

Required fields are shown with yellow backgrounds and asterisks.

Page 1 of * 29	SECURITIES AND EXCHANGE COMMISSION WASHINGTON, D.C. 20549 Form 19b-4		File No.* SR - 2019 - * 001	Amendment No. (req. for Amendments *)
Filing by Options Clearing Corporation Pursuant to Rule 19b-4 under the Securities Exchange Act of 1934				
Initial * <input checked="" type="checkbox"/>	Amendment * <input type="checkbox"/>	Withdrawal <input type="checkbox"/>	Section 19(b)(2) * <input type="checkbox"/>	Section 19(b)(3)(A) * <input checked="" type="checkbox"/>
			Section 19(b)(3)(B) * <input type="checkbox"/>	
			Rule	
Pilot <input type="checkbox"/>	Extension of Time Period for Commission Action * <input type="checkbox"/>	Date Expires * <input type="text"/>	<input type="checkbox"/> 19b-4(f)(1)	<input type="checkbox"/> 19b-4(f)(4)
			<input checked="" type="checkbox"/> 19b-4(f)(2)	<input type="checkbox"/> 19b-4(f)(5)
			<input type="checkbox"/> 19b-4(f)(3)	<input type="checkbox"/> 19b-4(f)(6)
Notice of proposed change pursuant to the Payment, Clearing, and Settlement Act of 2010			Security-Based Swap Submission pursuant to the Securities Exchange Act of 1934	
Section 806(e)(1) * <input type="checkbox"/>		Section 806(e)(2) * <input type="checkbox"/>		Section 3C(b)(2) * <input type="checkbox"/>
Exhibit 2 Sent As Paper Document <input type="checkbox"/>	Exhibit 3 Sent As Paper Document <input type="checkbox"/>			
<b>Description</b>				
Provide a brief description of the action (limit 250 characters, required when Initial is checked *).				
<input type="text" value="Proposed rule change to revise The Options Clearing Corporation's Schedule of Fees."/>				
<b>Contact Information</b>				
Provide the name, telephone number, and e-mail address of the person on the staff of the self-regulatory organization prepared to respond to questions and comments on the action.				
First Name *	<input type="text" value="Justin"/>	Last Name *	<input type="text" value="Byrne"/>	
Title *	<input type="text" value="Vice President, Regulatory Filings"/>			
E-mail *	<input type="text" value="jbyrne@theocc.com"/>			
Telephone *	<input type="text" value="(202) 971-7238"/>	Fax	<input type="text" value="(312) 322-6280"/>	
<b>Signature</b>				
Pursuant to the requirements of the Securities Exchange Act of 1934,				
has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.				
(Title *)				
Date	<input type="text" value="03/08/2019"/>	<input type="text" value="Vice President, Regulatory Filings"/>		
By	<input type="text" value="Justin W. Byrne"/>	<input type="text" value="Justin W. Byrne"/>		
(Name *)		<input type="text" value="Justin W. Byrne"/>		
NOTE: Clicking the button at right will digitally sign and lock this form. A digital signature is as legally binding as a physical signature, and once signed, this form cannot be changed.				
<input type="button" value="Justin Byrne, jbyrne@theocc.com"/>				

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

For complete Form 19b-4 instructions please refer to the EFFF website.

**Form 19b-4 Information \***

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The self-regulatory organization must provide all required information, presented in a clear and comprehensible manner, to enable the public to provide meaningful comment on the proposal and for the Commission to determine whether the proposal is consistent with the Act and applicable rules and regulations under the Act.

**Exhibit 1 - Notice of Proposed Rule Change \***

Add Remove View

The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 1A- Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice by Clearing Agencies \***

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The Notice section of this Form 19b-4 must comply with the guidelines for publication in the Federal Register as well as any requirements for electronic filing as published by the Commission (if applicable). The Office of the Federal Register (OFR) offers guidance on Federal Register publication requirements in the Federal Register Document Drafting Handbook, October 1998 Revision. For example, all references to the federal securities laws must include the corresponding cite to the United States Code in a footnote. All references to SEC rules must include the corresponding cite to the Code of Federal Regulations in a footnote. All references to Securities Exchange Act Releases must include the release number, release date, Federal Register cite, Federal Register date, and corresponding file number (e.g., SR-[SRO]-xx-xx). A material failure to comply with these guidelines will result in the proposed rule change, security-based swap submission, or advance notice being deemed not properly filed. See also Rule 0-3 under the Act (17 CFR 240.0-3)

**Exhibit 2 - Notices, Written Comments, Transcripts, Other Communications**

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Exhibit Sent As Paper Document

Copies of notices, written comments, transcripts, other communications. If such documents cannot be filed electronically in accordance with Instruction F, they shall be filed in accordance with Instruction G.

