Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–MEMX–2024–45 on the subject line.

Paper Comments

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

All submissions should refer to file number SR–MEMX–2024–45. 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 (*https://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 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. 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–MEMX–2024–45 and should be submitted on or before December 24, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[67]

Stephanie J. Fouse,

Assistant Secretary.

[FR Doc. 2024–28345 Filed 12–2–24; 8:45 am]

BILLING CODE 8011–01–P

[67] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35402; File No. 812–15574]

Antares Private Credit Fund and Antares Capital Credit Advisers LLC

November 27, 2024.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c), 18(i) and section 61(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end investment companies that have elected to be regulated as business development companies to issue multiple classes of shares with varying sales loads and asset-based distribution and/or service fees.

APPLICANTS: Antares Private Credit Fund and Antares Capital Credit Advisers LLC.

FILING DATES: The application was filed on May 15, 2024, and amended on November 15, 2024.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below.

Hearing requests should be received by the Commission by 5:30 p.m. on December 23, 2024, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* The Applicants: Michael B. Levitt, Antares Capital LP, *mike.levitt@antares.com;* William J. Bielefeld, Esq., Dechert LLP, *william.bielefeld@dechert.com;* Nadeea Zakaria, Esq., Dechert LLP, *nadeea.zakaria@dechert.com.*

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' first amended and restated application, dated November 15, 2024, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Stephanie J. Fouse,

Assistant Secretary.

[FR Doc. 2024–28334 Filed 12–2–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101754; File No. SR–OCC–2024–011]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of Proposed Rule Change, as Modified by Partial Amendment No. 1, by The Options Clearing Corporation Concerning Its Stock Loan Programs

November 26, 2024.

I. Introduction

On August 22, 2024, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2024–011 pursuant to Section 19(b) of the Securities Exchange Act of 1934

(''Exchange Act'') [1] and Rule 19b–4 [2] thereunder. The proposed rule change would address limitations in the structure of OCC's Stock Loan/Hedge (''Hedge'') Program and Market Loan Program (together, the ''Stock Loan Programs'') by creating the framework for a single, enhanced program designed to support current and future needs. On September 3, 2024, OCC filed a partial amendment (''Partial Amendment No. 1'') to the proposed rule change.[3] The Commission published a notice for public comment on the proposed rule change, as modified by Partial Amendment No. 1 (hereafter ''the Proposed Rule Change''), in the **Federal Register** on September 10, 2024.[4] The Commission has received no comments regarding the Proposed Rule Change. This order approves the Proposed Rule Change.

II. Description of the Proposed Rule Change

OCC has historically operated two stock lending programs, the Hedge Program and Market Loan Program, which, together, accounted for about 0.02% of OCC's total volume in 2023.[5] In its capacity as a central counterparty in administering these programs, OCC becomes the lender to every borrower and the borrower to every lender and thus guarantees the return of the full value of cash collateral to the Borrowing Clearing Member and the return of the Loaned Stock (or value of that Loaned Stock) to the Lending Clearing Member. OCC also offers additional guarantees under the Market Loan Program, including dividend equivalent payments and rebate payments. OCC's Rules and By-Laws govern OCC's novation of cleared stock loan transactions and provide for processes around stock loan initiation, recordkeeping, returns and recalls, and risk management around stock loans of suspended Clearing Members.

OCC's current Hedge Program requires a certain set of processes among balancing and reconciliation of transactions. The Market Loan Program, by comparison, does not require the same processes because of the difference in how transactions are initiated in that program. A recent survey of Clearing Members participating in the Stock Loan programs [6] indicates that most firms have a significant spend for stock loan post-trade and reconciliation processing.[7] Based on such survey responses, OCC believes that a service that can provide operational efficiencies and further reduce manual processing and operational risk would be well received.[8] Additionally, the Hedge and Market Loan Programs differ in their treatment of Canadian Clearing Members. Specifically, a Canadian Clearing Member may participate in the Hedge Program, but not the Market Loan Program because of rules related to certain tax withholding obligations. Separately, OCC has recognized that its current aggregate position-level recordkeeping practices regarding these stock loan programs could be better aligned with the current industry practice of contract-level recordkeeping.[9]

OCC has expressed a desire to consolidate the Hedge Program and Market Loan Program at some point in the future.[10] The immediate proposal is designed to support that initiative by making changes to align the Hedge Program and Market Loan Program as well as changes to address limitations across both Stock Loan Programs, such as aligning to the industry practice of contract-level record keeping. Specifically, OCC proposes to (i) align the Rules for and support transactions under both Stock Loan Programs through contract-level recordkeeping, revisions regarding re-matching matched book positions in suspension across Stock Loan Programs, and revisions regarding mark-to-market settlement accounts; (ii) conform the terms of Market Loans cleared by OCC more closely to the provisions most commonly included in stock loan transactions executed under standard loan market documents, and provide a uniform guaranty of terms across Market Loans, regardless of how those Market Loans are initiated under the enhanced program; and (iii) clarify and amend processes around the participation of Canadian Clearing Members and other types of Clearing Members in the Stock Loan Programs. Separately, OCC proposes to reorganize, restate, and consolidate provisions of its By-Laws and Rules governing the Stock Loan Programs.

In proposing the immediate changes, OCC expressed the view that its current technology modernization project (''Renaissance'') presents an opportunity to address limitations in the structure of OCC's Stock Loan Programs and enhance OCC's stock loan services to support current and future needs.[11]

A. Limitations of OCC's Current Stock Loan/Hedge and Market Loan Programs

1. Position Aggregation

Within both Stock Loan programs, OCC maintains records of aggregate positions, rather than following the industry practice of contract-level recordkeeping. OCC calculates margin by aggregating stock loan and borrow positions for the same Eligible Stock. However, stock loans of the same Eligible Stock are not fungible between programs. As a result, all post-trade activity for Hedge Loan positions is performed bilaterally between the original counterparties. For example, the original counterparty Clearing Members to Hedge Program loans must resolve dividend payments or distributions bilaterally, away from OCC. This process of position aggregation complicates margin calculation and bookkeeping, and ultimately increases OCC's operational risk.

2. Offset and Re-Matching of Matched-Book Positions

Hedge Loan Clearing Members often maintain ''Matched-Book Positions,'' meaning they hold an account with a

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

[2] 17 CFR 240.19b–4.

[3] In Partial Amendment No. 1, OCC corrected an error in Exhibit 5A to SR–OCC–2024–011 without changing the substance of the proposed rule change. Partial Amendment No. 1 does not materially alter the substance of the proposed rule change or raise any novel regulatory issues.

[4] Securities Exchange Act Release No. 100930 (Sept. 4, 2024), 89 FR 73466 (Sept. 10, 2024) (File No. SR–OCC–2024–011) (''Notice of Filing'').

[5] Historical volume is available at *https://www.theocc.com/market-data/market-data-reports/volume-and-open-interest/historical-volume-statistics.*

[6] OCC provided survey results as confidential Exhibit 3B to File No. SR–OCC–2024–011.

[7] Notice of Filing, 89 FR 73471, n.31.

[8] *Id.*

[9] *See* Notice of Filing, 89 FR 73467–68. (''OCC aggregates all stock loan positions and stock borrow positions of a Clearing Member relating to the same Eligible Stock for reporting and margin calculation purposes. OCC separately identifies stock loan and stock borrow positions resulting from each of the Stock Loan Programs, and such positions are not fungible with positions resulting from the other program. Position aggregation in both Stock Loan Programs is a legacy practice and does not follow industry-standard book-keeping practices. Because of position aggregation, certain industry standard post-trade activity must be performed bilaterally away from OCC, such as re-rate transactions that change the rebate rate on an individual loan.'')

[10] Notice of Filing, 89 FR 73469–70. OCC intends to eventually decommission the Hedge Program through a phased program, after which the Market Loan Program would become OCC's single Stock Loan Program. The immediate proposal, however, does not contemplate the removal of provisions supporting the Hedge Program from OCC's rules.

[11] *See* Notice of Filing, 89 FR 73466. Further detail on Renaissance is available at *https://www.theocc.com/company-information/occ-transformation/clearing-risk-and-data-changes.* Renaissance includes the replacement of its current clearance and settlement system (''ENCORE'') with a streamlined operational framework for clearance and settlement (''Ovation''). *See* Notice of Filing, 89 FR 73466, n. 6. The Proposed Rule Change is not legally dependent on the planned technology changes.

stock loan position to one Hedge Clearing Member as well as a borrow position to another Hedge Clearing Member for the same or fewer shares. If a Hedge Clearing Member with a matched book defaults, OCC may re-match the loan and borrow positions to other Hedge Loan Clearing Members to avoid price dislocation from manually buying in and selling out of the offsetting positions of the defaulting Hedge Clearing Member. However, such re-matching is not currently supported separately in the Market Loan Program, and thus the loan and borrow positions of a defaulting Hedge Clearing Member cannot be re-matched to a Market Loan Clearing Member.

3. Stock Loan Initiation

Under the Hedge Program, Prospective Lending and Borrowing Clearing Members first negotiate terms bilaterally before sending them to the Depository Trust Company (''DTC'') for settlement, and DTC then sends a specified number of shares and amount of cash collateral to OCC for clearing and guarantee of performance.[12] This process adds complexity to balancing and reconciliation under the current Hedge Program.[13]

4. Scope of OCC's Guaranty

OCC guarantees the return of the collateral and borrowed stock of both Hedge Program and Market Loan Program loans. However, for Market Loan Program transactions, OCC also provides a limited guaranty of substitute dividend and rebate payments based on instructions from the Loan Market based on the amount of margin collected. OCC does not offer the same guaranty for loans made under the Hedge Program, which creates operational complexity.

5. Collateralization Rate

As part of clearing, OCC marks-to-market payments for cleared stock loans on a daily basis. The payments are made between Clearing Members based on the value of the loaned securities. However, the loans are marked-to-market differently depending on whether they originated from the Hedge Program or the Market Loan Program. In the Hedge Program, loans are collateralized 100 or 102 percent, and the preferred rounding is dependent on the bilateral Master Securities Loan Agreement (''MSLA'') between the original counterparties. In the Market Program, all loans are collateralized 102 percent, rounding to the nearest dollar. In both programs, settlements are generally combined and netted against other OCC settlement obligations, and Clearing Member positions are factored into that Clearing Member's overall margin and guaranty fund contribution.

