

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-94587; File No. SR-OCC-2022-004)

April 1, 2022

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Settlement Timing.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 22, 2022, The Options Clearing Corporation (“OCC” or “Corporation”) 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. 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 by OCC would revise the required settlement time from 9:00 am Central Time (“CT”) to 8:00 am CT. In order to make this change, OCC is proposing changes to the OCC By-Laws (“By-Laws”) and Rules. The proposed changes to OCC’s By-Laws and Rules are included as Exhibits 5A – 5C to file number SR-OCC-2022-004. Material proposed to be added is underlined and material proposed to be deleted is marked in strikethrough text. All terms with initial capitalization that are not

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.<sup>3</sup>

**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

OCC is filing this proposed rule change to change the time frame for collecting Margin<sup>4</sup> and Clearing Fund deficits as well as increases in the Clearing Fund cash requirement ("Settlement Funds"). The proposed changes are generally intended to shorten the collection period for Settlement Fund deficits and align the time for satisfying

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<sup>3</sup> OCC's By-Laws and Rules can be found on OCC's website: <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

<sup>4</sup> Current OCC Rule 706(b) allows OCC to specify the settlement time for cross-margin accounts with Participating CCOs. As of the date of this filing, OCC only maintains cross-margin accounts with one Participating CCO, the Chicago Mercantile Exchange ("CME"). OCC's Operations Manual specifies that the settlement time for OCC/CME cross margin debits is 7:30 am CT. This filing will not change the start-of-day settlement time for OCC/CME cross-margin debits. For the avoidance of doubt, the settlement time for OCC's internal cross-margin program under Article VI, Section 25 of OCC's By-Laws will be 8:00 am CT.

start of day settlement to 8:00 am CT (“SOD Settlement Time”). OCC believes the proposed changes will reduce operational complexity by creating a more uniform settlement time for Clearing Fund deficits. The earlier SOD Settlement Time will also provide OCC with additional time to address a default event and implement protective actions. To provide increased transparency, the proposal also grants OCC discretion to extend funding deadlines when warranted by the circumstances (e.g., operational or system difficulties).

The contents of the proposed rule change are summarized as follows.

### **Background**

Under OCC’s Rules, there are different windows for the collection of Settlement Funds depending on the reason for the deficit, and the settlement time for satisfying such deficits may vary. For example, OCC Rule 1005(a) currently requires Clearing Members to satisfy any general deficits within one hour of receiving notice from OCC; OCC Rule 1005(b) currently requires Clearing Members to satisfy any deficits related to a monthly or intra-month resizing of the Clearing Fund by 9:00 am CT on the second business day following notice from OCC; and whenever an amount is paid out of the Clearing Fund, OCC Rule 1006(h) requires Clearing Members to replenish the Clearing Fund following a charge thereto by 9:00 am CT on the first business day following notice from OCC. In certain cases, such as the monthly Clearing Fund sizing process, the current Rules provide a two day period for Clearing Members to deposit any additional required Clearing Fund assets, while simultaneously Clearing Members are eligible to withdraw any excess contributions based upon the new requirement. To address these issues, OCC proposes to change OCC’s rules concerning the collection of Settlement Funds. The

proposed changes would, in general, allow OCC to reduce operational complexity by creating a more uniform settlement time for Clearing Fund deficits.

In addition, OCC proposes to align the collection of Settlement Funds with a consistent SOD Settlement Time. OCC's current SOD Settlement Time is 9:00 am CT; however, the Board approved changing the SOD Settlement Time to 8:00 am CT. By aligning the SOD Settlement Time for margin and Clearing Fund deficiencies, OCC believes the proposed change would provide a clear and consistent process for collecting Settlement Funds. Moving to an earlier settlement time would also provide OCC with more time to address a default event and implement necessary protective actions, including securing funds from its liquidity providers.