**Exhibit 3 - Form, Report, or Questionnaire**

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Exhibit Sent As Paper Document

Copies of any form, report, or questionnaire that the self-regulatory organization proposes to use to help implement or operate the proposed rule change, or that is referred to by the proposed rule change.

**Exhibit 4 - Marked Copies**

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The full text shall be marked, in any convenient manner, to indicate additions to and deletions from the immediately preceding filing. The purpose of Exhibit 4 is to permit the staff to identify immediately the changes made from the text of the rule with which it has been working.

**Exhibit 5 - Proposed Rule Text**

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The self-regulatory organization may choose to attach as Exhibit 5 proposed changes to rule text in place of providing it in Item I and which may otherwise be more easily readable if provided separately from Form 19b-4. Exhibit 5 shall be considered part of the proposed rule change.

**Partial Amendment**

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If the self-regulatory organization is amending only part of the text of a lengthy proposed rule change, it may, with the Commission's permission, file only those portions of the text of the proposed rule change in which changes are being made if the filing (i.e. partial amendment) is clearly understandable on its face. Such partial amendment shall be clearly identified and marked to show deletions and additions.

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

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Form 19b-4

Proposed Rule Change  
by

**THE OPTIONS CLEARING CORPORATION**

Pursuant to Rule 19b-4 under the  
Securities Exchange Act of 1934

**Item 1. Text of the Proposed Rule Change**

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> The Options Clearing Corporation (“OCC” or “Corporation”) is filing with the Securities and Exchange Commission (“SEC” or “Commission”) a proposed rule change to revise OCC’s Schedule of Fees effective April 1, 2019, to implement an increase in clearing fees. OCC’s Schedule of Fees is attached hereto as Exhibit 5. Material proposed to be added to OCC’s Schedule of Fees as currently in effect is underlined and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.<sup>3</sup>

**Item 2. Procedures of the Self-Regulatory Organization**

The proposed rule change was approved for filing with the Commission by OCC’s Board of Directors on February 22, 2019.

Questions should be addressed to Justin W. Byrne, Vice President, Regulatory Filings, at (202) 971-7238.

**Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change****A. Purpose**

The purpose of this proposed rule change is to revise OCC’s Schedule of Fees effective April 1, 2019, to implement an increase in clearing fees. The proposed fee change is designed to enable OCC to accumulate capital to comply with Rule 17Ad-22(e)(15) under the Exchange Act,

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

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

<sup>3</sup> OCC’s By-Laws and Rules can be found on OCC’s public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

which requires OCC, in pertinent part, to “hold[] liquid net assets funded by equity to the greater of either (x) six months . . . current operating expenses, or (y) the amount determined by the Board of Directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and service . . .” and “[maintain[] a viable plan, approved by the Board of Directors and updated at least annually, for raising additional equity should its equity fall close to or below the amount required [to be held].”<sup>4</sup>

On February 13, 2019, the Commission issued an order disapproving OCC’s rules concerning its plan to significantly increase OCC’s capitalization (“Capital Plan”).<sup>5</sup> The Capital Plan provided for a capital contribution of \$150 million from OCC’s five shareholder exchanges and an agreement for the shareholder exchanges to replenish OCC’s capital up to another \$200 million if OCC’s capital fell close to or below the amount OCC determined to be required by Rule 17Ad-22(e)(15).<sup>6</sup> The Capital Plan also provided for fees to be set at a level sufficient to cover OCC’s estimated operating expenses and any unexpected fluctuations in business capital needs or projected volume.

As a result of the Commission’s disapproval order, OCC’s By-Laws and Rules reverted back to their pre-Capital Plan state. Article IX, Section 9 of OCC’s By-Laws, in its reverted and currently effective form, permits OCC to establish a fee structure to: (i) cover operating expenses; (ii) maintain reserves as are deemed reasonably necessary by the Board of Directors (“Board”) to provide facilities for the conduct of OCC’s business; and (iii) accumulate such

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<sup>4</sup> See 17 CFR 240.17Ad-22(e)(15).

<sup>5</sup> See Securities Exchange Act Release No. 85121 (February 13, 2019), 84 FR 5157 (February 20, 2019) (SR-OCC-2015-02).

<sup>6</sup> See Securities Exchange Act Release No. 74452 (March 6, 2015), 80 FR 13058 (March 12, 2015) (SR-OCC-2015-02) and Securities Exchange Act Release No. 77112 (February 11, 2016), 81 FR 8294 (February 18, 2016) (SR-OCC-2015-02).

additional surplus as the Board may deem advisable to permit OCC to meet its obligations to Clearing Members and the general public.