6. Dividends and Distributions

OCC ordinarily processes Market Loan Program dividend equivalent payments through DTC's Dividend Service. If, however, a Loan Market notifies OCC that the dividend or distribution for a particular Market Loan is not tracked by DTC's Dividend Service (or if OCC uses its discretion to remove a Market Loan from the DTC Dividend Service), the dividend equivalent payments are made through OCC's cash settlement system the day after the expected payment date. For such dividend payments, the Loan Market calculates the amount outside of DTC's Dividend Service, and for non-cash dividends and distributions, the Loan Market may set an equivalent cash settlement value for OCC to administer. As part of clearing, OCC guarantees dividend equivalent payments from a defaulting Clearing Member, but only to the extent OCC has collected margin equal to such dividend equivalent according to the instructions from the Loan Market. Additionally, OCC currently has no responsibility to verify the accuracy of the Loan Market's calculation.

7. Termination of Stock Loans

Again, because of the differences in stock loan origination, OCC handles stock loan terminations differently depending on whether they are Hedge Loans or Market Loans. Hedge Loans are terminated through DTC when: (1) a Borrowing Clearing Member instructs DTC to transfer a specified quantity of Loaned Stock to the Lending Clearing Member in exchange for payment of the settlement price from the Lending Clearing Member, or (2) the Lending Clearing Member terminates all or part of the loan with the Borrowing Clearing Member. Initiating returns through DTC for the Hedge Program can break positions if the return transactions are not coded properly.

As with dividend distributions, Market Loans are terminated via instruction from a Clearing Member through the Loan Market to recall or return Loaned Stock. The Loan Market then instructs OCC, OCC validates the request, and OCC sends a pair of orders to DTC to initiate the transfer.

Where a Clearing Member under either program fails to return the stock or pay the settlement amount, the other counterparty may choose to execute a ''buy-in'' or ''sell-out'' of the Loaned Stock. Neither of the current Stock Loan Programs enables OCC to administer buy-ins or sell-outs. After execution of the buy-in/sell-out, the initiating Clearing Member provides notice to OCC and its counterparty for Hedge Loans and to the Loan Market for Market Loans. Termination is complete once OCC records the termination.

8. Canadian Clearing Members

Canadian Clearing Members may participate in the Hedge Program if they appoint CDS Clearing and Depository Services Inc. (''CDS'') to act as agent with DTC and the National Securities Clearing Corporation (''NSCC'') to provide cross-border clearance and settlement with U.S. counterparties. Canadian Clearing Members cannot participate in the Market Loan Program.

Canadian Hedge Clearing Members are subject to additional restrictions to participate in OCC's Hedge Program. Normally, federal tax rules impose a 30% withholding on ''dividend equivalent'' payments to non-U.S. persons for certain derivatives that reference U.S. equities. OCC has no current tax withholding or reporting obligations for Canadian Hedge Clearing Members, because substitute dividend payments are handled bilaterally between Hedge Clearing Members. Consequently, OCC requires that Canadian Hedge Clearing Members establish that their activity will not result in the imposition of taxes or withholding, and they are prohibited from entering into transactions that would impose taxes or withholding.

B. Proposed Changes to OCC's Stock Loan Program Framework

1. Consolidation of the Stock Loan Programs

OCC proposes to consolidate its Stock Loan Programs into a single stock loan program over the course of three phases. This Proposed Rule Change covers the first and second phases. The third phase is not part of this Proposed Rule Change and would require a separate filing with the Commission.

The first phase would (1) amend the rules related to the Market Loan Program to allow it to eventually become OCC's single stock loan program, and (2) update the Hedge Program and Market Loan Program to align with the implementation of

[12] OCC currently limits settlement of daily mark-to-market of cash collateral to the Clearing Member's firm account or combined Market-Makers' account. *See* OCC Rule 2201(a).

[13] *See* Notice of Filing, 89 FR 73467. On the other hand, Market Loan transactions match on an electronic platform called a Loan Market. Then the Loan Market sends the two separate linked instructions to DTC detailing what stock and cash collateral should move between accounts at OCC.

Ovation, OCC's new system for clearance and settlement. Such changes include contract-level recordkeeping, re-matching matched book positions in suspension across both Stock Loan Programs, and expanding bilaterally-negotiated Market Loans. These changes are designed to facilitate and encourage Hedge Clearing Members to submit new bilateral stock loan transactions through the Market Loan Program.[14] Hedge Clearing Members would be required to provide the appropriate documentation and certifications, similar to those required of Market Loan Clearing Members, and to submit to certification testing before utilizing the Market Loan program.[15]

During the second phase, OCC will announce that it will no longer accept new loans through the Hedge Program, but will continue to support existing Hedge Loans until they naturally terminate. To facilitate this change, OCC proposes to adopt new Rule 2213(e)(2), which would authorize OCC to stop accepting new Hedge Loans. Additionally, OCC proposes to maintain its existing authority to terminate outstanding Hedge Loans upon two business days' written notice to Clearing Members based on several enumerated reasons, one of which is OCC's impending termination of this line of business.[16] Under proposed Rule 2213(e)(2), OCC's Chief Executive Officer or Chief Operating Officer would be authorized to approve the decision for OCC to cease accepting new Hedge Loans based on factors including, but not limited to, the number of participants that are able to conduct business under the Market Loan Program, the amount of transactions flowing through the Market Loan Program, the proportion of loan balances between the Stock Loan/Hedge Program and the Market Loan Program, and feedback from members about when they expect to be ready to migrate fully to the Market Loan Program. OCC is not proposing to remove the rules related to the Hedge Program at this time.[17]

2. Proposed Changes Across Both Stock Loan Programs

a. Contract-Level Recordkeeping. As stated in Section II.A.1, above, OCC currently aggregates stock loan and borrow positions for the same Eligible Stock, which is not the industry standard of contract-level recordkeeping. To alleviate inaccuracies and, at times, lack of information in OCC's bookkeeping practices, OCC proposes to eliminate this legacy practice. Under the new contract-based approach, each stock loan position or stock borrow position would be a distinct contract recorded in each Clearing Member account. Every new recorded loan will generate a new stock borrow position and stock loan position for the number of shares lent and borrowed. By maintaining stock loan positions and stock borrow positions at the contract level, OCC would be able to record additional terms, such as (a) rebate rate; (b) whether the rebate rate is a fixed or a floating value (and if floating the interest rate benchmark); and (c) end date, if it is a term loan. Clearing Members would not be required to submit such additional terms. OCC would assume that no such terms exist, unless otherwise directed by its Clearing Members. OCC believes that contract-level recordkeeping would allow Clearing Members to see more precisely the contracts with shares lent by lender and borrower.[18]

This contract-level recordkeeping would be implemented in OCC's rules by proposed amendments to Article XXI, Section 2 (Hedge Program) and Article XXIA, Section 5 (Market Loan Program) of OCC's By-Laws, retained portions of which would migrate to become OCC Rules 2203 and 2206A, respectively. Under these proposed revisions, OCC would delete the rules requiring the aggregation of positions and eliminate text providing that OCC shall identify stock loan and stock borrow positions resulting from Hedge Loans separately from positions resulting from Market Loans. Because OCC proposes to eliminate position aggregation altogether, the latter prohibition against aggregating positions across programs would no longer be relevant.

As noted above, the proposed contract-level recordkeeping would allow OCC to record additional terms at the contract level. Specifically, OCC proposes to change Article XXI, Section 2(b) and Article XXIA, Section 5(a) of OCC's By-Laws[19] to allow Clearing Members to provide additional terms beyond those already required by the rules.[20] The proposed changes regarding such optional terms, which are not associated with OCC's guaranty (*i.e.,* rebate rate and interest rate benchmark with respect to Hedge Loans, and loan term with respect to both Hedge Loans and Market Loans), would not impose any additional obligations on OCC. Rather, the proposed changes would facilitate the optional inclusion of additional terms between the parties that survive OCC's novation and would be recorded in OCC's system for the Clearing Member's convenience.[21]

To further accommodate contract-level recordkeeping, OCC proposes the following conforming changes:

- Current Interpretation and Policy .01 to OCC Rules 2201 and 2201A (*i.e.,* proposed OCC Rules 2206(b) and 2206A(d)), which concern the transfer of stock loan positions or stock borrow positions between Clearing Member accounts, would be amended to delete the phrase ''all or any portion of'' as it relates to stock loan or stock borrower positions, and add the text ''provided, that any such transfer will result in the transfer of all shares related to the relevant stock loan position or stock borrow position.'' Accordingly, any transfer of a stock loan position or stock borrow position, each representing an individual contract, would be for all shares that are the subject of the contract.
- Current Interpretation and Policy .02 to OCC Rule 2201 (*i.e.,* proposed OCC Rule 2206(c)(1)), which concerns how OCC would apply Hedge Loan return instructions received from DTC to a Clearing Member's default account,

[14] Based on a survey of all Clearing Members who participate in OCC's Stock Loan Programs (provided as confidential Exhibit 3B to File No. SR–OCC–2024–011), members have expressed interest in being able to have, for example, the rebate amounts calculated, settled, and guaranteed by OCC—an expansion of services that necessarily would be achieved by the migration from the Hedge Program to the Market Loan Program. *See* Notice of Filing, 89 FR 73470, n.30. OCC indicated that it anticipates that Clearing Members will be motivated to migrate activity to the Market Loan Program because of the expansion of such services and OCC's expanded guarantee under the Market Loan Program. *See* Notice of Filing, 89 FR 73470.

[15] OCC is not proposing to require business expansions for Hedge Clearing Members, because they already are approved for stock loan activity, and the business expansion for Market Loan Program participation aims to verify proper subscription through a Loan Market, which would no longer be necessary to participate in the Market Loan Program.

