC-2017-007).

5 See OCC Rule 609(a) ("[OCC] may require the deposit of additional margin ('intra-day margin') by any Clearing Member in any account at any time during any business day to reflect changes in: . . . (3) the value of securities deposited by the Clearing Member as margin . . . ."); Exchange Act Release No. 82658, supra note 4, 83 FR at 6648 ("Pursuant to the Margin Policy, OCC issues margin calls during standard trading hours when unrealized losses exceeding 50% of an account's total risk charges are observed for that account based on start-of-day positions.").

6 ETH refers to trades executed in extended and overnight trading sessions offered by exchanges for which OCC provides clearance and settlement services. See Exchange Act Release No. 73343 (Oct. 14, 2014), 79 FR 62684 (Oct. 20, 2014) (SR-OCC-2014-805).

7 See Exchange Act Release No. 82355 (Dec. 19, 2017), 82 FR 61060, 61064 (Dec. 26, 2017) (SR-OCC-2017-007) (codifying in the Margin Policy the ETH intraday margin call OCC would issue prior to 9:00 a.m. Central Time when: (1) unrealized losses observed for an account, based on new

authority under OCC Rule 609 to issue intraday margin calls or otherwise set a Clearing Member's margin requirement in other circumstances, including as a protective measure pursuant to Rule 307.[8]

Since the time these existing margin collection processes were established, OCC has observed a significant increase in contract volume and, in particular, volume in option contracts traded on the day of their expiration—so-called "zero-days-to-expiration" or "0DTE" options.[9] Currently, 0DTE option trading volume can spike to up to 40% of total trading volume on Friday expirations.[10] This increase in 0DTE options trading has coincided with the proliferation of option expiries. Traditionally, listed options expired on the third Friday of the month.[11] In 2005, the Chicago Board Options Exchange ("Cboe"), one of the participant exchanges for which OCC provides clearance and settlement services, began listing weekly options on the S&P 500 Index ("SPX") expiring each Friday of the month, and subsequently introduced Monday and Wednesday weekly SPX expirations in 2016 before adding Tuesday and Thursday weekly SPX expirations in 2022.[12] Weekly and daily expiration cycles were introduced to options on

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ETH positions, exceed 25% of that account's total risk charges and (2) the overall Clearing Member portfolio is also experiencing losses).

8 See OCC Rule 307C(b) (providing for protective measures in the form of requiring Clearing Members to adjust the amount or composition of margin, including but not limited to requiring the deposit of additional margin).

9 OCC has provided a confidential Exhibit 3A to File No. SR-OCC-2024-010 a 2023 study it conducted of its risk exposure to short-dated options.

10 Id. at 3-4.

11 Originally, options expiries occurred on the Saturday following the third Friday before the industry moved to Friday expirations in 2013. See Exchange Act Release No. 69772 (June 17, 2013), 78 FR 37645 (June 21, 2013) (File No. SR-OCC-2013-04).

12 See Cboe, The Rise of SPX & 0DTE Options, at 5 (July 27, 2023), available at https://go.cboe.com/l/77532/2023-07-27/ffc83k.

other indexes, single-name stocks, and exchange traded products (e.g., ETFs). As a result, options now expire every trading day of the year.

The increase in 0DTE options trading poses challenges to OCC's risk management, particularly with respect to the management of OCC's overnight and intraday risk exposure to its Clearing Members in between the collections of margin at the start of each business day. Because OCC's STANS margin calculation is based on end-of-day positions, the margin requirement may not account for 0DTE options trading activity, since the Clearing Member would have either traded out of or exercised the options position, or the option would have expired by the end of the day. In addition, OCC's portfolio revaluation process for purposes of determining intraday margin calls to address the change in value of margin collateral is based on a Clearing Member's start-of-day collateral deposits, which would not include margin for 0DTE options positions.

In order to mitigate OCC's overnight and intraday risk exposures, OCC proposes to implement a margin add-on charge (the "Intraday Risk Charge"). OCC would calculate this charge using the system currently employed to monitor Clearing Members' overnight trading activity. Through OCC's Watch Level surveillance under its Third-Party Risk Management Framework, OCC has also used this system to identify patterns of risk increasing activity in 0DTE options for purposes of considering and calculating protective measures in the form of additional margin for particular Clearing Members when certain thresholds have been breached relative to a Clearing Member's net capital. This filing would extend that approach to all Clearing Members (without regard to net capital thresholds) and with respect to all products OCC clears.