Following the disapproval of the Capital Plan, OCC's shareholder exchanges unanimously agreed to allow OCC to retain \$40 million of the initial capital contribution on a temporary basis to ensure that OCC continues to maintain sufficient liquid net assets until such time as OCC is able to accumulate retained earnings sufficient to meet its anticipated cashflow needs and the liquid net assets funded by equity requirement of Rule 17Ad-22(e)(15).<sup>7</sup> OCC notes that the timing of the return of the remaining \$40 million to shareholder exchanges is dependent on a number of variable factors, such as the implementation of the proposed fee change describe herein, cleared product volume for the year 2019, and the potential for unanticipated expenses or cash outflows not currently known to OCC.

In light of the disapproval of the Capital Plan, and pursuant to the Board's authority under Article IX, Section 9 of OCC's By-Laws, OCC's Board has determined that it is necessary and advisable to increase OCC's clearing fees to generate sufficient revenue and maintain sufficient reserves to cover OCC's anticipated operating expenses and other expected cash outlays, including any unanticipated fluctuations in operating expenses, and accumulate sufficient liquid net assets in reserve to facilitate compliance with Rule 17Ad-22(e)(15)(ii)<sup>8</sup> and ensure that OCC's liquid net assets do not fall close to or below the amount needed to comply therewith. Specifically, the Board believes that the proposed fee change is necessary and advisable to ensure that OCC maintains sufficient liquid net assets to maintain its target capital level above \$247 million throughout 2019. This target capital requirement was determined based

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<sup>7</sup> 17 CFR 240.17Ad-22(e)(15).

<sup>8</sup> 17 CFR 240.17Ad-22(e)(15)(ii).

on a number of considerations including: (i) a baseline amount that is the greater of six months of projected operating expenses or the amount determined to ensure a recovery or orderly wind-down of critical operations and services; (ii) a value linked to OCC's risk of potential business or operational losses; and (iii) the level of annual expenses from OCC's budget (excluding one-time expenses). In determining the appropriate level of the proposed fee increase, OCC's Board considered quantitative analyses based on a number of assumptions and projections, including: (i) projected average daily contract volumes consistent with the assumptions used in OCC's 2019 annual budget; (ii) projected expenses and known cash flows based on OCC's 2019 budget; (iii) an operating margin based on an analysis of five-year historical volumes; (iv) the retention of refund and dividend payments for 2018; (v) the retention of \$40 million of the initial capital contribution from the shareholder exchanges; and (vi) known capital needs to replace and modernize OCC's technology infrastructure.<sup>9</sup> OCC believes that these assumptions are both appropriate and reasonable for assessing its liquid net assets against its target capital requirement and determining the level of fees necessary to ensure that OCC continues to maintain liquid net assets in excess of that amount. Moreover, OCC and its Board believe that an increase in clearing fees is necessary and appropriate because there are no alternative means for OCC to increase its capital in a manner that is consistent with its existing By-Laws and Rules on a timely basis.<sup>10</sup>

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<sup>9</sup> OCC has provided a summary of its analysis, including projected volumes, revenues, and capital reserves under the proposed fee change, in confidential Exhibit 3 of the filing.

<sup>10</sup> OCC notes that it is also in the process of developing a new plan for replenishing its capital as required under Rule 17Ad-22(e)(15)(iii). See 17 CFR 240.17Ad-22(e)(15)(iii). This replenishment plan would likely be subject to proposed rule change and advance notice filings with the Commission prior to implementation. Any revenue generated from the proposed fee increase in excess of the amount required to meet OCC's operating expenses and target capital requirement may also be factored into OCC's proposed

OCC proposes to revise its Schedule of Fees as set forth below.<sup>11</sup>

Current Fee Schedule		Proposed Fee Schedule	
Trades with contracts of:	Current Fee	Trades with contracts of:	Proposed Fee
1-1100	\$0.050/contract	1-999	\$0.055/contract
>1100	\$55/trade	>999	\$55/trade

OCC proposes to modify its fee schedule to: (i) increase its per contract clearing fee from \$0.050 to \$0.055 per contract and (ii) adjust the quantity of contracts at which the fixed, per trade clearing fee begins from greater than 1100 contracts per trade to greater than 999 contracts per trade. OCC proposes to make the fee change effective April 1, 2019, because OCC believes that this date is the first date that the industry could be prepared to process the new fee without disruption based on consultations with market participants.<sup>12</sup>

### Clearing Member Outreach

On February 25, 2019, OCC provided a written notification to its Clearing Members summarizing actions approved by OCC's Board in response to the disapproval of the Capital Plan, which included, among other things, OCC's plan for returning the initial capital contribution of the shareholder exchanges, the temporary retention of \$40 million of the initial contribution, and the proposed fee increase described herein. On February 27, 2019, OCC published an Information Memo to all of its Clearing Members and exchanges notifying them of the proposed changes to the Schedule of Fees that would become effective as of April 1, 2019,

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replenishment plan and help facilitate OCC's compliance with the requirements of Rule 17Ad-22(e)(15). See 17 CFR 240.17Ad-22(e)(15).