[16] The relevant authority to terminate existing loans comes from Section 2(c) of Article XXI of OCC's By-Laws. OCC proposes to move the text of that section of its By-Laws to new Rule 2213(e)(1) as part of the broader reorganization described herein.

[17] OCC proposes, however, to amend its Rules to avoid ambiguity by using ''Hedge Loan'' instead of ''Stock Loan'' when referring to Stock Loans under the Hedge Program, unless in reference to Stock Loans under either of the Stock Loan Programs, consistent with the current definition of that term in Article I of the By-Laws. *See* Notice of filing, 89 FR 73470.

[18] *See* Notice of filing, 89 FR 73477.

[19] OCC proposes to move Article XXI, Section 2(b) and Article XXIA, Section 5(a) of its By-Laws to new Rules 2203(d)(2)(A) and 2206A(b)(2)(E), respectively, without changes other than those explicitly described in the Notice of Filing.

[20] OCC is not proposing to change the required terms already defined in its rules (*e.g.,* identification of Eligible Stock, number of shares loaned, amount of collateral received, identity of lending and borrowing Clearing Members).

[21] *Id.*

would be modified to eliminate the ability of Clearing Members to designate OCC accounts in DTC delivery orders. Instead, returns of shares will be reflected in the Clearing Member's default account. To support the shift to contract-level recordkeeping, OCC also would add proposed OCC Rule 2206(c)(2), which would provide that returns will decrease the number of shares borrowed beginning with the oldest Hedge Loan between the Borrowing Clearing Member and the Lending Clearing Member on OCC's books and records. If the return exhausts the oldest Hedge Loan, OCC would decrement to the next oldest.

- Current Interpretation and Policy .02 to OCC Rule 2201A (*i.e.,* proposed OCC Rule 2206A(e)), which concerns how Market Loan return instructions would be applied to a Clearing Member's accounts, would be amended to reflect that, if there are insufficient shares in the account designated by the delivery order submitted to OCC, or in the default account if the delivery order did not specify an account, OCC would reject the return instruction rather than fulfill the return to the extent of the shares in the designated or default account, as applicable. If an account was designated in the delivery order, OCC would fulfill the return based only on that account and would reject the return instruction if sufficient shares were not available in that account rather than applying shares in the default account to cover the excess.
- Current OCC Rule 2209A(a)(2) (*i.e.,* proposed OCC Rule 2216A(a)(5)), which concerns the termination of Market Loans upon receipt of end-of-day information from DTC concerning return or recall delivery orders, would be amended to delete the phrase ''and reduce the respective Clearing Member's open stock loan and stock borrow positions accordingly,'' which refers to adjustments required for aggregated stock loan and stock borrow positions. OCC would also remove the phrase ''the end of the day'' with respect to the stock loan activity files it receives from DTC because OCC receives and processes such information from DTC throughout the business day.

b. Aligning Mark-to-Market Settlement Accounts. As described above, in Section II.A.3, OCC currently limits settlement of daily mark-to-market of cash collateral to the Clearing Member's firm account or combined Market-Makers' account. OCC proposes to change its rules such that cash settlement would occur in the account in which the stock loan or stock borrow position is held, to reflect changes in the stock loan market that facilitate fully paid for lending programs, which have developed over the last two decades to allow customers to earn returns on their portfolios by allowing their broker to lend their shares.[22]

The proposed change would align mark-to-market cash settlements with positions by deleting current OCC Rules 2201(a)(iii) and 2201A(a)(iii), as relocated to proposed OCC Rules 2207(a)(1)(C) and 2207A(a)(1)(C). The text of these provisions currently requires Clearing Members to provide OCC with standing instructions to identify the Clearing Member's firm accounts or combined Market-Makers' account from which mark-to-market payments are to be made. However, these provisions would not be necessary under the Proposed Rule Change because OCC would settle the mark-to-market payments in whichever account the stock loan or stock borrow position is held. OCC also would amend current Rules 2204(a) and 2204A(a), the relevant portions of which would be renumbered as proposed Rules 2209(a) and 2209A(a), respectively, to provide that any mark-to-market payment shall be made in the account in which the Hedge Loan or Market Loan is held.

OCC proposes to delete the last clause to Interpretation and Policy .04 to Rule 1104, which concerns the use of a Liquidating Settlement Account to satisfy mark-to-market obligations arising from a suspended Clearing Member's stock loan or borrow positions in customers' accounts. That clause provides for the use of the Liquidating Settlement Account, notwithstanding that such mark-to-market payments may settle in another account under current Rules 2201(a) and 2201A(a). This clarifying clause would no longer be relevant because of the alignment of settlement with the accounts in which the positions are held.[23]

c. Simplifying Mark-to-Market Accounts. As a further update to mark-to-market settlement accounts and to help facilitate OCC's planned switch from loan aggregation to contract-level recordkeeping, OCC proposes to change its mark-to-market calculation to focus on the change to the contract value of a Clearing Member's Stock Loans. Currently, the mark-to-market calculation focuses on the value of the loaned shares of stock by taking the quantity of stock that is on loan each morning and marking it to a closing price each night. Quantities of stock that correspond to new loans put on during the day are also marked to the end-of-day closing price.

Now, OCC proposes to amend current Rules 2204 and 2204A, to be renumbered as proposed Rules 2209 and 2209A, respectively. Proposed OCC Rules 2209(b) and 2209A(b) would provide that the mark-to-market payment will be the amount necessary to cause the amount of Collateral to be equal to the Collateral requirement applicable to the Stock Loan. For Hedge Loans, the Collateral requirement is either 100 or 102 percent of the mark-to-market value of the Loaned Stock, depending on which percentage the parties selected when initiating the Hedge Loan, as described in Section II.A.5., above. For Market Loans, as described below in Section II.B.3.c., the Collateral requirement would be fixed at 102 percent of the value of the Loaned Stock, which is the collateralization for all Market Loans currently.

d. Re-Matching Matched Book Positions in Suspension Across Stock Loan Programs. As stated above, in Section II.A.2., OCC's current framework does not contemplate the re-matching of Matched-Book Positions across OCC's Stock Loan Programs in the event of a Clearing Member default. The Proposed Rule Change would extend OCC's authority to close out and re-establish the Matched-Book Positions of a suspended Clearing Member to the Market Loan Program and would allow re-matching in suspension across the Hedge and Market Loan Programs. Under the current OCC Rule 2212, OCC has authority to terminate Matched-Book Positions by offset and re-matching with other Clearing Members. OCC proposes to extend its re-matching authority and allow for re-matching across programs by inserting proposed OCC Rule 2219A, which would be similar in structure and content to current OCC Rule 2212.

Proposed OCC Rule 2219A(a) would provide that, in the event that a suspended Clearing Member has Matched-Book Positions within the Hedge or Market Loan Programs, OCC will, upon notice to affected Clearing Members, close out the suspended Clearing Member's Matched-Book Positions to the greatest extent possible by (1) the termination by offset of stock loan and stock borrow positions that are Matched-Book Positions in the suspended Clearing Member's account(s) and (2) OCC's re-matching in the order of priority in paragraph (c) of proposed OCC Rule 2219A of stock borrow positions for the same number of shares in the same Eligible Stock maintained in a designated account of a Matched-Book Borrowing Clearing

[22] *See* Notice of filing, 89 FR 73478.

[23] *Id.*

Member against a stock loan position for the same number of shares in the same Eligible Stock maintained in a designated account of a Matched-Book Lending Clearing Member. Under proposed OCC Rule 2219A(b), as under current OCC Rule 2212(b), the Matched-Book Borrowing Clearing Member and Matched-Book Lending Clearing Member would not be required to issue instructions to DTC to terminate the relevant stock loan and stock borrow positions or to initiate new stock loan transactions to reestablish such positions, because the affected positions would be re-matched without requiring the transfer of securities against the payment of settlement prices.

Proposed OCC Rule 2219A(c), as under current OCC Rule 2212(c), would provide that OCC shall make reasonable efforts to re-match Matched-Book Borrowing Clearing Members with Matched-Book Lending Clearing Members that maintain MSLAs executed between them, based upon information provided by Clearing Members to OCC on an ongoing basis. Proposed OCC Rule 2219A(c) would further provide that OCC shall be entitled to rely on, and shall have no responsibility to verify, the MSLA records provided by Clearing Members and on record as of the time of re-matching. Proposed Rule OCC 2219A(c)(1) through (13), which would mirror current OCC Rule 2212(d), would require that the termination by offset and re-matching be done using a matching algorithm in which the Matched-Book Positions of the suspended Clearing Member are first terminated by offset and then the affected Matched-Book Borrowing Clearing Members and Matched-Book Lending Clearing Members are re-matched in order of priority based first upon whether the re-matched Clearing Members have an existing MSLA between them or, in the case of Anonymous Market Loans, can be kept anonymous by re-matching with a Matched-Book Position that is another Anonymous Market Loan initiated through the same Loan Market.[24]

Under this proposed matching algorithm, OCC would first select the largest stock loan or stock borrow position regarding a Disclosed Market Loan for a given Eligible Stock from the suspended Clearing Member's Matched-Book Positions. These selected positions would then be re-matched with the largest available stock borrow or stock loan position regarding a Disclosed Market Loan for the selected Eligible Stock for which a MSLA exists between a Matched-Book Borrowing Clearing Member and a Matched-Book Lending Clearing Member. OCC would repeat this process until all potential re-matching between Matched-Book Borrowing Clearing Members and Matched-Book Lending Clearing Members with MSLAs is completed for positions within the Hedge Program.

Simultaneously, OCC would perform the same re-matching process within the Market Loan Program for (i) Matched-Book Positions that are Disclosed Market Loans for which a MSLA exists between a Matched-Book Borrowing Clearing Member and a Matched-Book Lending Clearing Member, and (ii) Matched-Book Positions that are Anonymous Market Loans initiated through the same Loan Market. After re-matching to the extent possible within the Market Loan Program based on manner of initiation and trade source, OCC would proceed to re-match Matched-Book Positions within the Market Loan Program for which an MSLA exists between a Matched-Book Borrowing Clearing Member and a Matched-Book Lending Clearing Member, regardless of whether the Matched-Book Position was part of a Disclosed Market Loan or Anonymous Market Loan.