(1) Purpose

Proposed Changes

OCC proposes to capture the risks associated with overnight and intraday activity by: (1) establishing an Intraday Risk Charge add-on, and (2) establishing monitoring and escalation criteria for Clearing Members whose intraday activity exceeds certain thresholds relative to its Intraday Risk Charge ("Intraday Monitoring Thresholds").

1. **Intraday Risk Charge Add-On**

OCC proposes to establish the Intraday Risk Charge to help mitigate the increased credit exposure presented by the intraday and overnight trading activities of its Clearing Members. OCC would calculate the charge based on the increased risk identified through OCC's current intraday margin system, which recalculates the STANS margin risk using portfolio position sets updated every 20 minutes between 8:30 a.m. and 6:30 p.m. Central Time, and at-least every hour during ETH sessions.[13] OCC considers that 20 minutes is sufficient time under OCC's current system capabilities to provide consistent and reliable snapshot results at a steady cadence during regular trading hours with heavy trading activity. Outside of regular trading hours and during overnight trading, hourly intervals between snapshots were deemed more appropriate because of the significantly lower trading activity.[14] OCC currently employs and will continue to use this system for ETH

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13 OCC's current ETH monitoring captures snapshots every hour for purposes of determining whether a Clearing Member's overnight activity exceeds certain defined thresholds relative to certain dollar values and a Clearing Member's net capital. See Exchange Act Release No. 74268, 8919 (Feb. 12, 2015), 80 FR 8917 (Feb. 19, 2015) (SR-OCC-2014-24) (describing the escalation thresholds for overnight monitoring).

14 In relation to this proposed rule change, OCC also proposes to revise its ETH monitoring schedule to capture snapshots every 20 minutes to align risk capture intervals over the entire trading day. Specifically, when the proposal is implemented, snapshots will run every 20 minutes throughout a 24-hour cycle beginning on Sunday afternoon at approximately 4:00 p.m. and ending on Friday

monitoring, including to determine when to issue an ETH margin call. This system calculates a forecasted margin requirement as if the positions at that point in time were present during the previous night's margin calculation. Results that show an increase to the prior night's margin requirement based on the STANS expected shortfall[15] and stress test components[16] are considered risk increasing.

OCC proposes to use outputs from the previous night's daily STANS methodology calculation, incorporating current portfolio changes, to monitor that day's peak intraday risk increases (i.e., an average of the largest risk increase calculated on each business day of the lookback period). The Intraday Risk Charge would be calculated monthly as at least the average of the peak intraday risk increases; provided however, that OCC may adjust the Intraday Risk Charge as described further below. The Intraday Risk Charge would be calculated on the first business day of the month and would be based on data and STANS outputs generated over the lookback period, which will be set as the previous month. OCC considers the one-month lookback period, a timeframe that includes one monthly and multiple weekly standard expirations, to be a conservative approach that would react faster to recent changes in the risk behavior of

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evening at approximately 5:50 p.m. Central Time, with no snapshots taken in between Friday evening and the following Sunday afternoon due to the lack of any clearing activity.

15 The STANS expected shortfall component is established as the estimated average of potential losses higher than the 99% value-at-risk ("VaR") threshold. The term "VaR" refers to a statistical technique that, generally speaking, is used in risk management to measure the potential risk of loss for a given set of assets over a particular time horizon.

16 The STANS stress test component includes additional calculations related to (i) concentration, which is intended to consider extreme idiosyncratic moves in concentrated positions, and (ii) dependence, in which the expected shortfall calculations described above are performed twice again, once assuming perfect correlation among the various risk factors and once assuming no correlation among the various risk factors. After performing these concentration and dependence calculations, STANS takes the higher of the two factors and combines it with the empirical expected shortfall to create a more conservative margin requirement for the account.

Clearing Members compared to a more extended lookback period and produces more relevant forecasts for the next monitoring cycle.