<sup>11</sup> These changes are also reflected in Exhibit 5.

<sup>12</sup> OCC notes that a mid-month change to clearing fees could introduce operational disruption to Clearing Members due to the impact on their billing processes.

subject to OCC completing its regulatory filing requirements.<sup>13</sup> OCC also held a conference call with industry participants on March 1, 2019, to discuss these issues, including the proposed fee change. The feedback from this call regarding the fee change primarily consisted of questions concerning the length of time that the fee increase would need to be in place before OCC could reduce fees, but there were no specific objections to the fee increase raised during the call. Finally, OCC notes that the increase in clearing fees was unanimously approved by its Board of Directors, which is comprised of Member Directors representing over 50% of OCC's cleared volume and Exchange Directors representing over 80% of OCC's cleared volume.

B. Statutory Basis

Section 17A(b)(3)(D) of the Act<sup>14</sup> requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. OCC believes that the proposed fee change is reasonable because it is designed to generate sufficient revenue and accumulate sufficient reserves in the form of liquid net assets to cover OCC's operating expenses and address potential business or operational losses so that OCC can continue to meet its obligations as a systemically important financial market utility to Clearing Members and the general public if such losses were to materialize (including through a recovery or orderly wind-down of critical operations and services) and thereby facilitate compliance with certain requirements of Rule 17Ad-22(e)(15)(ii).<sup>15</sup> As described above, OCC believes that the proposed fee change is necessary and advisable to ensure that OCC maintains sufficient liquid net assets to cover its \$247 million target capital requirement throughout 2019. In determining the

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<sup>13</sup> See OCC Information Memo #44631 published on February 27, 2019, available on OCC's public website: <https://www.theocc.com/webapps/infomemos>.

<sup>14</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>15</sup> 17 CFR 240.17Ad-22(e)(15)(ii).

appropriate level of the proposed fee increase, OCC's Board considered quantitative analyses based on a number of assumptions and projections, including: (i) projected average daily contract volumes consistent with the assumptions used in OCC's 2019 annual budget; (ii) projected expenses and known cash flows based on OCC's 2019 budget; (iii) an operating margin based on an analysis of five-year historical volumes; (iv) the retention of refund and dividend payments for 2018; (v) the retention of \$40 million of the initial capital contribution from the shareholder exchanges; and (vi) known capital needs to replace and modernize OCC's technology infrastructure. OCC believes that these assumptions are both appropriate and reasonable for assessing its liquid net assets against its target capital requirement and determining the level of fees necessary to ensure that OCC continues to maintain liquid net assets in excess of that amount. Moreover, OCC believes that the proposed increase in clearing fees is reasonable because it is the only way in which OCC can increase its capital as quickly as reasonably possible and in a manner that is consistent with its existing By-Laws and Rules. OCC also believes that the proposed fee change would result in an equitable allocation of fees among its participants because it would be equally applicable to all market participants transacting at a given level of contract volume. As a result, OCC believes that the proposed fee schedule provides for the equitable allocation of reasonable fees in accordance with Section 17A(b)(3)(D) of the Act.<sup>16</sup>

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

**Item 4. Self-Regulatory Organization's Statement on Burden on Competition**

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<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(D).

Section 17A(b)(3)(I) of the Act<sup>17</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would have any impact or impose a burden on competition. Although this proposed rule change affects clearing members, their customers, and the markets that OCC serves, OCC believes that the proposed rule change would not disadvantage or favor any particular user of OCC's services in relationship to another user because the proposed clearing fees apply equally to all users of OCC. Accordingly, OCC does not believe that the proposed rule change would have any impact or impose a burden on competition.

**Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

**Item 6. Extension of Time Period for Commission Action**

OCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.<sup>18</sup>

**Item 7. Basis for Summary Effectiveness Pursuant to Section 19(b)(3) or for Accelerated Effectiveness Pursuant to Section 19(b)(2) or Section 19(b)(7)(D)**

Pursuant to Section 19(b)(3)(A)(ii)<sup>19</sup> of the Act, and Rule 19b-4(f)(2) thereunder,<sup>20</sup> the proposed rule change is filed for immediate effectiveness as it constitutes a change in fees

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<sup>17</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>18</sup> 15 U.S.C. 78s(b)(2).

<sup>19</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>20</sup> 17 CFR 240.19b-4(f)(2).

charged to OCC clearing members. At any time within 60 days of the filing of the proposed rule change, the 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.<sup>21</sup>

**Item 8. Proposed Rule Change Based on Rules of Another Self-Regulatory Organization or of the Commission**

Not applicable.

**Item 9. Security-Based Swap Submissions Filed Pursuant to Section 3C of the Act**

Not applicable.

**Item 10. Advance Notices Filed Pursuant to Section 806(e) of the Payment, Clearing and Settlement Supervision Act**

Not applicable.

**Item 11. Exhibits**

Exhibit 1A. Completed Notice of Proposed Rule Change for publication in the Federal Register.

Exhibit 3. Confidential Data and Analysis.

Exhibit 5. Proposed changes to OCC Schedule of Fees, effective April 1, 2019.

**CONFIDENTIAL TREATMENT IS REQUESTED FOR EXHIBIT 3**

**PURSUANT TO SEC RULE 24b-2**

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<sup>21</sup> Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, The Options Clearing Corporation has duly caused this filing to be signed on its behalf by the undersigned thereunto duly authorized.

**THE OPTIONS CLEARING CORPORATION**

**By:**

\_\_\_\_\_  
**Justin W. Byrne**  
**Vice President, Regulatory Filings**

EXHIBIT 1A

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-[\_\_\_\_\_]; File No. SR-OCC-2019-001)

March \_\_, 2019

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Revise The Options Clearing Corporation's Schedule of Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on March 8, 2019, The Options Clearing Corporation ("OCC" or "Corporation") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii)<sup>3</sup> of the Act and Rule 19b-4(f)(2)<sup>4</sup> thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change by OCC would revise OCC's Schedule of Fees effective April 1, 2019, to implement an increase in clearing fees. OCC's Schedule of Fees is included in Exhibit 5 of the filing. Material proposed to be added to OCC's Schedule of Fees as currently in effect is underlined and material proposed to be deleted

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

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

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

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

is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.<sup>5</sup>

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The purpose of this proposed rule change is to revise OCC's Schedule of Fees effective April 1, 2019, to implement an increase in clearing fees. The proposed fee change is designed to enable OCC to accumulate capital to comply with Rule 17Ad-22(e)(15) under the Exchange Act, which requires OCC, in pertinent part, to "hold[] liquid net assets funded by equity to the greater of either (x) six months . . . current operating expenses, or (y) the amount determined by the Board of Directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and service . . ." and "[maintain[] a viable plan, approved by the Board of Directors and updated at least annually, for raising additional equity should its equity fall close to or below the amount required [to be held]."<sup>6</sup>

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<sup>5</sup> OCC's By-Laws and Rules can be found on OCC's public website: <http://optionsclearing.com/about/publications/bylaws.jsp>.

<sup>6</sup> See 17 CFR 240.17Ad-22(e)(15).

On February 13, 2019, the Commission issued an order disapproving OCC's rules concerning its plan to significantly increase OCC's capitalization ("Capital Plan").<sup>7</sup> The Capital Plan provided for a capital contribution of \$150 million from OCC's five shareholder exchanges and an agreement for the shareholder exchanges to replenish OCC's capital up to another \$200 million if OCC's capital fell close to or below the amount OCC determined to be required by Rule 17Ad-22(e)(15).<sup>8</sup> The Capital Plan also provided for fees to be set at a level sufficient to cover OCC's estimated operating expenses and any unexpected fluctuations in business capital needs or projected volume.

As a result of the Commission's disapproval order, OCC's By-Laws and Rules reverted back to their pre-Capital Plan state. Article IX, Section 9 of OCC's By-Laws, in its reverted and currently effective form, permits OCC to establish a fee structure to: (i) cover operating expenses; (ii) maintain reserves as are deemed reasonably necessary by the Board of Directors ("Board") to provide facilities for the conduct of OCC's business; and (iii) accumulate such additional surplus as the Board may deem advisable to permit OCC to meet its obligations to Clearing Members and the general public.