After matching Matched-Book Positions to the extent possible between borrowers and lenders with existing MSLAs in both the Hedge Program and the Market Loan Program, OCC would then select the largest remaining stock loan or stock borrow positions for a given Eligible Stock regardless of whether the position is a Hedge Loan or a Market Loan, and re-match it with the largest available stock borrow or stock loan position for the selected Eligible Stock in the other Stock Loan Program for which an MSLA exists between the lenders and borrowers in the other Stock Loan Program, regardless of whether the Market Loan selected or matched is a Disclosed Market Loan or Anonymous Market Loan. OCC would repeat this process until it has rematched all Matched-Book Positions to the extent possible between parties to existing MSLAs between the two Stock Loan Programs.

After re-matching among lenders and borrowers with existing MSLAs, OCC proposes to repeat the process for all remaining Matched-Book Positions for which MSLAs do not exist between the lenders and borrowers. OCC would first complete such rematching to the extent possible within each program. The re-matching process would then be repeated for all remaining Matched-Book Positions across the Stock Loan Programs for which MSLAs do not exist between the lenders and borrowers. Remaining positions that are not able to be rematched either within or across programs would then be closed out pursuant to the rules governing close-out of Hedge Loans or Market Loans, as applicable.

Under proposed OCC Rule 2219A(d), as under current OCC Rule 2212(e), in the event Borrowing and Lending Clearing Members are re-matched through this algorithmic process, the pre-defined terms and instructions established by the Lending Clearing Member would govern the re-matched positions pursuant to proposed OCC Rule 2207 for Hedge Loans or proposed Rule 2207A for Market Loans. For Matched-Book Positions re-matched across programs, the resulting re-matched loan would be a Hedge Loan. If the re-matched positions were Anonymous Market Loans, the resulting Loan would be an Anonymous Market Loan. However, if one of the positions was a Disclosed Market Loan or the positions were Anonymous Market Loans initiated through different Loan Markets, the resulting loan would be a Disclosed Market Loan. Going forward, such a Disclosed Market Loan would be deemed to have been initiated through OCC, which would facilitate re-matching within the Market Loan Program for parties who are not subscribers to a Loan Market. Pursuant to proposed OCC Rule 2219A(j), the re-matched Clearing Members may choose to execute an MSLA or close out the re-matched positions in accordance with proposed OCC Rules 2213 or 2216A, as applicable.

Under proposed OCC Rule 2219A(e), which corresponds to the second sentence of current OCC Rule 2212(e), any change in Collateral requirements arising from a change in the terms of stock loan or stock borrow positions between a Lending Clearing Member and Borrowing Clearing Member with re-matched positions would be included in the calculation of the mark-to-market payment obligations on the stock loan business day following the completion of the positions adjustments as set forth in proposed OCC Rule 2219A(f). Under proposed OCC Rule 2219A(f), which reflects current OCC Rule 2212(f), the termination by offset and re-matching of positions would be complete upon OCC finishing all position adjustments in the accounts of the suspended Clearing Member and the Borrowing Clearing Members and Lending Clearing Members with re-matched positions,

[24] OCC indicated that this algorithmic process would limit the number of returns that may be initiated for re-matching that results in Disclosed Market Loans between parties who have not executed an MSLA. *See* Notice of Filing, 89 FR 73479.

and the applicable systems reports are produced and provided to the Clearing Members showing the transactions.

Under proposed OCC Rules 2219A(g) through (i), from and after the time OCC has completed the position adjustments as set forth above in proposed OCC Rule 2219A(f), the suspended Clearing Member would have no further obligations under the By-Laws and Rules with respect to such positions. However, a Borrowing Clearing Member with re-matched stock borrow positions would remain obligated as a Borrowing Clearing Member and a Lending Clearing Member with re-matched stock loan positions would remain obligated as a Lending Clearing Member. Furthermore, upon notification that OCC has completed the termination by offset and re-matching of stock loan and borrow positions, the suspended Clearing Member and Borrowing/Lending Clearing Members with re-matched positions would be required to promptly make any necessary bookkeeping entries at DTC to ensure the accuracy and efficacy of those stock loan terms not governed by OCC's By-Laws and Rules. Under proposed OCC Rule 2219A(j), as under current OCC Rule 2212(j), Borrowing/Lending Clearing Members that have been re-matched would be required to work in good faith to either (i) reestablish any terms, representations, warranties, and covenants not covered by the By-Laws and Rules (*e.g.,* establish an MSLA) or (ii) terminate the re-matched stock loan or borrow positions in the ordinary course pursuant to OCC Rules 2213 or 2216A, as applicable, as soon as reasonably practicable. Current OCC Rule 2212, which concerns re-matching in suspension for the Hedge Program, would be deleted and replaced with proposed OCC Rule 2217, with a cross-reference to proposed OCC Rule 2219A.

3. Market Loan Program Enhancements

a. Expansion of Bilaterally Negotiated Market Loans. The current Market Loan Program, as described in Section II.A.3. above, allows for the acceptance of electronic messages from the Loan Market for new loans and returns. OCC proposes to expand the program to allow the acceptance of bilaterally negotiated loans submitted directly from Clearing Members or their third-party service providers. As proposed, after a new loan or return is affirmed, OCC would instruct DTC to settle the transaction using OCC's DTC account, or the account of the lender, borrower, or Appointed Clearing Member. The proposal would allow for two separate avenues for submitting loans: either through a Loan Market or through the direct submission of bilaterally negotiated Loans to OCC. As proposed, the scope of OCC's guaranty and post-trade processing for all transactions would be uniform, in contrast to the current scope of guarantee, as described in Section II.A.4., above. Under the proposal, counterparties to bilaterally negotiated contracts submitted to the Market Loan Program would remain paired in OCC's system for purposes of recalls, returns, and contract modifications, as they are under the current Hedge Program. In OCC's view, allowing automated submission of transactions to OCC prior to DTC settlement, combined with OCC's control of the settlement process, would help reduce the burden and risks associated with the balancing and reconciliation under the current Hedge Program.[25]

OCC would update its Rules to facilitate the proposed expansion of the Market Loan Program to allow for direct submission of bilaterally negotiated stock loans. For example, definitions of ''Anonymous Market Loan'' and ''Disclosed Market Loan'' would be added to OCC Rule 101 to accommodate the fact that certain proposed Rules would apply differently to Loans matched anonymously through a Loan Market and Loans initiated bilaterally, whether through a Loan Market or with OCC directly. Anonymous Market Loans would be defined as those initiated through a Loan Market and for which the identities of the Lending Clearing Member and Borrowing Clearing Member are not disclosed to each other. Disclosed Market Loans would be defined to include either those Market Loans (i) initiated through a Loan Market and for which the identities of the Lending Clearing Member and Borrowing Clearing Member are disclosed to each other, or (ii) initiated directly between the Lending Clearing Member and Borrowing Clearing Member away from a Loan Market such that the identities of the Lending Clearing Member and Borrowing Clearing Member are disclosed to each other.

The proposal further would amend OCC Rule 2202A (Initiation of Market Loans), where the newly renumbered OCC Rule 2202A(a)(1), currently OCC Rule 2202A(a)(i), would add that, in addition to initiation through a Loan Market, a Market Loan may be initiated when a Lending Clearing Member and Borrowing Clearing Member send details of a stock loan between the two Clearing Members directly to OCC. Proposed OCC Rule 2202A(h) would provide that a Market Loan may be either an Anonymous Market Loan or a Disclosed Market Loan.

OCC also would amend current Article XXIA, Section 5 of OCC's By-Laws (Maintaining Stock Loan and Stock Borrow Positions in Accounts), which would become OCC Rule 2206A. Specifically, a new sentence would be added to the beginning of Rule 2206A that would introduce the concept of ''matched pairs'' to remain consistent with the definition of ''Hedge Loan.''[26] The sentence would read, ''Each Market Loan will be maintained on the books and records of the Corporation as a unique matched pair of contracts with one such contract being between the Lending Clearing Member and the Corporation as borrower and the second such contract being between the Corporation as Lender and the Borrowing Clearing Member.''[27] OCC stated that this clarifying sentence would ensure that the original counterparties to such a Disclosed Market Loan remain paired in OCC system, notwithstanding OCC's novation.[28] Proposed OCC Rule 2206A, Paragraph (a) additionally would provide that the identities of the Lending Clearing Member and Borrowing Clearing Member would be elements identified for stock loan positions and stock borrow positions resulting from Disclosed Market Loans.

Apart from the initiation process for bilateral Market Loans, OCC would amend its Rules regarding the accommodation of direct submission of other types of post-trade transactions for which the Rules currently rely on actions taken by a Loan Market. The first paragraph of current OCC Rule 2209A(a) (Termination of Market Loans) would be reflected in the newly renumbered OCC Rule 2216A(a)(1) and the newly created Rule 2214A (Modifications) and would provide that termination or modification of a Market Loan, respectively, may be initiated either through a Loan Market or OCC, depending on the way in which the Loan was initiated. Such instructions would be made through the Loan Market for Anonymous Market Loans;

[25] *See* Notice of Filing, 89 FR 73471.

[26] *See* proposed OCC Rule 101.H(1), which is originally By-Law Article XXIA, Section 1.D.(2), and was proposed to be deleted from the By-Laws and relocated to the Rules. (''The term ''Hedge Loan'' means a matched pair of securities contracts for the loan of Eligible Stock made through the Stock Loan/Hedge Program, with one such securities contract being between the Lending Clearing Member and the Corporation as the borrower and the second such securities contract being between the Corporation as the lender and the Borrowing Clearing Member.'').

[27] Proposed OCC Rule 2206A(a).

