

information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Pamela Dyson, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov.

Dated: March 22, 2018.

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82926; File No. SR-OCC-2017-020]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Instituting Proceedings To Determine Whether To Approve or Disapprove the Proposed Rule Concerning Enhanced and New Tools for Recovery Scenarios

March 22, 2018.

I. Introduction

On December 18, 2017, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2017-020 ("Proposed Rule Change"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² The Proposed Rule Change was published for comment in the **Federal Register** on December 26, 2017.³ On

January 25, 2018, the Commission designated a longer period within which to approve the Proposed Rule Change, disapprove the Proposed Rule Change, or institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.⁴ To date,⁵ the Commission has received one comment letter to the Proposed Rule Change.⁶ The Commission is publishing this order pursuant to Section 19(b)(2)(B) of the Act⁷ to institute proceedings to determine whether to approve or disapprove the Proposed Rule Change.

Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to the Proposed Rule Change, nor does it mean that the Commission will ultimately disapprove the Proposed Rule Change. Rather, as discussed below, the Commission seeks additional input on the Proposed Rule Change and issues presented by the proposal.

II. Description of the Proposed Rule Change⁸

The Proposed Rule Change would make certain revisions to OCC's Rules and By-Laws⁹ to enhance OCC's existing tools to address the risks of liquidity shortfalls and credit losses and to establish new tools by which OCC could re-establish a matched book following a default.¹⁰ Each of the proposed tools is contemplated to be deployed by OCC in an extreme stress event that has placed OCC into a

recovery or orderly wind-down scenario.¹¹

OCC proposed to make four revisions to its Rules and By-Laws. First, OCC proposed to revise the existing assessment powers in Section 6 of Article VIII of OCC's By-Laws, specifically to:

(a) Establish a rolling cooling-off period that would be triggered by the payment of a proportionate charge against the Clearing Fund (*i.e.*, a triggering proportionate charge), during which period the aggregate liability of a Clearing Member to replenish the Clearing Fund (inclusive of assessments) would be 200 percent of the Clearing Member's required contribution as of the time immediately preceding the triggering proportionate charge;¹²

(b) Clarify that a Clearing Member that chooses to terminate its membership status during a cooling-off period will not be liable for replenishment of the Clearing Fund immediately following the expiration of such cooling-off period, provided that the withdrawing Clearing Member satisfies enumerated criteria, including providing notice of such termination by no later than the end of the cooling-off period and by closing-out or transferring all its open positions with OCC by no later than the last day of the cooling-off period;¹³ and

(c) Delineate between the obligation of a Clearing Member to replenish its contributions to the Clearing Fund and its obligations to meet additional assessments that may be levied following a proportionate charge to the Clearing Fund.¹⁴

Second, OCC proposed to adopt a new rule that would provide OCC with discretionary authority to call for voluntary payments from non-defaulting Clearing Members in a circumstance where one or more Clearing Members has already defaulted and OCC has determined that it may not have sufficient resources to satisfy its obligations and liabilities resulting from such default ("Rule 1009").¹⁵ Rule 1009 also would establish that OCC would prioritize compensation of Clearing Members that made voluntary payments from any amounts recovered from the defaulted Clearing Members.¹⁶

Third, OCC proposed to adopt a new rule that would provide the following authority ("Rule 1111"):

¹¹ *Id.*

¹² *Id.* at 61108, 61109.

¹³ *Id.* at 61108, 61109-10.

¹⁴ *Id.* at 61109, 6110.

¹⁵ *Id.*

¹⁶ *Id.*

("Advance Notice"). 12 U.S.C. 5465(e)(1) and 17 CFR 240.19b-4(n)(1)(i), respectively. The Advance Notice was published in the **Federal Register** on January 23, 2018. Securities Exchange Act Release No. 82513 (Jan. 17, 2018), 83 FR 3244 (Jan. 23, 2018) (SR-OCC-2017-809).

The Financial Stability Oversight Council designated OCC a systemically important financial market utility on July 18, 2012. See Financial Stability Oversight Council 2012 Annual Report, Appendix A, available at <http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf>. Therefore, OCC is required to comply with the Payment, Clearing and Settlement Supervision Act and file advance notices with the Commission. See 12 U.S.C. 5465(e).

⁴ Securities Exchange Act Release No. 82585 (Jan. 25, 2018), 83 FR 4526 (Jan. 31, 2018) (File No. SR-OCC-2017-020).