Following the disapproval of the Capital Plan, OCC's shareholder exchanges unanimously agreed to allow OCC to retain \$40 million of the initial capital contribution on a temporary basis to ensure that OCC continues to maintain sufficient liquid net assets until such time as OCC is able to accumulate retained earnings sufficient to meet its anticipated cashflow needs and the liquid net assets funded by equity requirement of Rule

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<sup>7</sup> See Securities Exchange Act Release No. 85121 (February 13, 2019), 84 FR 5157 (February 20, 2019) (SR-OCC-2015-02).

<sup>8</sup> See Securities Exchange Act Release No. 74452 (March 6, 2015), 80 FR 13058 (March 12, 2015) (SR-OCC-2015-02) and Securities Exchange Act Release No. 77112 (February 11, 2016), 81 FR 8294 (February 18, 2016) (SR-OCC-2015-02).

17Ad-22(e)(15).<sup>9</sup> OCC notes that the timing of the return of the remaining \$40 million to shareholder exchanges is dependent on a number of variable factors, such as the implementation of the proposed fee change describe herein, cleared product volume for the year 2019, and the potential for unanticipated expenses or cash outflows not currently known to OCC.

In light of the disapproval of the Capital Plan, and pursuant to the Board's authority under Article IX, Section 9 of OCC's By-Laws, OCC's Board has determined that it is necessary and advisable to increase OCC's clearing fees to generate sufficient revenue and maintain sufficient reserves to cover OCC's anticipated operating expenses and other expected cash outlays, including any unanticipated fluctuations in operating expenses, and accumulate sufficient liquid net assets in reserve to facilitate compliance with Rule 17Ad-22(e)(15)(ii)<sup>10</sup> and ensure that OCC's liquid net assets do not fall close to or below the amount needed to comply therewith. Specifically, the Board believes that the proposed fee change is necessary and advisable to ensure that OCC maintains sufficient liquid net assets to maintain its target capital level above \$247 million throughout 2019. This target capital requirement was determined based on a number of considerations including: (i) a baseline amount that is the greater of six months of projected operating expenses or the amount determined to ensure a recovery or orderly wind-down of critical operations and services; (ii) a value linked to OCC's risk of potential business or operational losses; and (iii) the level of annual expenses from OCC's budget (excluding one-time expenses). In determining the appropriate level of the

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<sup>9</sup> 17 CFR 240.17Ad-22(e)(15).

<sup>10</sup> 17 CFR 240.17Ad-22(e)(15)(ii).

proposed fee increase, OCC's Board considered quantitative analyses based on a number of assumptions and projections, including: (i) projected average daily contract volumes consistent with the assumptions used in OCC's 2019 annual budget; (ii) projected expenses and known cash flows based on OCC's 2019 budget; (iii) an operating margin based on an analysis of five-year historical volumes; (iv) the retention of refund and dividend payments for 2018; (v) the retention of \$40 million of the initial capital contribution from the shareholder exchanges; and (vi) known capital needs to replace and modernize OCC's technology infrastructure.<sup>11</sup> OCC believes that these assumptions are both appropriate and reasonable for assessing its liquid net assets against its target capital requirement and determining the level of fees necessary to ensure that OCC continues to maintain liquid net assets in excess of that amount. Moreover, OCC and its Board believe that an increase in clearing fees is necessary and appropriate because there are no alternative means for OCC to increase its capital in a manner that is consistent with its existing By-Laws and Rules on a timely basis.<sup>12</sup>

OCC proposes to revise its Schedule of Fees as set forth below.<sup>13</sup>

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<sup>11</sup> OCC has provided a summary of its analysis, including projected volumes, revenues, and capital reserves under the proposed fee change, in confidential Exhibit 3 of the filing.

<sup>12</sup> OCC notes that it is also in the process of developing a new plan for replenishing its capital as required under Rule 17Ad-22(e)(15)(iii). See 17 CFR 240.17Ad-22(e)(15)(iii). This replenishment plan would likely be subject to proposed rule change and advance notice filings with the Commission prior to implementation. Any revenue generated from the proposed fee increase in excess of the amount required to meet OCC's operating expenses and target capital requirement may also be factored into OCC's proposed replenishment plan and help facilitate OCC's compliance with the requirements of Rule 17Ad-22(e)(15). See 17 CFR 240.17Ad-22(e)(15).

<sup>13</sup> These changes are also reflected in Exhibit 5.