[28] *See* Notice of Filing, 89 FR 73471.

through OCC for Disclosed Market Loans initiated through OCC directly; and through either the Loan Market or OCC for Disclosed Market Loans initiated through a Loan Market. The definitions of ''Recall'' and ''Return,'' as migrated from the By-Laws to OCC Rule 101, also would be amended to reflect the separate channels for initiating such a transaction.[29]

OCC would make other conforming changes to the text of the Rules to reflect the submission of bilaterally negotiated loans directly to OCC. Throughout the Rules governing the Market Loan Program, OCC would remove references to ''matching'' or ''matched'' transactions (*i.e.,* matched through a Loan Market) to reflect that Market Loan transactions could also be initiated bilaterally, either through a Loan Market or directly with OCC. The definition of ''Market Loan Program,'' as migrated from Section 1 of Article I of the OCC By-Laws to OCC Rule 101, would be amended to recognize that Market Loans may be initiated either through a Loan Market or through direct submission of bilaterally negotiated Loans to OCC.

b. Recognition of Additional/Supplementary MSLA Terms. The Proposed Rule Change would allow OCC to recognize supplementary or additional terms under an MSLA between the counterparties to such bilaterally negotiated transactions submitted under the Market Loan Program, as OCC's Rules currently recognize under the Hedge Program. Because parties to a bilaterally negotiated stock loan transaction typically execute an MSLA, OCC's current Rule 2202(b) allows Hedge Clearing Members to establish and maintain additional terms under an MSLA that are not extinguished through OCC's novation, provided that the additional terms are not inconsistent with OCC's By-Laws or Rules. Such additional or supplementary terms may include a term structure or fees for buy-in transactions, for example. Under the proposal, OCC would add the same provision allowing additional or supplementary terms (so long as they are not inconsistent with the By-Laws and Rules) to the Market Loan Program in proposed OCC Rule 2202A(b)(2)(E).[30] As described above, in Section II.B.2.b., OCC indicated that the recognition of MSLAs within the Market Loan Program also would facilitate the re-matching of Matched Book Positions in suspension because OCC would give priority to re-matching counterparties with existing MSLAs, both when re-matching within and across the Stock Loan Programs.[31]

c. Collateral and Mark-to-Market Pricing. To further facilitate the submission of bilaterally negotiated Market Loans directly to OCC, the Proposed Rule Change would set the collateral for all Market Loans at 102 percent, which is the same rate at which Market Loans submitted through a Loan Market currently are collateralized. OCC Rule 2204A (Mark-to-Market Payments), which would become proposed OCC Rule 2209A, would be amended to provide in proposed paragraph (b) (Market-to-Market Payment Amount) that the collateralization rate for all Market Loans would be 102 percent, regardless of whether it was initiated through a Loan Market or submitted directly to OCC. Current text in OCC Rule 2204A, providing that the collateralization rate shall be set by the relevant Loan Market, would then be deleted, because it would no longer be accurate. OCC also would delete the part of the definition of the term ''Collateral'' in Article XXIA of the OCC By-Laws, as migrated to OCC Rule 101, that references setting the collateralization rate by the relevant Loan Market, to maintain consistency and avoid confusion. According to OCC, fixing the collateral at 102 percent not only would assist in preserving compatibility between OCC's cleared offerings and the standard practices for over-the-counter (''OTC'') uncleared stock loans (as well as with OCC's current practice within the Market Loan Program), but also reduce complexity in OCC's risk management process by establishing a single rate across all Market Loans.[32]

The Proposed Rule Change would further align the Market Loan Program with the Hedge Program by allowing Clearing Members submitting Market Loans directly to OCC to select the default rate at which mark-to-market payments would be rounded up to the nearest level, which is the current practice for Hedge Loans, as described in Section II.A.5., above. Under the proposal, OCC Rule 2201A (Instructions to the Corporation) would become proposed OCC Rule 2207A, and would provide that the default rate is one of the standing instructions that Market Loan Clearing Members must submit with respect to Market Loans submitted directly to OCC.[33] The Lending Clearing Member's default rate would govern the Market Loan if there is a difference between the default rates of a Borrowing Clearing Member and a Lending Clearing Member. OCC indicated that allowing the same flexibility in the Market Loan Program as currently exists in the Hedge Program would support Clearing Members in synchronizing cash flows between cleared and OTC stock loan transactions.[34]

d. Cancellation of Pending Transactions. As proposed, OCC would modify its Rules that concern the cancellation of pending transactions to accommodate the submission of cancellation instructions by Clearing Members, in addition to such submissions made by a Loan Market. This change is designed to bolster OCC's ability to accept bilaterally negotiated contracts in the Market Loan Program.[35] To that end, OCC proposes to amend current OCC Rule 2202A(a)(ii), which allows a Loan Market to instruct OCC to disregard a previously reported matched transaction that is pending settlement at DTC, after which OCC instructs DTC to cancel the previously issued delivery order. The current OCC Rule 2202A(a)(ii) also provides that, upon

[29] *See* proposed OCC Rules 101.R(2) and (5), which are, respectively, By-Law Article XXIA, Section 1.R.(2) and (3), and were proposed to be deleted from the By-Laws and relocated to the Rules. (For example, ''The term 'recall,' as used in respect of any Market Loan, means the process by which the Lending Clearing Member may initiate the termination of the Market Loan, or any portion thereof, by submitting a notice to the applicable Loan Market *or the Corporation, as applicable,* calling for the return of all or any portion of the Loaned Stock.'' (emphasis added)).

[30] *See* proposed OCC Rule 2202A(b)(2)(E). (''[W]ith respect to Disclosed Market Loans, the terms of the original stock loan (other than terms that establish congruence) and the representations, warranties and covenants made by each of the parties to the original stock loan under the Master Securities Loan Agreement or any other agreements with respect to the original stock loan shall (1) to the extent that they are inconsistent with the By-Laws and Rules of the Corporation, be eliminated from the pair of congruent contracts constituting the Market Loan and replaced by applicable By-Laws and Rules of the Corporation, and (2) to the extent that they are not inconsistent with the By-Laws and Rules of the Corporation, remain in effect as between such parties to the original stock loan, but shall not impose any additional obligations on the Corporation.'')

[31] *See* Notice of Filing, 89 FR 73471–72.

[32] *See* Notice of Filing, 89 FR 73472. OCC previously contemplated fixing the collateralization rate at 100 percent, considering that its guaranty would replace the additional collateral needed to protect Lenders from counterparty default risk. However, in a survey of all Clearing Members who participate in OCC's Stock Loan Programs (provided as confidential Exhibit 3B to File No. SR–OCC–2024–011), most were opposed to that idea and preferred that the rate be fixed at 102 percent because, in part, the loss of the additional two percent in collateral would materially reduce the income lenders earn by investing the cash collateral, which is one of the reasons lenders choose to lend their shares. *Id.*

[33] OCC indicated that rounding rates for Market Loans submitted through a Loan Market would not change. *See* Notice of Filing, 89 FR 73472.

[34] *See id.*

[35] *Id.*

confirmation that DTC has processed such cancellation instructions, the related matched transaction is deemed null and void and given no effect; but also clarifies that OCC has no obligation to any Market Loan Clearing Member in acting pursuant to a Loan Market's instruction to disregard a previously reported transaction. OCC would amend OCC Rule 2202A(a)(ii), which would be renumbered as proposed OCC Rule 2202A(a)(2), to permit a Market Loan Clearing Member to submit a cancellation instruction for a pending transaction directly to OCC for bilaterally negotiated transactions submitted under the Market Loan Program.

OCC would add a new OCC Rule 2215A (Cancellation of Pending Instructions) to address the cancellation of pending post-trade instructions, other than cancellation of loan initiation under current OCC Rule 2202A. Under current OCC Rule 2202A, Hedge Clearing Members are able to cancel return instructions or recall instructions pending with DTC, and Market Loan Clearing Members likewise may cancel pending transactions by issuing a cancellation instruction to the Loan Market, which may then instruct OCC to disregard a previously reported transaction. The newly proposed OCC Rule 2215A would allow members that submit bilaterally negotiated Market Loans to issue cancellation instructions directly to OCC, as they do now to DTC and the Loan Market, thus further aligning the Stock Loan Programs.[36]

e. Transaction Affirmation. Currently, Market Loan Program transactions are matched when a Loan Market sends them to OCC. To help assure that the same matched status applies to loans submitted directly to OCC, the Proposed Rule Change would establish a transaction affirmation process. Regarding new loans, counterparties would be required to affirm the transaction details prior to OCC submitting the new loan to DTC for settlement and OCC would reject new loans that are not affirmed by the time that it stops accepting instructions for the day. Proposed OCC Rule 2202A(a)(1) would describe this process in detail, providing that a Market Loan is initiated when (i) the Loan Market sends details of a stock loan transaction to OCC or (ii) a Lending Clearing Member and Borrowing Clearing Member send details to OCC of a stock loan transaction between them and such details are either matched by OCC or affirmed by the Clearing Members, as applicable.

The Proposed Rule Change would allow a Lending Clearing Member to have the opportunity to affirm or reject the initiation of a return by a cut-off time on the same business day, so long as the Borrowing Clearing Member initiated a return within OCC's timeframe for submitting such an instruction on a stock loan business day. Proposed OCC Rule 2216A(a)(2) would describe an auto-affirmation process in detail, providing that any such returns pending after the cut-off time would be deemed affirmed and submitted to DTC for processing. OCC indicated that this approach would help balance a Lending Clearing Member's desire to have the opportunity to affirm or reject return instructions, while simultaneously addressing a Borrowing Clearing Member's concern that a delay in affirmation or allowing the transaction to pend indefinitely could have regulatory consequences for the Borrowing Clearing Member.[37]

Unlike returns, recalls would not need to be affirmed under the Proposed Rule Change. Proposed OCC Rule 2216A(a)(3) would provide that, according to standard MSLA terms, a Borrowing Clearing Member will be deemed to have affirmed the initiation of a recall, provided that the Lending Clearing Member requested the return of the specific quantity of Loaned Stock no earlier than the standard settlement date that would apply to a purchase or sale of the Loaned Stock in the principal market of such Loaned Stock.

Proposed OCC Rule 2214A(a) would be amended to add a new affirmation requirement to contract modifications. Specifically, contract modifications to the rebate rate, interest rate benchmark, or loan term submitted by either a Borrowing Clearing Member or Lending Clearing Member would not become effective until affirmed by both parties.