⁵ The comment period closed on January 16, 2018. See Notice, *supra* note 3, 28 FR at 61116.

⁶ See letter from Jacqueline H. Mesa, Senior Vice President of Global Policy, Futures Industry Association, dated January 16, 2018, to Brent J. Fields, Secretary, Commission ("FIA Letter"), available at <https://www.sec.gov/comments/sr-occ-2017-020/occ2017020.htm>.

⁷ 15 U.S.C. 78s(b)(2)(B).

⁸ The description of the Proposed Rule Change is substantially excerpted from the Notice. See Notice, *supra* note 3, 82 FR at 61107-61109.

⁹ OCC's By-Laws and Rules can be found on OCC's public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

¹⁰ Notice, *supra* note 3, 82 FR at 61107.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 82351 (Dec. 19, 2017), 82 FR 61107 (Dec. 26, 2017) (SR-OCC-2017-020) ("Notice"). On December 8, 2017, OCC also filed a related advance notice (SR-OCC-2017-809) with the Commission pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act, entitled the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b-4(n)(1)(i) under the Act

(a) Allow OCC to call for voluntary tear-ups (“Voluntary Tear-Up”) ¹⁷ of non-defaulting Clearing Member and/or customer positions at any time following the suspension or default of a Clearing Member, with the scope of any such Voluntary Tear-Ups being determined by the Risk Committee of OCC’s Board (“Risk Committee”); ¹⁸

(b) Allow OCC’s Board to vote to tear-up the Remaining Open Positions ¹⁹ of a defaulted Clearing Member, as well as any Related Open Positions ²⁰ in a circumstance where OCC has attempted one or more auctions of such defaulted Clearing Member’s remaining open positions and OCC has determined that it may not have sufficient resources to satisfy its obligations and liabilities resulting from such default, with the scope of any such tear-up (“Partial Tear-Up”) ²¹ being determined by the Risk Committee; ²² and

(c) Allow OCC’s Board to vote to re-allocate losses, costs and fees imposed upon holders of positions extinguished in a Partial Tear-Up through a special charge levied against remaining non-defaulting Clearing Members. ²³

Fourth and finally, OCC proposed to revise the descriptions and authorizations in Article VIII of OCC’s By-Laws concerning the use of the Clearing Fund to reflect its discretion to use remaining Clearing Fund contributions to re-allocate losses imposed on non-defaulting Clearing Members and customers from a Voluntary Tear-Up or a Partial Tear-Up. ²⁴

III. Summary of Comment Received

On January 16, 2018, the Commission received a comment letter from the Futures Industry Association (“FIA”). ²⁵ In the comment letter, FIA stated that it had identified a number of areas where it did not support the approach that OCC proposed in the Proposed Rule Change, and it separated its response into two sections. ²⁶

First, with respect to replenishment of the Clearing Fund, the FIA stated that OCC “should provide an explanation as to how the cap level of 200% [regarding assessments in a cooling-off period] was determined and why [OCC] considers 200% appropriate, rather than a lower

cap level.” ²⁷ Second, with respect to Partial Tear-Up, the FIA generally supported its use as a position rebalancing tool. ²⁸ The FIA stated, however, that its belief that “it is [not] reasonable nor analytically sound for tear-ups to result in incremental costs of undefined amounts being distributed through assessments, as it effectively enables the Board of OCC to engage in unlimited assessments.” ²⁹

Additionally, the FIA stated that “where a cleared trade is selected by the Board of OCC for Partial Tear-Up, the price of the trade should be determined objectively (either by marking to market or an objective best-estimate of market price), not on a discretionary basis.” ³⁰ The FIA also stated that “OCC should ensure that the design and application of Partial Tear-Ups do not disincentivize bidding in default management auctions.” ³¹

IV. Proceedings To Determine Whether To Approve or Disapprove File No. SR–OCC–2017–020 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act to determine whether the Proposed Rule Change should be approved or disapproved. ³² Institution of proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposed Rule Change. As noted above, institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, the Commission seeks and encourages interested persons to provide additional comment on the Proposed Rule Change and provide arguments to support the Commission’s analysis as to whether to approve or disapprove the Proposed Rule Change.