#### **Changes to By-Laws**

Currently, two definitions in OCC's By-Laws (Article I, Definitions; Article XV, Foreign Currency Options, Definitions) refer to the term "settlement time" as 9:00 am CT (10:00 am Eastern Time ("ET")). OCC proposes moving the definition in Article I of OCC's By-Laws to Chapter I, Rule 101 of OCC's Rules. This defined term does not appear elsewhere in the By-Laws, but is routinely used in OCC's Rules. OCC also proposes updating both definitions to instead provide for "settlement time" to be 8:00 am CT (9:00 am ET). Additionally, OCC proposes to clarify in the definition that would move to OCC's Rules that "settlement time" does not include settlements related to any cross-margin program with a Participating CCO. OCC Rule 706 allows OCC to specify the settlement time for cross-margin accounts with Participating CCOs. This filing will not change the start-of-day settlement time for the OCC/CME cross-margin account,

which is currently 7:30 am CT, but will clarify any potential ambiguity about the start-of-day settlement time for these accounts.

## **Changes to Rules**

### *Daily Margin Report*

OCC Rule 605 currently requires Clearing Members to satisfy margin deficits by 9:00 am CT (10:00 am ET). OCC proposes to update Rule 605 to reference the above referenced defined term “Settlement Time.”

Interpretation and Policy .01 to Rule 605 currently provides that the Daily Margin Report will not include the amount of margin required for variance futures and requires OCC to advise Clearing Members of margin requirements for variance futures by 9:00 am CT (10:00 am ET). When OCC clears variance futures, the margin requirements for such products would be included in the Daily Margin Report. Accordingly, OCC proposes to delete Interpretation and Policy .01 to Rule 605.

### *Monthly and Intra-Month Resizing*

OCC Rule 1005(b) currently requires that Clearing Members satisfy any deficits due to a monthly or intra-month Clearing Fund resizing by the SOD Settlement Time on the second business day following notification of the resizing. The two-day collection period was intended to provide Clearing Members with sufficient notice of any changes to their Clearing Fund contribution requirements. However, this two-day collection period complicates the monitoring of OCC’s prefunded credit and liquidity resources.

To address these issues, Management proposes to amend Rule 1005(b) to require that deficits due to the standard monthly resizing of the Clearing Fund be satisfied by the SOD Settlement Time on the first business day of each month. The proposed change

would reduce the time to collect Clearing Fund deficits required to meet the new monthly Clearing Fund size. This change would reduce operational complexity related to the monitoring of OCC's prefunded credit and liquidity resources by providing transparency and certainty to OCC around OCC's available liquidity resources during the resizing process. Management also proposes to shorten the collection period for intra-month resizing to the next SOD Settlement Time following notification of the re-sizing to align with the monthly resizing period and other Clearing Fund deficit collection times and help ensure that OCC maintains adequate prefunded financial resources at all times. To provide additional transparency, Rule 1005(b) also grants OCC discretion to extend funding deadlines when warranted by the circumstances (e.g., operational or system difficulties).

#### *General Deficits*

OCC Rule 1005(a) currently requires that general Clearing Fund deficits (e.g., deficits caused by a decrease in the value of a Clearing Member's contribution or due to an adjusted contribution pursuant to Rule 1004<sup>5</sup>) must be satisfied within one hour of being notified of the deficit. As a practical matter, these deficits are currently generally collected in the morning each business day but outside of the start of day settlement cycle, which means that OCC currently processes two separate collections from certain Clearing Members.

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<sup>5</sup> Under Rule 1004, Clearing Fund contributions may be adjusted due to a Clearing Member merger, consolidation, position transfer, business expansion, membership approval or other similar event.

OCC proposes to revise its rules to align the collection of general Clearing Fund deficits with the proposed SOD Settlement Time to provide consistency in settlement times throughout OCC's rules. Under revised Rule 1005(a), OCC would collect a general deficit arising under Rule 1005(a) at the Settlement Time, provided that it notified the Clearing Member of such deficit at least one hour prior to the Settlement Time on the day the notice was provided. Notice of general deficits under Rule 1005(a) would typically be provided to Clearing Members through OCC's overnight reporting process but may also be issued in response to market conditions or adjustments arising from mergers, consolidations, position transfers, business expansions, membership approval or other similar events. To achieve the operational efficiency contemplated by the proposal, the proposed revisions to Rule 1005(a) would align the collection period for general deficits to the Settlement Time in the ordinary course, and continue to provide Clearing Members with one hour to satisfy a deficit if notice was not provided at least one hour before the Settlement Time on a particular day. To provide additional transparency, Rule 1005(a) also grants OCC discretion to extend funding deadlines when warranted by the circumstances (e.g., operational or system difficulties).