Provisions in proposed OCC Rule 2216A, paragraphs (b)(2)(B) and (c)(2) would define the processes for buy-ins and sell-outs to alleviate some of the concerns surrounding termination of stock loans, as described in Section II.A.7., above. In particular, for Market Loans submitted directly to OCC, the Borrowing Clearing Member and Lending Clearing Member will be given the opportunity to affirm or reject a buy-in or sell-out, respectively, by a cut-off time specified by OCC on the stock loan business day the buy-in or sell-out transaction is received by OCC. If the Clearing Member does not affirm or reject the buy-in or sell-out by that time, OCC would deem the buy-in or sell-out to be complete if OCC determines that the Buy-In or Sell-Out Costs for the Loaned Stock initiated is more than the lowest market price and less than the highest market price for the Loaned Stock on the stock loan business day the buy-in or sell-out is submitted to OCC. Otherwise, the buy-in or sell-out would be rejected. This approach would be aligned with the buy-in and sell-out process under the current Hedge Program, in which any objection that the counterparty has with respect to the timeliness of the buy-in or sell-out, or the reasonableness of the Buy-In or Sell-Out Costs are matters that must be resolved away from OCC, and between the Lending Clearing Member and the Borrowing Clearing Member.[38]

f. Cash Distributions. The Proposed Rule Change would allow OCC to calculate and effect cash entitlements, including dividends, distributions, and rebates, using its internal clearance and settlement system. Paragraphs (a)(ii) and (a)(iii) of current OCC Rule 2206A (Dividends and Distributions; Rebates) would be renumbered as proposed OCC Rule 2211A(b) and (c), and would provide that under OCC's proprietary clearance and settlement system, OCC shall assume responsibility for calculating the margin add-on collected with respect to dividend equivalent payments. As under the current OCC process, described in Section II.A.6., above, OCC would continue to effect dividend equivalent payments primarily through DTC's Dividend Service. However, as amended under the proposed OCC Rule 2211A(b), OCC would effect payments through its proprietary clearance and settlement system if (i) OCC determines that the dividend or distribution for a Market Loan is not tracked through DTC's dividend tracking service or (ii) if OCC has determined to remove a Market Loan from DTC's dividend tracking service. Consistent with current OCC Rules, OCC would continue to add non-cash dividends and distributions to the Loaned Stock if OCC determines that such dividends and distributions are

[36] *Id.*

[37] *See* Notice of Filing, 89 FR 73473.

[38] OCC clarified that it would not alter or eliminate the authority to permit Clearing Members to submit standing instructions, which currently exists under OCC Rule 2201A (Instructions to the Corporation), the applicable provision of which would be renumbered OCC Rule 2207A(a)(2). *See* Notice of Filing, 89 FR 73473. OCC added that this existing authority would be facilitated by planned technology changes, which would support automatic affirmation based on system settings that could be selected by Clearing Members. When new loans are received, the system would check whether there is a standing instruction that applies to the new loan. If no instruction is found, then the new loan would be pended for affirmation. If a standing instruction applies, then OCC would follow that instruction as satisfaction of the affirmation requirement. *Id.*

legally transferable and the transfer can be effected through DTC. However, the proposed changes to proposed OCC Rule 2211A(c) would clarify that the determination to fix a cash value for non-cash dividends and distributions not added to the Loaned Stock would lie with OCC, rather than the Loan Market. OCC contends that this change would eliminate OCC's reliance on the Loan Market for its margin add-on process and settlement of dividend equivalent payments,[39] and, as such, OCC proposes to eliminate the limitations under current OCC Rule 2206A, including the provision that OCC's guaranty is limited by the amount of margin OCC collected in reliance of the Loan Market's calculation.[40]

A new paragraph (d) would be added to proposed OCC Rule 2211A, addressing the rights of a Lending Clearing Member with respect to optional dividends, meaning those that a shareholder can elect to receive in cash, stock, or some combination of the two. Proposed OCC Rule 2211A(d) would provide that the Lending Clearing Member will have the right to elect an option only if it recalls the Loaned Stock in time to make such election. Otherwise, if the Lending Clearing Member does not recall the Loaned Stock, the Lending Clearing Member would be entitled to receive the default option set by the issuer of the Loaned Stock. OCC indicated that by adding paragraph (d) to proposed OCC Rule 2211A, the proposed rule would match the Loan Market's current process for optional dividends and would help clarify OCC's approach to such optional dividends in the stock lending context in OCC Rules, which currently do not address the rights of a Lending Clearing Member with respect to optional dividends.[41]

OCC also proposes to amend current OCC Rule 2206A(b), which would be renumbered as OCC Rule 2211A(e), to facilitate the calculation, collection, and payment of rebates under its internal clearance and settlement system. Currently, OCC Rule 2206A(b) provides that OCC generally will collect and pay rebate payments on a monthly basis as instructed by the Loan Market, with the rationale being that the Loan Market currently is responsible for rebate payment calculation, as it is with the calculation of dividend equivalent payments.[42] However, proposed OCC Rule 2211A(e) would provide that OCC would assume responsibility for calculating the rebate payments under its internal clearance and settlement system. Paragraph (e) of proposed OCC Rule 2211A would provide OCC the flexibility to calculate and effect collection and payment of rebate payments not just on a monthly basis, but also on each business day, with OCC indicating that this change would prepare it for if and when the stock loan industry transitions to daily, rather than monthly, collection of rebate payments.[43]

g. Market Loan Modifications. To support OCC's move to the industry standard practice of contract-level recordkeeping, the Proposed Rule Change would add a new rule, proposed OCC Rule 2214A, regarding Market Loan modifications. Permissible modifications would be limited to the rebate rate, interest rate benchmark, or loan term. Modifications agreed to by the Market Loan Clearing Members over the life of a Market Loan would be accepted by OCC and maintained in OCC's books and records at the contract level.

The channel through which modification requests would be processed would be determined by the manner in which the loan was initiated. For example, under proposed OCC Rule 2214A(b)(1), in the case of Anonymous Market Loans, modification requests must be submitted to the Loan Market through which the Market Loan was initiated, consistent with current practice. Proposed OCC Rule 2214A(b)(2)–(3) would extend this approach by providing that, in the case of Disclosed Market Loans initiated directly with OCC, modification requests must be submitted to OCC; or, in the case of Disclosed Market Loans initiated through a Loan Market, modification requests must be submitted either through the Loan Market or OCC. Proposed OCC Rule 2214A(c) would state that OCC shall update the relevant terms in its books and records if, as applicable, (i) the Loan Market notifies OCC that the parties agreed to the modification, or, (ii) with respect to Market Loans initiated directly through OCC, the parties provided OCC with matching or affirmed instructions. OCC would provide notice of the modified terms in the daily reports that OCC is required to make available to Market Loan Clearing Members under proposed OCC Rule 2210A.

h. Buy-In Controls and Settlement Cycle. As stated above, in Section II.A.7., neither of the present Stock Loan Programs enables OCC to administer buy-ins of the Loaned Stock. OCC proposes to amend current OCC Rule 2209A, which would be renumbered as proposed OCC Rule 2216A, to provide OCC with additional controls over the buy-in process for the recall of a Market Loan initiated by a Lending Clearing Member if the Borrowing Clearing Member fails to return the Loaned Stock in situations other than suspension of the Borrowing Clearing Member. Current OCC Rule 2209A provides that a Lending Clearing Member is entitled to initiate a buy-in if a recall transaction fails to settle by the Settlement Time on the first stock loan business day after submitting the recall. Also under OCC's current rules, the Borrowing Clearing Member may return the Loaned Stock up until the time that the Lending Clearing Member that initiated the return or recall provides written notice to the Loan Market that it has executed the buy-in or sell-out. OCC noted that such a process can lead to situations where the Borrowing Clearing Member is allowed to return the Loaned Stock during the period after the buy-in becomes permissible, but before the Lending Clearing Member executes the transaction and provides written notice.[44]

To address such situations, proposed OCC Rule 2216A(b) would be amended to provide that, upon timely notice from the Lending Clearing Member that it intends to execute a buy-in after a Borrowing Clearing Member fails to return the Loan Stock following a recall transaction, OCC would prevent the Borrowing Clearing Member from returning the Loaned Stock while the Lending Clearing Member executes the buy-in. OCC would recognize the Borrowing Clearing Member's return of the Loaned Stock until the Lending Clearing Member provides such notice. The stock loan and stock borrow positions would then remain open until the Lending Clearing Member provides notice that the buy-in is complete.

4. Accommodating Canadian and Other Clearing Members

a. Supporting Canadian Clearing Members. The Proposed Rule Change would allow Canadian Clearing Members to expand their participation beyond OCC's Hedge Program, which they currently are permitted to use, and into the Market Loan Program, while preventing certain transactions that could trigger tax withholding

[39] *See* Notice of Filing, 89 FR 73473.

[40] OCC clarified that this change would not have any effect on OCC's margin methodology and that OCC would continue to collect a margin add-on for such cash distributions. *See* Notice of Filing, 89 FR 73473–74.

[41] *See* Notice of Filing, 89 FR 73474.

[42] *Id.*

[43] *Id.*

[44] *See* Notice of Filing, 89 FR 73474.

obligations. To facilitate this expansion, OCC proposes to amend current Rules to recognize Canadian Clearing Members as potential participants in the Market Loan Program and address operational capabilities that will be required to support their participation. The proposal would revise paragraph (f) of OCC Rule 302 (Operational Capability) to include Canadian Clearing Members as members qualifying for participation in the Market Loan Program, including by providing these members the ability to settle transactions through a CDS sub-account at the Depository, which they do under the Hedge Program today, as described in Section II.A.8., above. This same provision also would consolidate operational requirements for participation in the Hedge Program and the Market Loan Program so that the historical division between the programs does not impede the planned eventual decommission of the Hedge Program. As a further example, OCC would revise OCC Rule 306A (Event-Based Reporting) to reflect that a Canadian Clearing Member's current obligation to provide OCC with prompt written notice if CDS has or likely will cease to act for that Canadian Clearing Member would extend to such members that participate in both Stock Loan Programs. OCC also proposes to replicate OCC Rule 2201(c), which concerns a Canadian Clearing Member's appointment of CDS for purposes of settling Hedge Loan delivery-versus-payment transactions, as proposed OCC Rule 2207A(c), to help ensure that the same requirements would apply to Canadian Clearing Members that participate in the Market Loan Program.