OCC proposes to use the average of the peak intraday risk increases as the baseline charge to help address certain limitations of the present system, the most impactful of which is the use of the previous day's theoretical scenarios that do not take into account new underlying prices. The calculation of the peak intraday activity would capture all products that OCC clears, including 0DTE options. The Intraday Risk Charge would apply to all margin accounts other than cross-margin accounts for OCC's cross-margining program with the Chicago Mercantile Exchange ("CME"), which do not currently support intraday position feeds. OCC would retain authority to increase the amount of the charge for a particular Clearing Member beyond the average of the peaks, either when adjusting the Intraday Risk Charge on a monthly basis or on an intra-month basis, when conditions would warrant a different approach consistent with maintaining sufficient financial resources to cover OCC's intraday credit exposure. Conditions that would cause OCC to increase the Intraday Risk Charge above the minimum amount include when OCC determines it maintains insufficient margin resources to cover the pattern or distribution of risk increases over the previous lookback period, or in cases of an account's business expansion. OCC would also have authority to decrease the amount of the charge, which would be limited to a Clearing Member's business reduction, termination of account(s), transfer of positions to different account(s), or the imposition of protective measures under Rule 307B. Such charge adjustments may apply to particular or all Clearing Members.

OCC has reviewed the potential impact of the proposed changes on all Clearing Members over a one (1) year period. OCC has observed that the proposed add-on would have generated an average margin increase of less than 5% in the aggregate.[17] Of the ten firms that would have been most impacted, which collectively represent approximately 68% of the additional margin that would have been assessed, the average daily margin percentage increases range from approximately 3% to 35%, based on data from October 2023.

To establish this new charge, OCC proposes to amend Rule 601 by adding a new paragraph (i). OCC proposes to define the Intraday Risk Charge under proposed Rule 601(i)(1) to mean the additional margin assets required from a Clearing Member to mitigate any increased risk exposure to OCC not otherwise covered by the margin requirements already calculated in accordance with Rule 601 and OCC's policies and procedures. OCC would assess this add-on charge as needed to cover uncollateralized risk from overnight and intraday trading activities. Proposed Rule 601(i)(2) would provide the method of calculation for the proposed Intraday Risk Charge add-on, which would generally be set as the average of the peak intraday risk increases from overnight and intraday positions over the preceding month.[18] Under proposed Rule 601(i)(3), OCC would retain authority to adjust the Intraday Risk Charge if OCC determines that circumstances particular to a Clearing Member's activity would warrant a different approach consistent with maintaining sufficient financial resources to cover OCC's intraday credit exposure. Any adjustment under this Rule to decrease the amount of the

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[17] OCC has included as confidential Exhibit 3C to File No. SR-OCC-2024-010 assessment of the impact of the Intraday Risk Charge on OCC's Clearing Members.

[18] A lookback of one month was selected to represent a complete monthly options expiration cycle.

Intraday Risk Charge calculated from the previous month's intraday risk increases would be limited to a Clearing Member's business reduction, termination of account(s), transfer of positions to different account(s), or the imposition of protective measures under Rule 307B. Rule 601(i)(3) would also provide that OCC retains the authority to adjust the Intraday Risk Charge more frequently than monthly.

OCC would also amend its Margin Policy to describe material aspects of the Intraday Risk Charge. The new charge would be added to the "Add-On Charges" section. That addition would provide that periodically throughout each trading day and during extended trading hours, OCC's systems measure the intraday exposure to each margin account for which intraday position information is available to identify intraday risk increases above the baseline STANS risk measurement. The Margin Policy would define "risk increases" in this context as results that show an increase to a portfolio's prior night calculated risk measurement based on the STANS expected shortfall and stress test components. Clearing Members trading during ETH hours will still be obligated to pay an ETH margin add-on charge, and any ETH related risk controls will continue to operate independently from the proposed Intraday Risk Charge changes.[19]

The Margin Policy would further provide that on at least a monthly basis, OCC's Financial Risk Management department ("FRM") reviews and verifies the daily peak increases based on a referenced procedure maintained by FRM's Market Risk business unit.[20] This verification of risk-increasing activity is intended to address certain known

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[19] Under OCC's current ETH procedures, any Clearing Member that clears overnight activity must pay an ETH margin add-on equal to the lesser of $10 million or 10% of the firm's net capital. See Exchange Act Release No. 74268, supra note 13, 80 FR at 8918.