Pursuant to Section 19(b)(2)(B) of the Act, ³³ the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis, and input from, commenters with respect to the Proposed Rule Change’s consistency with the Act and the rules thereunder, including the following:

- Section 17A(b)(3)(F) of the Act, ³⁴ which requires, in part, that the rules of a clearing agency be designed to

promote the prompt and accurate clearance and settlement of securities transactions, assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest; and

- Rule 17Ad–22(e)(3)(ii) of the Act, ³⁵ which requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to plan for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.

V. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the Proposed Rule Change with respect to the issues identified above, as well as any other concerns they may have with the Proposed Rule Change. In particular, the Commission invites the written views of interested persons concerning whether the Proposed Rule Change is consistent with Section 17A(b)(3)(F) and Rule 17Ad–22(e)(3)(ii) under the Act, cited above, or any other provision of the Act, rules, and regulations thereunder.

Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation. ³⁶

Interested persons are invited to submit written data, views, and arguments regarding whether the Proposed Rule Change should be approved or disapproved by April 17, 2018. Any person who wishes to file a rebuttal to any other person’s submission must file that rebuttal by May 1, 2018.

Comments may be submitted by any of the following methods:

³⁵ 17 CFR 17Ad–22(e)(3)(ii).

³⁶ Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

¹⁷ See *id.* at 61110 (defining Voluntary Tear-Up).

¹⁸ *Id.* at 61109, 61110–11.

¹⁹ See *id.* at 61111 (defining Remaining Open Positions).

²⁰ See *id.* (defining Related Open Positions).

²¹ See *id.* at 61109 (defining Partial Tear-Up).

²² *Id.* at 61109, 61111–12.

²³ *Id.* at 61109, 61112.

²⁴ *Id.*

²⁵ See FIA Letter, *supra* note 4.

²⁶ FIA Letter at 1.

²⁷ *Id.* at 2.

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² 15 U.S.C. 78s(b)(2)(B).

³³ *Id.*

³⁴ 15 U.S.C. 78q–1(b)(3)(F).

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File No. SR-OCC-2017-020 on the subject line.

Paper Comments

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

All submissions should refer to File No. SR-OCC-2017-020. This file number should be included on the subject line if email 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 No. SR-OCC-2017-020 and should be submitted on or before April 17, 2018. If comments are received, any rebuttal comments should be submitted on or before May 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁷

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-06105 Filed 3-26-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-135, OMB Control No. 3235-0176]

Submission for OMB Review; Comment Request*Upon Written Request, Copies Available*

From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736

Extension:

Rules 8b-1 to 8b-33

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rules 8b-1 to 8b-33 (17 CFR 270.8b-1 to 8b-33) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) ("Investment Company Act") set forth the procedures for preparing and filing a registration statement under the Investment Company Act. These procedures are intended to facilitate the registration process. These rules generally do not require respondents to report information.¹

The Commission believes that it is appropriate to estimate the total respondent burden associated with preparing each registration statement form rather than attempt to isolate the impact of the procedural instructions under Section 8(b) of the Investment Company Act, which impose burdens only in the context of the preparation of the various registration statement forms. Accordingly, the Commission is not submitting a separate burden estimate for rules 8b-1 through 8b-33, but instead will include the burden for these rules in its estimates of burden for each of the registration forms under the Investment Company Act. The Commission is, however, submitting an

¹ Although the rules under Section 8(b) of the Investment Company Act are generally procedural in nature, two of the rules require respondents to disclose some limited information. Rule 8b-3 (17 CFR 270.8b-3) provides that whenever a registration form requires the title of securities to be stated, the registrant must indicate the type and general character of the securities to be issued. Rule 8b-22 (17 CFR 270.8b-22) provides that if the existence of control is open to reasonable doubt, the registrant may disclaim the existence of control, but it must state the material facts pertinent to the possible existence of control. The information required by both of these rules is necessary to insure that investors have clear and complete information upon which to base an investment decision.

hourly burden estimate of one hour for administrative purposes.

The collection of information under rules 8b-1 to 8b-33 is mandatory. The information provided under rules 8b-1 to 8b-33 is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: Shagufta_Ahmed@omb.eop.gov; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: March 22, 2018.

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2018-06120 Filed 3-26-18; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82920; File No. SR-ISE-2018-20]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Maker Plus Program in the Schedule of Fees

March 22, 2018.

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 March 13, 2018, Nasdaq ISE, LLC ("ISE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³⁷ 17 CFR 200.30-3(a)(12).