In expanding the Market Loan Program to Canadian Clearing Members, OCC stated that it considered its ability to offer an expanded guaranty without incurring tax or withholding obligations on the associated payments that would be incurred under the expanded Market Loan Program.[45] OCC stated that its current Rules, particularly OCC Rule 202, already provide the framework for the expanded guaranty under the Market Loan Program, while balancing the need to avoid tax imposition triggers. OCC Rule 202 currently imposes obligations on Canadian Clearing Members to allow OCC to clear listed options transactions free from tax withholding obligations on dividend equivalent payments or deemed payments. OCC indicated that current OCC Rule 202 also would allow it to make substitute dividend payments to Canadian Clearing Members as Lending Clearing Members under the enhanced Market Loan Program without imposing tax or withholding obligations.[46] OCC would report substitute dividend payments to the IRS using information provided by the Canadian Clearing Members, as OCC currently does for dividend equivalent payments or deemed payments to Canadian Clearing Members in connection with listed options transactions. Additionally, under current OCC Rule 202(b), OCC has the authority to prohibit or limit specific transactions with respect to non-U.S. members that may give rise to tax or withholding obligations, and OCC expects to continue to use that authority to impose certain limitations on the Market Loan activity of Canadian Clearing Members to address specific situations in which tax withholding obligations might otherwise arise, including limitations on transactions involving (i) Canadian underlying securities, (ii) Positive Rebate, and (iii) Negative Rebate. OCC Rule 202(b)(5) also requires Canadian Clearing Members to indemnify OCC for any loss, liability or expense—including taxes and penalties—that it may sustain as a result of its failure to comply with requirements of OCC Rule 202(b).

As stated above, OCC is not proposing to change any part of OCC Rule 202, but OCC has indicated that it believes the current framework under OCC Rule 202 can be applied to the expansion of the Market Loan Program to Canadian Clearing Members, and could help OCC avoid tax or withholding obligations.[47] Pursuant to OCC Rule 202(b), OCC would preclude a Canadian Clearing Member from executing Market Loan transactions as a Borrowing Clearing Member, whether on behalf of a customer or for its own account, for which the Loaned Stock is issued by a Canadian issuer because of tax withholding obligations under Canadian law for substitute dividend payments that would be owed by the Canadian Clearing Member in its capacity as the lender.[48] In such a situation, the Borrowing Clearing Member would be precluded from initiating a Market Loan in its capacity as a Borrowing Clearing Member because the Canadian Clearing Member could not fulfill its obligation under OCC's Rules to provide a substitute dividend payment free from tax and withholding obligations.[49]

With respect to positive and negative rebate payments, OCC also believes that current OCC Rule 202 would allow clearance and settlement of such payments to Canadian Clearing Members in connection with the expanded Market Loan Program without triggering tax withholding obligations. Although neither the Internal Revenue Code nor Internal Revenue Service (''IRS'') regulations specifically provide for the treatment of rebate payments, OCC believes that such rebate payments to Canadian Clearing Members would not trigger tax withholding obligations, because, not only would these members be considered qualified intermediaries and therefore exempt under U.S. tax law, but they also are required to be Qualified Intermediaries as a condition of membership under OCC Rule 202.[50] OCC understands that rebate payments, whether positive or negative, to a Canadian Clearing Member in its capacity as a Qualified Intermediary, may be made by OCC free from withholding, consistent with treatment of dividend equivalent payments in connection with listed options

[45] *See* Notice of Filing, 89 FR 73475. Specifically, under the expanded Market Loan Program, OCC would clear and settle the types of cash distributions, such as substitute dividend and rebate payments, that OCC does not guarantee under the Hedge Program and must be resolved bilaterally by Hedge Clearing Members, away from OCC. *Id.*

[46] *See* Notice of Filing, 89 FR 73475.

[47] *Id.*

[48] OCC understands that under Canadian law, the loan of a security issued by a Canadian company would be treated as a loan of the underlying shares for Canadian tax purposes. The substitute dividend paid by the Canadian Clearing Member as the Borrowing Clearing Member to OCC, in its capacity as the lender, would be a payment made by the Canadian Clearing Member, as a corporation, to OCC of a dividend payable on the underlying securities under subparagraph 260(8)(a)(ii) of the Income Tax Act (Canada), and the payment would be subject to Canadian withholding tax under subsection 212(2) of that act. *See* Notice of Filing, 89 FR 73475.

[49] OCC understands that no similar tax withholding obligation would exist for substitute dividend payments with respect to a Canadian underlying security made by OCC, in its capacity as the borrower, to a Canadian Clearing Member that was a Lending Clearing Member. *See* Notice of Filing, 89 FR 73475.

[50] OCC believes that Positive Rebate would be treated as interest for U.S. federal tax purposes because Positive Rebate compensates the Borrowing Clearing Member for the use of the cash collateral by the Lending Clearing Member, and would therefore constitute U.S.-source ''fixed or determinable annual or periodic income,'' or ''FDAPI,'' under section 1442 of the I.R.C. While U.S.-source FDAPI generally is subject to a 30% U.S. withholding tax when paid to a foreign corporation, exemptions from withholding apply to (i) payments to a Qualified Intermediary in its capacity as an intermediary that has accepted primary withholding responsibility, and (ii) interest paid to a Canadian Clearing Member that qualifies for an exemption from withholding on interest under Article XI of the Convention Between the United States of America and Canada with Respect to Taxes on Income, October 16, 1980, as amended by subsequent Protocols (the ''Canada Treaty''). A Qualified Intermediary that has accepted primary withholding responsibility is exempt from U.S. federal withholding on payments from a withholding agent, including U.S.-source interest, received in its capacity as an intermediary. *See* Notice of Filing, 89 FR 73475–76.

transactions.[51] As with substitute dividends, OCC would add rebate payments for transactions in a Canadian Clearing Member's capacity as a Qualified Intermediary to the current reporting OCC submits to the IRS for dividend equivalent payments on listed options, based on information to be received from the Canadian Clearing Member pursuant to current OCC Rule 202(b)(3).

In the case of Positive Rebate payments on Market Loans initiated by a Canadian Clearing Member in its capacity as principal, OCC would require Canadian Clearing Members to demonstrate through annual certification and submission of underlying tax documents, pursuant to OCC Rule 202, that such payments are subject to exemption from U.S. withholding obligations under the Canada Treaty.[52]

OCC understands that, because there is a risk that no exemption from U.S. tax withholding would apply to the payment of Negative Rebate to a Canadian Clearing Member outside its capacity as a Qualified Intermediary, OCC would limit Canadian Clearing Members from initiating Market Loans with a Negative Rebate as a Lending Clearing Member other than in its capacity as a Qualified Intermediary, pursuant to OCC Rule 202(b), as further protection from potential tax liability.[53] In addition, OCC would limit Canadian Clearing Members' ability to modify the rebate on a Market Loan to a Negative Rebate as a Lending Clearing Member other than in its capacity as a Qualified Intermediary.[54]

b. Provide for Appointed and Appointing Clearing Members. Under current OCC Rule 302, all participants in the Market Loan Program are required to be members of DTC. As stated above, in Section II.B.4.a, OCC would allow Canadian Clearing Members to settle Market Loan transactions through a CDS sub-account maintained at DTC as a way to extend the Market Loan Program to Canadian Clearing Members. In a similar manner, OCC proposes to build a framework of Appointing Clearing Members and Appointed Clearing Members so that the Market Loan Program would be available to new types of Clearing Members who are not necessarily members of DTC, given that OCC expanded its membership to different types of participants in 2023.[55]

To make this accommodation, OCC proposes to revise current OCC Rules 101 and 302, as well as proposed OCC Rules 2202A, 2207A, and 2216A. This accommodation would allow a Clearing Member participating in the Market Loan Program—the Appointing Clearing Member—to appoint an Appointed Clearing Member to make settlement of obligations arising from the initiation or termination of Market Loans. The approach would be similar to how current OCC Rule 901 allows for the operation of Appointed and Appointing Clearing Members with respect to delivery or receipt of underlying securities arising from the exercise of equity options and maturity of stock futures, or how current OCC Rule 2201 allows Canadian Clearing Members to appoint CDS as its agent for purposes of effective delivery orders for stock loan and stock borrow transactions. Under the Proposed Rule Change, Clearing Members wishing to participate in the Market Loan Program would be able to forego membership at DTC and instead establish a relationship with an Appointed Clearing Member. To support this process, OCC would revise the definitions in current OCC Rule 101 for ''Appointed Clearing Member'' and ''Appointing Clearing Member'' to reference the initiation and termination of Market Loans. These definitions would refer to proposed Rule 2207A (Instructions to the Corporation), which would contain a paragraph providing the mechanism for such appointments. Proposed OCC Rules 2202A (Initiation of Market Loans) and 2216A (Termination of Market Loans) would also provide for OCC to submit delivery orders to the Depository's account for the Appointed Clearing Member in connection with the initiation or termination of a Market Loan, respectively.

5. By-Laws and Rules Reorganization and Restatement

In consolidating the two stock loan programs, OCC proposes to move pertinent provisions out of its By-Laws and into its Rules to allow for a clearer and more transparent presentation of the details. OCC proposes to make clarifying, conforming, and organizational changes to OCC's By-Laws and Rules, and rule-filed policies that reference those By-Laws or Rules. OCC would reorganize, restate, and consolidate provisions of OCC's By-Laws governing the Stock Loan Programs into Chapter XXII (Hedge Program) and Chapter XXIIA (Market Loan Program) of OCC's Rules, as amended by this Proposed Rule Change. As part of these revisions, OCC would preserve the governance requirements concerning amendments to the stock loan-related By-Laws migrated to the Rules by amending Article XI, Section 2 of the OCC By-Laws.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Exchange Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to such organization.[56] Under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [57]

The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[58] and any failure of an SRO to provide this information may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the applicable rules and regulations.[59] Moreover, ''unquestioning reliance'' on an SRO's representations in a proposed rule change is not sufficient to justify Commission approval of a proposed rule change.[60]

After carefully considering the Proposed Rule Change, the Commission finds that the proposal is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OCC. More specifically, the Commission finds that the proposal is consistent with Section

[51] *See* Notice of Filing, 89 FR 73476.