Current Fee Schedule		Proposed Fee Schedule	
Trades with contracts of:	Current Fee	Trades with contracts of:	Proposed Fee
1-1100	\$0.050/contract	1-999	\$0.055/contract
>1100	\$55/trade	>999	\$55/trade

OCC proposes to modify its fee schedule to: (i) increase its per contract clearing fee from \$0.050 to \$0.055 per contract and (ii) adjust the quantity of contracts at which the fixed, per trade clearing fee begins from greater than 1100 contracts per trade to greater than 999 contracts per trade. OCC proposes to make the fee change effective April 1, 2019, because OCC believes that this date is the first date that the industry could be prepared to process the new fee without disruption based on consultations with market participants.<sup>14</sup>

### Clearing Member Outreach

On February 25, 2019, OCC provided a written notification to its Clearing Members summarizing actions approved by OCC's Board in response to the disapproval of the Capital Plan, which included, among other things, OCC's plan for returning the initial capital contribution of the shareholder exchanges, the temporary retention of \$40 million of the initial contribution, and the proposed fee increase described herein. On February 27, 2019, OCC published an Information Memo to all of its Clearing Members and exchanges notifying them of the proposed changes to the Schedule of Fees that would become effective as of April 1, 2019, subject to OCC completing its regulatory

<sup>14</sup> OCC notes that a mid-month change to clearing fees could introduce operational disruption to Clearing Members due to the impact on their billing processes.

filing requirements.<sup>15</sup> OCC also held a conference call with industry participants on March 1, 2019, to discuss these issues, including the proposed fee change. The feedback from this call regarding the fee change primarily consisted of questions concerning the length of time that the fee increase would need to be in place before OCC could reduce fees, but there were no specific objections to the fee increase raised during the call. Finally, OCC notes that the increase in clearing fees was unanimously approved by its Board of Directors, which is comprised of Member Directors representing over 50% of OCC's cleared volume and Exchange Directors representing over 80% of OCC's cleared volume.

(2) Statutory Basis

Section 17A(b)(3)(D) of the Act<sup>16</sup> requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges among its participants. OCC believes that the proposed fee change is reasonable because it is designed to generate sufficient revenue and accumulate sufficient reserves in the form of liquid net assets to cover OCC's operating expenses and address potential business or operational losses so that OCC can continue to meet its obligations as a systemically important financial market utility to Clearing Members and the general public if such losses were to materialize (including through a recovery or orderly wind-down of critical operations and services) and thereby facilitate compliance with certain requirements of Rule 17Ad-22(e)(15)(ii).<sup>17</sup> As described above, OCC believes that the proposed fee

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<sup>15</sup> See OCC Information Memo #44631 published on February 27, 2019, available on OCC's public website: <https://www.theocc.com/webapps/infomemos>.

<sup>16</sup> 15 U.S.C. 78q-1(b)(3)(D).

<sup>17</sup> 17 CFR 240.17Ad-22(e)(15)(ii).

change is necessary and advisable to ensure that OCC maintains sufficient liquid net assets to cover its \$247 million target capital requirement throughout 2019. In determining the appropriate level of the proposed fee increase, OCC's Board considered quantitative analyses based on a number of assumptions and projections, including: (i) projected average daily contract volumes consistent with the assumptions used in OCC's 2019 annual budget; (ii) projected expenses and known cash flows based on OCC's 2019 budget; (iii) an operating margin based on an analysis of five-year historical volumes; (iv) the retention of refund and dividend payments for 2018; (v) the retention of \$40 million of the initial capital contribution from the shareholder exchanges; and (vi) known capital needs to replace and modernize OCC's technology infrastructure. OCC believes that these assumptions are both appropriate and reasonable for assessing its liquid net assets against its target capital requirement and determining the level of fees necessary to ensure that OCC continues to maintain liquid net assets in excess of that amount. Moreover, OCC believes that the proposed increase in clearing fees is reasonable because it is the only way in which OCC can increase its capital as quickly as reasonably possible and in a manner that is consistent with its existing By-Laws and Rules. OCC also believes that the proposed fee change would result in an equitable allocation of fees among its participants because it would be equally applicable to all market participants transacting at a given level of contract volume. As a result, OCC believes that the proposed fee schedule provides for the equitable allocation of reasonable fees in accordance with Section 17A(b)(3)(D) of the Act.<sup>18</sup>

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<sup>18</sup> 15 U.S.C. 78q-1(b)(3)(D).

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act<sup>19</sup> requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe that the proposed rule change would have any impact or impose a burden on competition. Although this proposed rule change affects clearing members, their customers, and the markets that OCC serves, OCC believes that the proposed rule change would not disadvantage or favor any particular user of OCC's services in relationship to another user because the proposed clearing fees apply equally to all users of OCC. Accordingly, OCC does not believe that the proposed rule change would have any impact or impose a burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii)<sup>20</sup> of the Act, and Rule 19b-4(f)(2) thereunder,<sup>21</sup> the proposed rule change is filed for immediate effectiveness as it constitutes a change in fees charged to OCC Clearing Members. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

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<sup>19</sup> 15 U.S.C. 78q-1(b)(3)(I).