[20] OCC has provided as confidential Exhibit 3B to File No. SR-OCC-2024-010 a copy of the referenced procedure, the Market Risk Monitoring Procedure, marked to indicate changes that OCC intends to implement upon regulatory approval of this proposal.

limitations in OCC's existing intraday system.[21] For example, the system does not take into account options affected by corporate action adjustments and newly listed option series or strikes, which do not receive adjusted metrics until the next overnight margin calculation process. In addition, the 20-minute snapshot generated by the system may not capture a complete trade in a single snapshot, which may result in a misalignment of the peak calculation for an account. The snapshot timing may also cause collateral movements to be recorded as risk-increasing deposits instead of being risk-reducing movements. Pursuant to the referenced procedures, Market Risk would verify the peak daily results to prevent erroneous results from affecting the calculation of the Intraday Risk Charge. This verification process is similar to, and would proceed in a similar manner as, Market Risk's long-standing process for verifying results from OCC's system for monitoring a portfolio's unrealized losses based on current prices and start-of-day positions for purposes of charging intraday margin calls.[22]

With respect to governance related to imposing the monthly Intraday Risk Charge, the Margin Policy would provide that OCC may impose the Intraday Risk Charge in the amount of the average of the verified peak daily risk increases over the prior month with FRM Officer[23] approval. Adjustments to the charge can occur at the

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21 As addressed in the Market Risk Monitoring Procedure, if a peak generated by the system is determined to represent non-trade activity, it would be excluded. For example, if a peak was determined to be the result of a Reg SCI system disruption, the previous month's average peak would be used as that day's peak daily increase. As another example, peaks could be excluded if they were the result of position and collateral transfers between accounts, which the system assumes are risk increasing (e.g., the transfer of positions from E*Trade to Morgan Stanley resulting from the merger of those Clearing Members).

22 OCC has provided as confidential Exhibit 3D to File No. SR-OCC-2024-010 a copy of OCC's current Portfolio Revaluation Monitoring Procedure, evidencing Market Risk's process for verifying results prior to issuing intraday margin calls when an account exhibits unrealized losses exceeding 50% of that account's total risk charges based upon start-of-day positions.

23 Officers are identified in OCC's By-Laws. See OCC By-Law Art IV. In this context, an FRM Officer would include any member of FRM appointed by the Chief Executive Officer or Chief

time of the monthly review or on an intramonth basis, e.g., in response to the intraday monitoring thresholds discussed below. Reductions would be limited to persistent changes in clearing activity that would reduce the risk profile of the account, e.g., business reduction, account terminations transfer of positions to different account(s), or the imposition of protective measures under Rule 307B. Any changes that would increase the charge over the minimum calculated may result from changes in the pattern or distribution of risk increases over the previous lookback period or persistent changes in clearing activity that would increase the risk profile of the account, e.g. business expansions. If the FRM Officer recommends any changes to an Intraday Risk Charge, the Model Risk Working Group ("MRWG") must review and is authorized to escalate the recommendation to the Office of the Chief Executive Officer, who must review and is authorized to approve the changes.[24] The Margin Policy vests review responsibility and escalation authority to the MRWG because it is a cross-functional group responsible for assisting OCC's management in overseeing OCC's model-related risk comprised of representatives from relevant OCC business units. OCC believes that the MRWG is the appropriate decisionmaker to consider whether a higher Intraday Risk Charge is warranted because it is composed of the subject matter experts most familiar with the performance of and risks associated with OCC's margin models, including personnel in OCC's Model Risk Management business unit, who, under OCC's Risk Management

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Operating Officer, including a Managing Director, Executive Director or Executive Principal. Id., at § 9.

24 Such changes to the Intraday Risk Charge must be based on the current charge being insufficient as defined in Exhibit 5A and confidential Exhibit 5B provided as part of File No. SR-OCC-2024-010.

Framework, are responsible for evaluating model parameters and assumptions and providing effective and independent challenge through OCC's model lifecycle.[25]

2. Intraday Monitoring Thresholds

OCC also proposes to establish monitoring and escalation criteria when a Clearing Member's intraday risk increase departs significantly from the activity that set the Intraday Risk Charge. This new monitoring regime would be separate and independent from any existing ETH-related risk controls and would be run in parallel. OCC proposes to add the new approach to the section of the Margin Policy that currently addresses margin calls and adjustments. The Margin Policy would provide that FRM would establish and maintain "Intraday Risk Charge Monitoring Thresholds" in referenced market risk procedures for verified intraday risk increases that are greater than statistical measures above a Clearing Member's Intraday Risk Charge. Generally, the new credit risk thresholds would be specified as a set of levels based on standard deviations from a Clearing Member's Intraday Risk Charge. The Margin Policy would further provide that on an at-least daily basis, FRM would review the intraday risk increases generated by the intraday risk system against the Intraday Risk Change Monitoring Thresholds. If a verified intraday risk increase breach is greater than the thresholds, the Margin Policy would provide that an FRM Officer may issue a margin call,[26] make a margin adjustment to lock up excess collateral, or recommend protective

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[25] See Exchange Act Release No. 95842, 87 FR at 58416 (File No. SR-OCC-2022-010) (filing to establish OCC's Risk Management Framework). OCC Risk Management Framework is available on OCC's public website: https://www.theocc.com/risk-management/risk-management-framework.

[26] Margin calls in this context are demands by OCC to Clearing Members for the deposit of additional margin in immediately available funds to increase their margin resources to meet increased margin requirements. Margin calls are issued subject to OCC's policies and procedures.

measures under Rule 307. The Margin Policy would further provide that any margin call would be calculated as the difference between the reviewed intraday risk increase and the Intraday Risk Charge.[27] The intraday margin calls would only be increasing financial resources to OCC. Generally, the intraday margin call would be released the next business day. Based upon a review of intraday margin runs during 2023, OCC estimates collections of approximately $80.5 million per day and issuing on average five margin calls each day for $16.1 million.

With respect to governance related to the Intraday Risk Charge Monitoring Thresholds, the Margin Policy would also provide that FRM coordinates a review of those thresholds, as well as the calculation and lookback period, on an at least annual basis, or on an ad-hoc basis, as needed. OCC retains the authority to adjust the Intraday Risk Charge Monitoring Thresholds, as well as the calculation and lookback period, based on the review of intraday risk posed by that Clearing Member's portfolio changes. Any such adjustment to the Intraday Risk Charge Monitoring Thresholds, calculation, or lookback period may apply to particular or all Clearing Members depending on an analysis of the activity generating peak intraday margin numbers, the number of breaches above the monitoring thresholds, and overall market activity and trends within the lookback period. The review would be presented to the MRWG, which must review and

[27] OCC may issue an intraday margin call if the account remains in breach of the thresholds at or around 12:00 pm based on the risk increase that is the difference between the reviewed intraday risk increase and the Intraday Risk Charge. OCC may determine that a margin call is not warranted if the risk increase can be attributed to one or more intraday events or actions including but not limited to portfolio level changes resulting from positive offsetting P&L amounts or positive offsetting asset values for options and collateral, or from non-risk increasing events such as the substitution of collateral or the pledging of additional valued securities within the same account. In addition, OCC may determine that a margin call is not warranted if the risk increase in the account is the result of a corporate action, or the result of position transfers between accounts such as delayed CMTA's from execution only accounts, or when a P&L unrealized loss generates a margin call that exceeds the intraday margin call.

is authorized to escalate any recommended changes to the Office of the Chief Executive Officer, who must review and is authorized to approve them. OCC's Risk Committee will be notified of all changes. As discussed above,[28] OCC believes that the MRWG is the appropriate decisionmaker to consider any changes to the Monitoring Thresholds because it is composed of the subject matter experts most familiar with the performance of and risks associated with OCC's margin models.

Implementation Timeframe

OCC will release and implement the proposed changes into production within one hundred and twenty (120) days after the date that OCC receives all necessary regulatory approvals for the proposed changes. OCC will announce the implementation date of the proposed change by an Information Memorandum posted to its public website at least 2 weeks prior to implementation.

(2) Statutory Basis

OCC believes that the proposed changes are consistent with Section 17A(b)(3)(F) of the Exchange Act[29] and SEC Rule 17Ad-22(e)(6)(ii) thereunder.[30] Section 17A(b)(3)(F) of the Act[31] requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities and derivatives transactions and, in general protect investors and the public interest. OCC proposes to introduce a new Intraday Risk Charge add-on with certain associated monitoring procedures and establish new risk-based credit risk monitoring thresholds.

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28 See supra note 25 and accompanying text.

29 15 U.S.C. 78q-1(b)(3)(F).

30 17 CFR 240.17Ad-22(e)(6)(ii).

31 15 U.S.C. 78q-1(b)(3)(F).