[52] Article XI(1) of the Canada Treaty reduces the rate of withholding from 30% to zero for U.S.-source interest beneficially owned by a resident of Canada entitled to treaty benefits, provided that income is not attributable to a permanent establishment, within the meaning of the Canada Treaty, or effectively connected with a trade or business conducted in the United States. *See* Notice of Filing, 89 FR 73476.

[53] *See* Notice of Filing, 89 FR 73476.

[54] *Id.*

[55] *See* Exchange Act Release No. 97439 (May 5, 2023), 88 FR 30373, 30373 (May 11, 2023) (SR–OCC–2023–002).

[56] 15 U.S.C. 78s(b)(2)(C).

[57] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[58] *Id.*

[59] *Id.*

[60] *Susquehanna Int'l Group, LLP* v. *Securities and Exchange Commission,* 866 F.3d 442, 447 (D.C. Cir. 2017) (''Susquehanna'').

17A(b)(3)(F) of the Exchange Act,[61] and Rules 17Ad–22(e)(21)(ii)[62] and 17Ad–22(e)(1)[63] thereunder, as described below.

A. Consistency With Section 17A(b)(3)(F) of the Exchange Act

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that a clearing agency's rules are designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.[64] Based on a review of the record, and for the reasons described below, the changes described above are consistent with promoting the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.

As discussed above, OCC's current Stock Loan Programs are limited in several ways due to their historical development on two separate pathways. For example, OCC does not currently record stock loan transactions in its books and records on a contract-level basis but instead uses position aggregation, which is not aligned to the current industry standard. Additionally, Hedge Program participants, unlike Market Loan Program participants, currently must first negotiate terms bilaterally before sending them to DTC for settlement, as well as address certain post-trade transactions bilaterally with each of their counterparties, away from OCC. This creates operational burdens and costs when Clearing Members must reconcile their internal records with OCC's position-based records on a daily basis. Finally, the treatment of Canadian and other types of Clearing Members participating in the Stock Loan Programs potentially raises tax liability issues under the current stock loan framework.

The Proposed Rule Change would help address these concerns by, among other things, aligning the rules governing both of OCC's Stock Loan Programs with each other, thus streamlining the loan initiation, tracking, and termination processes for both programs. The Proposed Rule Change also would replace OCC's current practice of aggregating new stock loan positions and stock borrow positions for the same Clearing Member in the same Eligible Stock with contract-level accounting, consistent with current industry-standard bookkeeping practices. The Proposed Rule Change also would allow for the submission of bilaterally negotiated transactions in the Market Loan Program. Likewise, the Proposed Rule Change would conform the terms of Market Loans cleared by OCC more closely to the provisions most commonly included in stock loan transactions executed under standard loan market documents; provide a uniform guaranty of terms across Market Loans, regardless of how those Market Loans are initiated under the enhanced program; and support transactions under both Stock Loan Programs. The proposed changes also would allow re-matching of Matched-Book Positions in suspension across both loan programs, thus helping to manage stock loan transactions in the event of a Clearing Member default. Also, OCC would use its current Rules to facilitate equal treatment of Canadian Clearing Members participating in the Stock Loan Programs, as well as to prevent certain transactions that could trigger tax withholding obligations. OCC would similarly amend its Rules to build a framework of Appointing Clearing Members and Appointed Clearing Members so that the Market Loan Program would be available to new types of Clearing Members who are not necessarily members of DTC.

Taken together, these proposed changes would aid in reducing existing frictions in the current stock loan program framework, both by ensuring the accuracy and consistency of information and contract terms that OCC receives rather than relying on a one-on-one reconciliation process with each participating Clearing Member, and by more precisely managing the rebates, dividends, and other information that OCC keeps on its books. The proposed changes would also broaden Canadian Clearing Member access, which would facilitate a transition away from the Hedge Program in the event that OCC proposes to decommission it in the future. By eliminating the current manual reconciliation process, the Proposed Rule Change also would help reduce participating Clearing Members' costs and operational burdens associated with that process. As a result, the Proposed Rule Change would aid in promoting the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions.

Accordingly, the changes proposed to the Stock Loan Programs are consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act.[65]

B. Consistency With Rule 17Ad–22(e)(21)(ii) Under the Exchange Act

Rule 17Ad–22(e)(21)(ii) under the Exchange Act requires, in part, that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves.[66] In adopting Rule 17Ad–22(e)(21), the Commission provided guidance that a covered clearing agency generally should consider in establishing and maintaining policies and procedures that address efficiency and effectiveness, including whether its design meets the needs of its participants and the market it serves.[67]

As described in Section II.A., the historical development of the Market Loan and Hedge Programs resulted in two programs designed to clear similar products in different ways. The current form of the programs presents certain inefficiencies, such as the costly reconciliation processes related to the Hedge Program and lack of visibility into additional contract terms due to OCC's aggregate portfolio-level bookkeeping. Such inefficiencies, in turn, have resulted in costs and burdens to Clearing Members, who have expressed interest in the enhancements such as having the rebate amounts calculated, settled, and guaranteed by OCC. The alignment of rules governing the Hedge and Market Loan Programs, along with improvements to both programs described above (*e.g.,* contract-level recordkeeping, expanded guaranty encompassing additional contract terms), help to address such inefficiencies to meet the needs of OCC's Clearing Members that participate in the Stock Loan Programs, and would reduce manual processing and the potential for stock loan transactions to be delayed or to fail. For example, while OCC continue to operate both the Hedge and Market Loan Programs, OCC would provide the same, uniform guaranty and post-trade processing for all transactions. By allowing for automated submission of transactions to OCC prior to DTC settlement and by controlling the settlement process, the Stock Loan Programs would help reduce the burden and risks currently associated with

[61] 15 U.S.C. 78q–(b)(3)(F).

[62] 17 CFR 240.17Ad–22(e)(21)(ii).

[63] 17 CFR 240.17Ad–22(e)(1).

[64] 15 U.S.C. 78q–(b)(3)(F).

[65] *Id.*

[66] 17 CFR 240.17Ad–22(e)(21)(ii).

[67] Securities Exchange Act Release No. 78961 (Sept. 28, 2016), 81 FR 70786, 70841 (Oct. 13, 2016) (File No. S7–03–14) ("Standards for Covered Clearing Agencies").

balancing and reconciliation. Additionally, by fixing the collateral for Market Loans at a single rate of 102 percent consistent with member feedback, as described in Section II.B.3.c., OCC would reduce the complexity in its risk management of stock loan positions by establishing a single rate across all Market Loans.

Accordingly, the changes proposed to the Stock Loan Programs are consistent with the requirements of Rule 17Ad–22(e)(21) under the Exchange Act.[68]

C. Consistency With Rule 17Ad–22(e)(1) Under the Exchange Act

Rule 17Ad–22(e)(1) under the Exchange Act requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[69] In adopting Rule 17Ad–22(e)(1), the Commission provided guidance that a covered clearing agency generally should consider in establishing and maintaining policies and procedures to address legal risk, including whether its rules, policies and procedures, and contracts are clear, understandable, and consistent with relevant laws and regulations.[70]

As described above, in Section II.B.5., the proposed changes consolidate and reorganize provisions concerning the Stock Loan Programs that are scattered across two documents—both OCC's By-Laws and Rules—into a single location: OCC's Rules. The streamlining and consolidation of these provisions into OCC's Rules enhances their clarity, transparency, and consistency for Clearing Members and stakeholders who choose to participate in the Stock Loan Programs. More specifically, the incorporation of current Interpretations and Policies into the body of the Rules would enhance clarity and readability of the provisions concerning the Stock Loan Programs. Additionally, the global and administrative changes would apply consistent terms and numbering conventions, improve consistency of the text between similar Hedge Program and Market Loan Program rules, and remove duplicative provisions, thus increasing clarity, understandability, and consistency.

Accordingly, the changes proposed to the Stock Loan Programs are consistent with the requirements of Rule 17Ad–22(e)(1) under the Exchange Act.[71]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Exchange Act, and in particular, the requirements of Section 17A of the Exchange Act[72] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[73] that the proposed rule change, as modified by Partial Amendment No. 1, (SR–OCC–2024–011) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[74]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024–28257 Filed 12–2–24; 8:45 am]

BILLING CODE 8011–01–P

[68] 17 CFR 240.17Ad–22(e)(21)(ii).

[69] 17 CFR 240.17Ad–22(e)(1).

[70] Standards for Covered Clearing Agencies, 81 FR 70802.

[71] 17 CFR 240.17Ad–22(e)(1).

[72] In approving this Proposed Rule Change, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[73] 15 U.S.C. 78s(b)(2).

[74] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20699 and #20700; FLORIDA Disaster Number FL–20012]

Presidential Declaration Amendment of a Major Disaster for the State of Florida

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 6.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Florida (FEMA–4828–DR), dated September 28, 2024.

Incident: Hurricane Helene.

DATES: Issued on November 22, 2024.

Incident Period: September 23, 2024 through October 7, 2024.

Physical Loan Application Deadline Date: January 7, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: June 30, 2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Florida, dated September 28, 2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to January 7, 2025.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Alejandro Contreras,

Acting Deputy Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–28279 Filed 12–2–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20608 and #20609; NEW YORK Disaster Number NY–20015]

Administrative Declaration of a Disaster for the State of New York

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of New York dated November 26, 2024.

Incident: Severe Storms and Flooding.

DATES: Issued on November 26, 2024.

Incident Period: August 18, 2024 through August 19, 2024.

Physical Loan Application Deadline Date: January 27, 2025.

Economic Injury (EIDL) Loan Application Deadline Date: August 26, 2025.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Alan Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be submitted online using the MySBA Loan Portal *https://lending.sba.gov* or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659–2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Suffolk.

Contiguous Counties: