

We periodically inspect the operations of all funds to ensure their compliance with the provisions of the Act and the rules under the Act. Our staff spends a significant portion of its time in these inspections reviewing the information contained in the books and records required to be kept by rule 31a-1 and to be preserved by rule 31a-2.

There are 3146 funds currently operating as of December 31, 2014, all of which are required to comply with rule 31a-2. Based on conversations with representatives of the fund industry and past estimates, our staff estimates that each fund currently spends 220 total hours per year complying with rule 31a-2. Our staff estimates that the 220 hours spent by typical fund would be split evenly between administrative and computer operation personnel,<sup>5</sup> with 110 hours spent by a general clerk at a rate of \$57 per hour and 110 hours spent by a senior computer operator at a rate of \$87 per hour.<sup>6</sup> Based on these estimates, our staff estimates that the total annual burden for all funds to comply with rule 31a-2 is 692,120 hours at an estimated cost of \$49,832,640.<sup>7</sup>

The hour burden estimates for retaining records under rule 31a-2 are based on our experience with registrants and our experience with similar requirements under the Act and the rules under the Act. The number of burden hours may vary depending on, among other things, the complexity of the fund, the issues faced by the fund,

legible, true, and complete printout of the record; and (C) means to access, view, and print the records; and must separately store, for the time required for preservation of the original record, a duplicate copy of the record on any medium allowed by rule 31a-2(f). In the case of records retained on electronic storage media, the fund, or person that maintains and preserves records on its behalf, must establish and maintain procedures: (i) To maintain and preserve the records, so as to reasonably safeguard them from loss, alteration, or destruction; (ii) to limit access to the records to properly authorized personnel, the directors of the fund, and the Commission (including its examiners and other representatives); and (iii) to reasonably ensure that any reproduction of a non-electronic original record on electronic storage media is complete, true, and legible when retrieved.

<sup>5</sup> However, the hour burden may be incurred by a variety of fund staff, and the type of staff position used for compliance with the rule may vary widely from fund to fund.

<sup>6</sup> The estimated salary rates are derived from SIFMA's *Office Salaries in the Securities Industry 2013*, modified by Commission staff to account for an 1800-hour work-year and multiplied by 2.93 to account for bonuses, firm size, employee benefits and overhead.

<sup>7</sup> This estimate is based on the following calculations: 3146 funds × 220 hours = 692,120 total hours; 692,120 hours/2 = 346,060 hours; 346,060 × \$57 rate per hour for a clerk = \$19,725,420; 346,060 × \$87 rate per hour for a computer operator = \$30,107,220; \$19,725,420 + \$30,107,220 = \$49,832,640 total cost.

and the number of series and classes of the fund. The estimated average burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from quantitative, comprehensive, or even representative survey or study of the burdens associated with our rules and forms.

Based on conversations with representatives of the fund industry and past estimates, our staff estimates that the average cost of preserving books and records required by rule 31a-2 is approximately \$74,782 annually per fund.<sup>8</sup> As discussed previously, there are 3,146 funds currently operating, for a total cost of preserving records as required by rule 31a-2 of approximately \$235,264,172 per year.<sup>9</sup> Our staff understands, however, based on previous conversations with representatives of the fund industry, that even in the absence of rule 31a-2 funds would already spend approximately half of this amount (\$117,632,086) to preserve these same books and records, as they are also necessary to prepare financial statements, meet various state reporting requirements, and prepare their annual federal and state income tax returns. Therefore, we estimate that the total annual cost burden for all funds as a result of compliance with rule 31a-2 is approximately \$117,632,086 per year.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The collection of information under rule 31a-2 is mandatory for all funds. 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 control number.

The public may view the background documentation for this information collection at the following Web site, [www.reginfo.gov](http://www.reginfo.gov). Comments should be

<sup>8</sup> This estimate is based on staff's 2012 estimate of costs of preserving books and records required by rule 31a-2 (\$70,000), adjusted for inflation to January 2015 values using the Personal Consumption Expenditures Chain-Type Price Index ("PCE Index"). The values of the PCE Index are available from the Bureau of Economic Analysis, a bureau of the Department of Commerce. See Bureau of Economic Analysis, Table 2.8.6. Real Personal Consumption Expenditures by Major Type of Product, Monthly, Chained Dollars (Last Revised on March 2, 2015), available at <http://www.bea.gov/iTable/iTable.cfm?ReqID=9&step=1#reqid=9&step=3&isuri=1&903=83>. Thus, \$70,000 (2012 estimate) × 11,163.6 (Jan. 2015 PCE Index value)/10,449.7 (2012 PCE Index value) = \$74,782 (Jan. 2015 inflation adjusted estimate).

<sup>9</sup> This estimate is based on the following calculation: 3,146 funds × \$74,782 = \$235,264,172.

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](mailto: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](mailto:PRA_Mailbox@sec.gov). Comments must be submitted to OMB within 30 days of this notice.

Dated: July 27, 2015.

**Robert W. Errett,**  
Deputy Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-75528; File No. SR-OCC-2015-013]

### Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change To Codify Procedures for Resizing the Options Clearing Corporation's Clearing Fund on a Monthly Basis and Increasing Such Clearing Fund Size on an Intra-Month Basis

July 27, 2015.

