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August 28, 2023

VIA ELECTRONIC SUBMISSION

Christopher Kirkpatrick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

Re: RIN 3038-AF27 Large Trader Reporting Requirements

Dear Mr. Kirkpatrick:

The Options Clearing Corporation (“OCC”) appreciates the opportunity to submit these comments on the above-referenced proposal (“Proposal” or “Proposed Rules”)¹ under the Commodity Exchange Act (“Exchange Act”). The Commodity Futures Trading Commission (“CFTC” or “Commission”) is proposing to modernize its large trader reporting (“LTR”) requirements under CFTC Rule 17.00 by (i) updating the submission standard for certain reports; and (ii) replacing certain enumerated data fields with an appendix specifying applicable data elements and a separate Guidebook specifying the form and manner for reporting.

OCC currently collects large trader reporting information from 132 entities and submits that information to the CFTC on behalf of a designated contract market (“DCM”). OCC therefore has a keen interest in both in supporting the Commission’s goal of modernizing the reporting requirements, as well as ensuring that any changes to the LTR requirements are implemented in a manner designed to facilitate a smooth transition within a realistic timeframe, without excessive burdens on impacted entities. As discussed below, while we appreciate the Commission’s attention to modernizing the LTR requirements, we encourage the Commission to consider and address the significant technical ambiguities in the Proposed Rules and Guidebook, as well as the potential costs and burdens of implementing the proposed changes. Further, we request that the Commission provide at least a 2-year transition period to the new LTR requirements in light of the extensive technology changes and testing work with reporting entities needed for such a significant project.

About OCC

Founded in 1973, OCC is the world’s largest equity derivatives clearing organization. OCC operates under the jurisdiction of both the CFTC and the Securities Exchange Commission (“SEC”). As a registered clearing agency under the SEC’s jurisdiction, OCC clears and settles transactions for exchange-listed options. As a registered derivatives clearing organization under the CFTC’s jurisdiction, OCC clears and settles transactions in futures and options on futures. OCC also provides central counterparty clearing and settlement services for securities lending transactions. In addition, OCC has been designated by the Financial Stability Oversight Council as a systemically important financial market utility (“SIFMU”)

¹ RIN 3038-AF27 Large Trader Reporting Requirements (Jun. 7, 2023), 88 FR 41522 (Jun. 27, 2023) (“Release”).

under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act. As a SIFMU, OCC is subject to prudential regulation by the Board of Governors of the Federal Reserve System. OCC is recognized by the European Securities and Markets Authority as a Tier 1 central counterparty clearinghouse (“CCP”) established in third countries under Article 25 of the European Market Infrastructure Regulation (“EMIR”). OCC operates as a market utility and is owned by five exchanges.

The Proposal Impacts OCC in its Role as Submitter of LTR Information

The Commission’s LTR requirements are embodied in CFTC Rule 17.00, which requires daily reporting of certain information, the format of which is currently prescribed in Rule 17.00(g), by futures commission merchants, clearing members, and foreign brokers (“LTR Information”). OCC, as a DCO, is therefore not directly subject to Rule 17.00. However, as a service to the Cboe Futures Exchange (“CFE”), a DCM that clears certain futures products through OCC, OCC collects (via Secure FTP) and submits to the CFTC LTR Information from 132 entities (28 members and 104 non-members, each a “Reporting Entity,” and collectively, “Reporting Entities”),² in satisfaction of the Reporting Entities’ obligations pursuant to Rule 17.00. As part of its aggregation role, OCC validates that the form of the content provided by the Reporting Entities is consistent with the LTR Requirements. OCC then creates a new, combined file that itself conforms to the LTR Requirements and provides this combined file to the CFTC. To the extent the CFTC staff has any technical issues with the LTR Information submitted by OCC, the CFTC staff contacts OCC and OCC staff research the error and, if the error is related to reporting rather than the underlying LTR Information, make the necessary corrections.³

As a consequence of the above, OCC has a direct interest in any changes to the LTR Requirements, including any changes to the form and manner in which LTR Information must be provided to the Commission. OCC has invested significant time and resources to, consistent with the existing LTR Requirements, design, maintain, and operate systems to i) receive the LTR Information provided by Reporting Entities and ensure it is consistent with the LTR Requirements; ii) create an aggregate report that itself conforms with the LTR Requirements; and iii) ensure it can respond to CFTC staff inquiries concerning potential technical issues with the aggregate report.

OCC Associates Itself with the Comments by the Futures Industry Association Discussing Potential Issues and Ambiguities in the Proposed Rules and Guidebook

OCC participated in the Futures Industry Association (“FIA”) working group responsible for the content of FIA’s comment letter dated August 28, 2023 (“FIA Comment Letter”). The FIA Comment Letter discusses a variety of concerns shared by impacted entities about certain aspects of the Proposed Rule, including the need for additional clarity concerning specific elements of the Guidebook and LTR Requirements. The FIA Comment Letter also includes several suggestions of ways in which the CFTC can address certain technical issues in the Proposal in any final rule and Guidebook. Rather than repeat the matters enumerated in the FIA Comment Letter, OCC, in its capacity as a submitter of LTR Information to the Commission on behalf of CFE and the Reporting Entities, associates itself with the contents of the FIA Comment Letter and encourages the Commission to carefully consider the issues discussed therein.