#### *Adjustments to Clearing Fund Contributions*

Rule 1004 provides that any deficiency arising from an adjustment due to a Clearing Member merger, consolidation, position transfer, business expansion, membership approval or other similar event shall be satisfied in accordance with Rule 1005(a). Rule 1004 currently provides an exception that allows a Clearing Member to satisfy an obligation that would be due on the first business day of a calendar month to be satisfied on the second business day if the deficit coincides with a regular monthly sizing

collection. The proposal would eliminate this exception because regular monthly sizing deficits would no longer be collected two business days after notification under the proposed formulation of Rule 1005.

#### *Replenishment and Assessments*

OCC Rule 1006(h) currently requires that Clearing Members make good any charges to the Clearing Fund, whether in the form of replenishments or assessments, by 9:00 am the following business day. OCC proposes to amend Rule 1006(h) to align the collection period for replenishments and assessments with the proposed SOD Settlement Time. OCC believes that using the defined term “Settlement Time” rather than stating a specific time in Rule 1006(h) will help achieve the consistency intended by this proposal. As described above, aligning the time for satisfying settlement and Clearing Fund obligations to the new definition of Settlement Time will reduce operational complexity by creating a more uniform settlement time. Moving to the earlier time (i.e., 8:00 am CT) would also provide OCC with more time to address a default event and implement necessary protective actions, including securing funds from its liquidity providers. OCC also proposes to make corresponding changes to Rule 1006(h)(B), which reiterates that each Clearing Member shall have and shall at all times maintain the ability to make good any deficiency described in Rule 1006(h) during a cooling-off period.

OCC also proposes to amend Rule 1006(h)(A) and Rule 1006(h)(B) to allow the Corporation to specify a later time for which Clearing Members must make good on any charges to the Clearing Fund. The purpose of this change is to provide increased



transparency by granting OCC discretion to extend funding deadlines when warranted by the circumstances (e.g., operational or system difficulties).

*Deficits Due to Amendment of OCC's Rules*

Currently, under Rule 1002(e), if a Clearing Member's contribution to the Clearing Fund increases due to an amendment of OCC's Rules, the increase shall not become effective until the Clearing Member is given at least two business days prior written notice of the amendment. This notification period provides time for any Clearing Member to notify OCC in writing that it wishes to terminate its clearing membership and close out or transfer its open positions before the effective date of the amendment. Clearing Members that do not notify OCC of such termination must satisfy the increased contribution by 9:00 am CT on the second business day following notification of the amendment.

OCC proposes to allow a five-business day notification period to allow Clearing Members additional time to determine whether to terminate clearing membership as a result of any such rule change and close out or transfer all open positions before the effective date of the amendment. The purpose of this change is to update Rule 1002(e) to better reflect OCC's current practice pursuant to which Clearing Members are generally afforded more than five-business days' notice of any change in Clearing Fund requirements that result from an amendment of OCC's Rules through the regulatory filing process. As this change codifies an existing practice, OCC does not believe it will modify Clearing Member behavior or otherwise have an adverse impact on OCC.

OCC also proposes to revise Rule 1002(e) to align with the proposed SOD Settlement Time. As described above, this change is intended to reduce operational

complexity by creating a more uniform settlement time for Clearing Fund deficits, including those described in Rule 1002(e), that aligns with the current collection period for other obligations to OCC.

*Temporary Increase in Clearing Fund Cash Requirement*

Interpretation and Policy .03 to Rule 1002 requires Clearing Members to satisfy any increase in their required cash contribution resulting from an increase in overall Clearing Fund Cash Requirement no later than the second business day following notification of the increase. OCC proposes to revise Rule 1002 to require that Clearing Members satisfy an increase in required cash contributions by the first SOD Settlement Time following notification of the increase. The purpose of this change is to reduce operational complexity by creating a more uniform settlement time that aligns with the current collection period for other obligations to OCC.

*Conforming Changes to Policies and Agreements*

In connection with the proposed changes described above, OCC will need to make conforming changes to the Clearing Fund Methodology Policy. These changes include updating the policy to reflect the timing for satisfying an increase to the Clearing Fund Cash Requirements and eliminating the policy language describing the exception set forth in Rule 1004 as described more fully above. These changes are intended to update the Clearing Fund Methodology Policy to conform with the proposed changes to OCC's rules described above and support the reduced operational complexity that OCC expects to achieve by creating a more uniform SOD Settlement Time.

(2) Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Act<sup>6</sup> and the rules thereunder applicable to OCC. Section 17A(b)(3)(A) of the Act<sup>7</sup> requires, among other things, that a clearing agency be so organized and have the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions and derivatives agreements, contracts, and transactions for which it is responsible. OCC believes the proposed rule change is consistent with this requirement because the change would improve OCC's capacity to facilitate clearance and settlement by allowing OCC to collect financial resources consistent with its calculated requirements as soon as reasonably possible. OCC believes this change will facilitate the prompt and accurate settlement of the transactions for which it is responsible by harmonizing various settlement deadlines thereby reducing operational complexity. The change would also facilitate the prompt and accurate settlement of transactions by providing OCC assurance about available funds earlier on each business day.

OCC also believes that the proposed rule change is consistent with the requirement in Rule 17Ad-22(e)(3)(i)<sup>8</sup> to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for managing legal, credit, liquidity, operational, general business, investment, custody and other risks that arise in or are borne by OCC. OCC

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<sup>6</sup> 15 U.S.C. 78q-1.

<sup>7</sup> 15 U.S.C. 78q-1(b)(3)(A).

<sup>8</sup> 17 CFR 240.17Ad-22(e)(3)(i).

believes the proposed SOD Settlement Time changes will contribute to OCC's sound risk management framework for managing the risks borne by OCC. For example, OCC believes the proposed changes will reduce its liquidity risk by assuring start of day settlement requirements are met earlier on each business day. Additionally, OCC believes adding consistency to its start of day settlement time requirements will reduce operational risk by simplifying the requirements around settlement for both Clearing Members and OCC. While cross-margin deficits will still be required to be met by 7:30 am CT, all other Settlement Funds will be required by 8:00 am CT. OCC believes this reduction in complexity around required settlement timing will reduce risk and contribute to OCC's sound risk management framework. The proposal would also improve OCC's process for addressing delays arising from operational issues or system difficulties by granting OCC discretion to extend certain funding deadlines when warranted by the circumstances.

The proposal is also consistent with the requirement in Rule 17Ad-22(e)(8) to establish, implement, maintain, and enforce policies and procedures reasonably designed to define the point at which settlement is final to be no later than the end of the day on which the payment or obligation is due. Under the proposal, settlement finality for transactions cleared by OCC occurs when a settlement bank either accepts or confirms the settlement instruction. Moving to the earlier time would promote settlement finality by allowing OCC to more quickly identify issues that could potentially impact its ability to settle transactions (e.g., a Clearing Member default) and providing OCC with additional time to take protective actions, including securing funds from its liquidity providers.

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 Exchange Act 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.<sup>9</sup> OCC does not believe that the proposed rule change would impact or impose any burden on competition. In connection with these changes, OCC will continue to provide daily reporting to Clearing Members with projected requirements to provide notice and transparency. While the proposed rule changes would reduce the time that Clearing Members have to respond to start of day settlement requirements, OCC does not believe the proposed change would present an undue burden on OCC's Clearing Members.

Additionally, the proposed rule changes would apply to all Clearing Members consistently and would not provide any Clearing Member with a competitive advantage over any other Clearing Member. Further, the proposed rule change would not affect Clearing Member's access to OCC's services or impose any direct burdens on Clearing Members. Accordingly, the proposed rule change would not unfairly inhibit access to OCC's services or disadvantage or favor any particular user in relationship to another user.

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<sup>9</sup> 15 U.S.C. 78q-1(b)(3)(I).

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Act applicable to clearing agencies, and would not 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.

**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.

OCC shall post notice on its website of proposed changes that are implemented.

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 (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2022-004 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-2022-004. 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/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

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-2022-004 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.<sup>10</sup>

J. Matthew DeLesDernier  
Assistant Secretary

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<sup>10</sup> 17 CFR 200.30-3(a)(12).