<sup>20</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>21</sup> 17 CFR 240.19b-4(f)(2).

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.<sup>22</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2019-001 on the subject line.

##### Paper Comments:

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

All submissions should refer to File Number SR-OCC-2019-001. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule

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<sup>22</sup> Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at

<https://www.theocc.com/about/publications/bylaws.jsp>.

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR-OCC-2019-001 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>23</sup>

Eduardo A. Aleman  
Assistant Secretary

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<sup>23</sup> 17 CFR 200.30-3(a)(12).

**EXHIBIT 3**

**[Redacted Pursuant to Rule 24b-2]**

**[Redacted Pursuant to Rule 24b-2]**

**EXHIBIT 5**Underlined text indicates new text~~Strikethrough~~ text indicates deleted text

**THE OPTIONS CLEARING CORPORATION**  
**SCHEDULE OF FEES – ~~MARCH 2018~~APRIL 2019**

**CLEARING MEMBER****CLEARING**

<b>Clearing Fees</b>		<b>MEMBERSHIP</b>	
<b>Trades with contracts of:</b>		<b>New Clearing Member</b>	
0 – <del>1100999</del>	\$ <del>0.00</del> <u>.050055</u>	<b>Qualification Fee</b>	\$ 4,000.00
Greater than <del>1100999</del>	\$ 55.00/trade		
<b>New Products</b>		<b>Stock and Market Loan Program Transaction Fees</b>	
Unless otherwise agreed to by OCC and the applicable exchange, from the first day of listing through the end of the following calendar month: \$ 0.00		Per transaction assessed against each lender and borrower	\$ 1.00
Linkage per side*	\$ 0.02	<b>Stock and Market Loan Program Borrower Fees</b>	
		Monthly annualized charge on average daily notional outstanding balance	0.4 basis point
<b>Minimum Monthly Clearing Fee</b>	\$ 200.00	<b>STAMPS</b>	
<b>Exercise Fee – per line item on exercise notice</b>	\$ 1.00	Clearing Member Authorization Stamp	\$ 23.00 per stamp

\* A Linkage transaction that includes more than 2,750 contracts will be charged a flat fee of \$55.00 per trade per side.

**ANCILLARY SERVICES****TIER I**

- ENCORE Access
- MyOCC Access
- Data Service – proprietary position and trade data (includes transmission to service bureau)
- Report Bundle
- Series File
- Special Settlement File
- Open Interest File
- Prices File
- Stock Loan File
- Theoretical Profit and Loss Values
- Leased line charges are additional  
\$ 1,500.00 per month

- Leased line charges are additional  
\$ 1,000.00 per month

**TIER III**

- ENCORE Access
- MyOCC Access  
\$ 650.00 per month

**TIER IV (Stock Loan Only)**

- ENCORE Access
- MyOCC Access  
\$ 300.00 per month

Additional Clearing Member:

No Charge

**TIER II**

- ENCORE Access
- MyOCC Access
- Data Service – proprietary position and trade data (includes transmission to service bureau)
- Report Bundle

**LEASED LINE SERVICES**

T1 line to a Midwest Destination	\$1,000.00 per month, per line
T1 line to an East Coast Destination	\$1,500.00 per month, per line
T1 line to a West Coast Destination	\$2,000.00 per month, per line

**CASH MANAGEMENT FEE**

Monthly annualized charge on Clearing Member's average daily cash balance in OCC's Federal Reserve bank account. **5 basis points**

**CLEARING MEMBER/NON-CLEARING MEMBER**

**PUBLICATIONS/BROCHURES**

Disclosure Documents	\$ .45
OCC/ICC By-Laws and Rules	\$ 47.00

(Updates can be obtained on a subscription basis for \$47.00 per year.)

**NON-CLEARING MEMBER**

**SERIES INFORMATION**

Non-Clearing Member

Non-Distribution	\$1,750.00 per month
Distribution	\$3,000.00 per month
Real Time Data	\$250.00 per month (in addition to fees listed above)

**PRICES INFORMATION**

Non-Clearing Member	\$3,000.00 per month
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**THEORETICAL PROFIT AND LOSS VALUES\***

Non-Clearing Member	\$1,000.00 per month
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**ESCROW BANKS**  
ESCROW PROGRAM FEES

Escrow Bank Monthly Program Fee	\$200.00
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**ALL FEES ARE SUBJECT TO CHANGE**

For further information, contact Member Services at 1-800-621-6072.