² OCC also provides the aggregated LTR Information to CFE, which OCC understands CFE uses for surveillance purposes.

³ If there are issues with the underlying data in the LTR Information provided by OCC, the CFTC staff generally reaches out directly to the relevant Reporting Entity.

The Changes to the LTR Requirements Contemplated by the Proposal Will Require Significant Investment of Time and Money for OCC in its Role of Aggregator and Submitter of LTR Information

As noted above, in connection with its role as aggregator and submitter of LTR Information on behalf of CFE and the Reporting Entities, OCC is required to design, maintain, and operate systems that ensure that the LTR Information it receives and submits is consistent with the LTR Requirements. Any changes to the LTR Requirements will necessitate updates to those systems to reflect the new data format and content standards. OCC anticipates that changes as extensive as those in the Proposed Rule and Guidebook will necessarily entail significant investment of time and resources to complete.

Specifically, OCC expects that, if adopted as proposed, the new LTR Requirements would require a minimum of 12 months to implement and another 6 months to complete training/testing of Reporting Entities, including 5,000 hours of work for design, programming, project management, and verification. Any such work would necessarily involve personnel who are engaged with other critical priorities of the Commission and OCC, such as the implementation of the Commission's recently adopted amendments to the Part 39 reporting requirements. OCC expects that the total costs associated with this implementation effort would be substantial. These estimates, however, likely understate the true investment required by the Proposal. In addition to design and implementation of the new LTR Requirements, OCC anticipates that up to an additional six months would be required for testing, with each of the Reporting Entities, the ability of the modified systems to receive and process the LTR Information received from each of the Reporting Entities (each of whom will have to themselves modify their systems to comport with the new LTR Requirements). Though CFTC staff is familiar with OCC's role as an aggregator and submitter of LTR Information, the economic and personnel costs described above may not be fully reflected in the Commission's cost-benefit analysis.⁴

An Implementation Timeline of at Least 24 Months is Appropriate in Light of the Extent of the Proposed Changes and the Need to Accommodate Other Regulatory Priorities

The Proposal would require compliance with the new LTR Requirements and Guidebook at a date 365 days following publication of the final rule.⁵ OCC is concerned that the proposed compliance deadline would be insufficient in light of the extent of the proposed changes, the need to test the changes with the Reporting Entities, and registrants' need to balance competing priorities stemming from the Commission's recent rulemaking. Like FIA, OCC believes that at least a 2-year compliance period would be appropriate.

As noted above, OCC expects an implementation and testing timeline of 18 months or more. Any such project will need the time and attention of numerous technical, management, and legal/compliance personnel, many of whom are also responsible not just for implementing the recent changes to the Part 39 reporting requirements, but also to other significant projects, such as the transition to T+1 settlement pursuant rulemaking by the SEC, by whom not just OCC but many of the entities subject to the LTR

⁴ In addition, the proposed requirements with respect to real-time error correction capability will likely impose higher ongoing costs by transforming a one-time submission into a continuous back-and-forth process. As such, we are concerned the Commission has significantly underestimated the total costs associated with the Proposal. *See* Release at 41531-34 (estimating, for startup costs alone, \$29,800 for each reporting entity associated with changes to the required LTR formatting requirements, and approximately \$59,000 in connection with required new data fields, based on an estimate of 600 hours total required labor per entity for such startup investment).

⁵ *See* Release at 41531.

Requirements are also regulated.⁶ For OCC, such a project would also take place against the backdrop of its transformational undertaking of moving its risk management, data, and clearing systems to the cloud, which itself has been the subject of notice and comment rule filing process and ongoing dialogue with all of OCC's regulators, including the Commission. Therefore, a 2-year compliance period, in addition to addressing the issues raised in the FIA Comment Letter, would allow OCC and other impacted entities to ensure a timely and comprehensive implementation while providing flexibility to balance the deployment of their resources to meet competing critical priorities.⁷

The Commission Should Provide Assurance that it will Give Reasonable Advance Notice of Potential Future Changes to Large Trader Reporting Submission Standards

The Proposed Rules would delegate authority to the Director of the Office of Data and Technology to designate a submission standard for LTR submissions. Such changes could potentially create additional, unanticipated technology development projects to support compliance. Given the potential impacts, we respectfully request that the Commission consider adding language in any final rule indicating that reasonable notice and implementation time will be provided in any such designation by delegated authority.

We thank the Commission for the opportunity to provide comment on the Proposed Rules. If you have any questions, please do not hesitate to contact Andrew Feller, Associate General Counsel, at 312.322.4674, or afeller@theocc.com. We would be pleased to provide the Commission with any additional information or analyses that might be useful in determining the content of the final rules.

Sincerely,



Megan Malone Cohen

General Counsel and Corporate Secretary

⁶ See RIN 3235-AN2 Shortening the Securities Transaction Settlement Cycle, 88 CFR 13872 (Mar. 6, 2023).

⁷ We further note the timing concerns raised by FIA with respect to firm "blackout periods" and urge the Commission to consider the implications of such blackout periods for the compliance timeline in any final rule.