On June 19, 2015, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2015-013 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder.<sup>2</sup> The proposed rule change was published for comment in the **Federal Register** on June 26, 2015.<sup>3</sup> The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

#### I. Description

According to OCC, it is amending Rule 1001(a) to codify the Commission's recent approval of and non-objection to procedures for resizing the clearing fund on a monthly basis and increasing such clearing fund size on an intra-month basis to ensure OCC maintains sufficient financial resources consistent with

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

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

<sup>3</sup> Securities Exchange Act Release No. 75260 (June 22, 2015), 80 FR 36867 (June 26, 2015) (SR-OCC-2015-013).

regulatory requirements (“Procedures”).<sup>4</sup>

Specifically, OCC recently adopted the Procedures which, according to OCC, are designed to clarify for clearing members and market participants the manner in which OCC would resize the clearing fund on a monthly basis and, if necessary, collect additional financial resources through intra-day margin calls and intra-month increases of the clearing fund.<sup>5</sup> According to OCC, under the Procedures, OCC continues to size the clearing fund on the first business day of each month, with the clearing fund size equal to a base amount and an additional prudential margin of safety determined by OCC, currently set at \$1.8 billion. The base amount is equal to the peak five-day rolling average of clearing fund draws<sup>6</sup> observed over the preceding three calendar months. Under the Procedures, OCC must issue an intra-day margin call in the event that a projected draw on the clearing fund under stress tests conducted by OCC exceeds 75% of the then-current size of OCC’s clearing fund. In addition, OCC must increase the size of the clearing fund intra-month where a projected draw, after taking into account intra-day margin collected under the Procedures, exceeds 90% of the then-current size of the clearing fund.

According to OCC, it is amending Rule 1001(a) to codify, in accordance with the Procedures, the process by which such clearing fund size: (i) Is determined and set on a monthly basis, and (ii) may be increased on an intra-month basis. OCC believes that the proposed rule change provides greater transparency to clearing members and other market participants, because OCC’s practices with regard to the monthly sizing of the clearing fund and OCC’s ability to increase the clearing fund intra-month in accordance with the Procedures would be codified in the text of Rule 1001(a).

<sup>4</sup> See Securities Exchange Act Release No. 74980 (May 15, 2015), 80 FR 29364 (May 21, 2015) (SR–OCC–2015–009) and Securities Exchange Act Release No. 74981 (May 15, 2015), 80 FR 29367 (May 21, 2015) (SR–OCC–2015–811). OCC recently amended the Procedures. See Securities Exchange Act Release No. 75255 (June 22, 2015), 80 FR 36869 (June 26, 2015) (SR–OCC–2015–012) (changing the method by which certain dashboard reports are distributed).

<sup>5</sup> *Id.*

<sup>6</sup> According to OCC, clearing fund draws are the amounts that OCC would have been required to draw against the clearing fund under the daily idiosyncratic default and minor systemic default scenario calculations conducted by OCC (*i.e.*, the amount of projected losses not covered by margin deposits or deposits in lieu of margin).

## II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act<sup>7</sup> directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.

The Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act<sup>8</sup> and Rule 17Ad–22(b)(3) of the Act.<sup>9</sup> Rule 17Ad–22(b)(3) of the Act requires OCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions.<sup>10</sup> OCC is amending Rule 1001(a) to reflect the process by which OCC determines its clearing fund size on a monthly basis and increases its clearing fund size on an intra-month basis. As stated above, OCC already adopted Procedures that reflect this change.<sup>11</sup> By amending Rule 1001(a) to codify the Procedures, as described above, and thus permitting OCC to take action pursuant to the Procedures, OCC should be able to be more responsive to sudden increases in exposure and less sensitive to short-run reductions in exposure that could inappropriately reduce the overall size of the clearing fund. As a result, OCC should be in a better position to maintain sufficient financial resources to withstand, at a minimum, a default by the participant family to which it has the largest exposure in extreme but plausible market conditions.

For these same reasons, OCC’s rule change is consistent with Section 17A(b)(3)(F) of the Act,<sup>12</sup> 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 and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. By maintaining financial resources in this manner, OCC is less likely to be subject to disruptions in its operations as a result of a default of a participant family, thereby facilitating the prompt and accurate clearance and settlement of securities

transactions and assuring the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.

## III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act<sup>13</sup> and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>14</sup> that the proposed rule change (SR–OCC–2015–013) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**Robert W. Errett,**  
*Deputy Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–75530; File No. SR–NYSEARCA–2015–66]

### Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule

July 27, 2015.

Pursuant to section 19(b)(1)<sup>1</sup> of the Securities Exchange Act of 1934 (the “Act”)<sup>2</sup> and Rule 19b–4 thereunder,<sup>3</sup> notice is hereby given that, on July 20, 2015, NYSE Arca, Inc. (the “Exchange” or “NYSE Arca”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (“Fee Schedule”). The Exchange proposes to

<sup>13</sup> In approving this proposed rule change, the Commission has considered the proposed rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>14</sup> 15 U.S.C. 78s(b)(2).

<sup>15</sup> 17 CFR 200.30–3(a)(12).

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

<sup>2</sup> 15 U.S.C. 78a.

<sup>3</sup> 17 CFR 240.19b–4.

<sup>7</sup> 15 U.S.C. 78s(b)(2)(C).

<sup>8</sup> 15 U.S.C. 78q–1(b)(3)(F).

<sup>9</sup> 17 CFR 240.17Ad–22(b)(3).

<sup>10</sup> *Id.*

<sup>11</sup> See *supra* note 4.

<sup>12</sup> 15 U.S.C. 78q–1(b)(3)(F).