The proposed rule change as described above would enhance OCC's framework for measuring, monitoring, and managing its credit risk. Currently, OCC may be exposed to increased credit exposure from uncollateralized overnight and intraday trading activity, including that of 0DTE options that is not otherwise collateralized and captured by OCC's current margin system at the start of each business day. OCC believes the proposed changes would enable OCC to mitigate the credit exposure resulting from the increased risk of overnight and intraday trading that includes 0DTE option contracts by using the system it currently operates to monitor overnight trading activity. The Intraday Risk Charge would provide OCC with additional margin resources to help mitigate this risk and allow OCC to continue to provide prompt and accurate clearance and settlement services of securities and derivatives transactions without disruption in the event of a Clearing Member default. Given OCC's designation as a systemically important financial market utility,[32] OCC believes that changes that promote the prompt and accurate clearance and settlement thereby is in the public interest and the interests of investors. For these reasons, OCC believes the proposed changes are designed to promote the prompt and accurate clearance and settlement of securities transactions in accordance with Section 17A(b)(3)(F) of the Exchange Act.[33]

Rule 17Ad-22(e)(6)(ii) requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, at a minimum, marks participant positions to market and collects margin, including variation margin or

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[32] The Financial Stability Oversight Council designated OCC as a SIFMU under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, 12 U.S.C. 5463.

[33] 15 U.S.C. 78q-1(b)(3)(F).

equivalent charges if relevant, at least daily and includes the authority and operational capacity to make intraday margin calls in defined circumstances.[34] As discussed above, the Intraday Risk Charge would be applied daily to each marginable account based on that account's intraday risk increases from the previous month. Through the proposed Intraday Monitoring Thresholds, OCC would monitor accounts for intraday and overnight activity that deviates from the risk increasing activity that set the Intraday Risk Charge the previous month and would be authorized to issue a margin call or take other action to protect OCC in such defined circumstances. Accordingly, OCC believes that the proposal is consistent with Rule 17Ad-22(e)(6)(ii).[35]

For the above reasons, OCC believes that the proposed rule change is consistent with Section 17A of the Exchange Act[36] and the rules and regulations thereunder applicable to OCC.

(B) <u>Clearing Agency's Statement on Burden on Competition</u>

Section 17A(b)(3)(I) requires that the rules of a clearing agency do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[37] The proposed introduction of the new Intraday Risk Charge add-on and establishment of new credit risk monitoring thresholds would be used by OCC to manage its credit risk across all Clearing Members. Accordingly, OCC does not believe that the proposed rule change would unfairly hinder access to OCC's services.

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[34] 17 CFR 240.17Ad-22(e)(6)(ii).

[35] <u>Id.</u>

[36] 15 U.S.C. 78q-1.

[37] 15 U.S.C. 78q-1(b)(3)(I).

While the proposed rule change may impact different accounts to a greater or lesser degree depending on each Clearing Member's trading activity, including portfolios containing a greater volume of 0DTE option positions, OCC does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. As discussed above, OCC is obligated under the Exchange Act and the regulations thereunder to establish, implement, maintain and enforce written policies and procedures reasonably designed to cover its credit exposures to its participants by establishing a risk-based margin system that, among other things, (i) considers, and produces margin levels commensurate with the risks and particular attributes of each relevant product, portfolio, and market, and (ii) marks participant positions to market and collects margin, including variation margin or equivalent charges if relevant, at least daily and includes the authority and operational capacity to make intraday margin calls in defined circumstances.[38] Overall, the impact analysis from the proposed baseline approach indicates there would be on average a small add-on included across all Clearing Member margin requirements, with the more significant add-on charges attributed to Clearing Members in a manner that ties with their overnight and intraday trading activities and the increased risk they present to OCC.

Moreover, the proposed rule change relates to risk management changes designed to mitigate OCC's credit exposure from the increased risk generated from Clearing Member trading activities during the overnight session and intraday trading that includes 0DTE option contracts. As noted above, the risk exposure from the significant increase in intraday trading activity of 0DTE options may not be adequately captured under

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[38] See 17 CFR 240.17Ad-22(e)(6)(i)-(ii).

OCC's current margin system. OCC believes the Intraday Risk Charge would be a risk-based approach suitable to capturing the increased intraday risk exposure presented to OCC from such trading activities. Furthermore, the proposed rule change would be applied uniformly across all Clearing Members and affect all cleared products, including 0DTE option contracts and ETH eligible products, and provide greater clarity to all market participants on margin requirements for overnight and intraday trading. Accordingly, OCC believes that the proposed rule change would not impose any burden or impact on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

(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.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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 (*https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include file number SR-OCC-2024-010 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-OCC-2024-010. 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 (*https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking)*. 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 a.m. and 3 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/Company-Information/Documents-and-Archives/By-Laws-and-Rule*s.

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-2024-010 and should be submitted on or before [INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

J. Matthew DeLesDernier,

Deputy Secretary.

[39] 17 CFR 200.30-3(a)(12).