

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90328; File No. SR-NYSECHX-2020-26]

### Self-Regulatory Organizations; NYSE Chicago, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend the Exchange's Co-Location Services To Establish Procedures for the Allocation of Cabinets to Its Co-located Users

November 3, 2020.

On September 2, 2020, NYSE Chicago, Inc. ("NYSE Chicago" or "Exchange") filed with the Securities and Exchange Commission ("Commission"), 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> a proposed rule change to establish procedures as part of the Exchange's co-location rules to allocate cabinets to its co-located users in situations where the Exchange cannot satisfy the user demand for cabinets. The proposed rule change was published for comment in the **Federal Register** on September 22, 2020.<sup>3</sup> The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is November 6, 2020. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> designates December 21, 2020, as the date by which the Commission shall either approve or disapprove, or

institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-NYSECHX-2020-26).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

J. Matthew DeLesDernier,

Assistant Secretary.

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## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-90315; File No. SR-OCC-2020-013]

### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change To Update The Options Clearing Corporation's Recovery and Orderly Wind-Down Plan

November 3, 2020.

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> notice is hereby given that on October 20, 2020, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared 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 amend OCC's Recovery and Orderly Wind-Down Plan ("RWD Plan" or "Plan"), adopted pursuant to the requirement in Rule 17Ad-22(e)(3)(ii),<sup>3</sup> to reflect: (i) Changes to OCC's capital structure resulting from the disapproval of OCC's previously approved "Capital Plan"<sup>4</sup> and the subsequent approval of OCC's "Capital Management Policy,"<sup>5</sup> and (ii) changes made to each chapter of the Plan during OCC's annual internal review and update of the Plan, as required by OCC's internal governance.

<sup>6</sup> 17 CFR 200.30-3(a)(31).

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

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

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

<sup>4</sup> Securities Exchange Act Release No. 85121 (Feb. 13, 2019), 84 FR 5157 (Feb. 20, 2019) (SR-OCC-2015-02).

<sup>5</sup> Securities Exchange Act Release No. 86725 (Aug. 21, 2019), 84 FR 44952 (Aug. 27, 2019) (SR-OCC-2019-007).

The RWD Plan is included as confidential Exhibit 5 to SR-OCC-2020-013. Material proposed to be added is marked by underlining and material proposed to be deleted is marked by strikethrough text.<sup>6</sup> The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules. All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.<sup>7</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

###### Background

On August 23, 2018, the Commission approved OCC's proposed rule change to formalize and update OCC's RWD Plan, consistent with the requirements of Rule 17Ad-22(e)(3)(ii).<sup>8</sup> As approved, the RWD Plan incorporated key pieces of OCC's previously approved Capital Plan, including but not limited to the Capital Plan's provision for "Replenishment Capital."<sup>9</sup> In OCC's RWD Plan, Replenishment Capital was one of the tools by which OCC could have recapitalized in certain of its recovery and wind-down scenarios.

On February 13, 2019, the Commission disapproved OCC's Capital Plan.<sup>10</sup> The disapproval of the Capital

<sup>6</sup> OCC has also filed an advance notice with the Commission in connection with this proposal. See SR-OCC-2020-806.

<sup>7</sup> 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>.

<sup>8</sup> Securities Exchange Act Release No. 83918 (Aug. 23, 2018), 83 FR 44091 (Aug. 29, 2018) (SR-OCC-2017-021).

<sup>9</sup> Securities Exchange Act Release No. 74452 (Mar. 6, 2015), 80 FR 13058 (Mar. 12, 2015) (SR-OCC-2015-02). The Capital Plan was a previously approved plan for raising additional capital under which the securities options exchanges that own equity in OCC committed to contributing additional capital to OCC under certain conditions and provided for the provision of further Replenishment Capital in certain circumstances.

<sup>10</sup> See supra note 5.

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

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

<sup>3</sup> See Securities Exchange Act Release No. 89886 (September 16, 2020) 85 FR 59582 (SR-NYSECHX-2020-26).

<sup>4</sup> 15 U.S.C. 78s(b)(2).

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