



September 20, 2022

BY EMAIL

Jennifer Piorko Mitchell
Office of the Corporate Secretary
FINRA
1735 K Street, NW
Washington, DC 20006-1506
pubcom@finra.org

Re: Regulatory Notice 22-14 – OTC Options Reporting

Dear Ms. Mitchell:

The Options Clearing Corporation ("OCC") appreciates the opportunity to comment on FINRA's regulatory notice soliciting comment on a proposal to establish a new trade reporting requirement for transactions in over-the-counter ("OTC") options on securities with terms that are identical or substantially similar to listed options on a daily basis ("Regulatory Notice"). OCC believes enhanced surveillance and transparency of the OTC options market is beneficial to options investors and we support the proposal.

I. About OCC

Founded in 1973, OCC is the world's largest equity derivatives clearing organization. OCC clears all standardized options listed on the sixteen U.S. national securities exchanges that trade options subject to the jurisdiction of the Securities Exchange Commission ("SEC"), and clears commodity futures and commodity options for two US futures exchanges subject to the jurisdiction of the Commodity Futures Trading Commission ("CFTC"). OCC also provides central counterparty clearing and settlement services for securities lending transactions. OCC is registered with the SEC as a clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934,¹ is registered with the CFTC as a derivatives clearing organization ("DCO") pursuant to Section 5b of the Commodity Exchange Act,² and is designated by the Financial Stability Oversight Council as a systemically important financial market utility ("SIFMU"). As a SIFMU, OCC is also subject to oversight by the Board of Governors of the Federal Reserve System. OCC operates as a market utility, is owned by five options exchanges, and is governed by a Board of Directors comprised of clearing member, exchange, and public directors. OCC has developed and currently administers the Large Option Position Reporting ("LOPR") system that enables firms to submit LOPR position files, including those in OTC options, to OCC to demonstrate compliance with FINRA Rule 2360(b)(5). In its capacity as a service provider

¹ 15 U.S.C. § 78q-1.

² 7 U.S.C. § 7a-1.

for LOPR processing, OCC receives LOPR position submissions from firms and aggregates them on behalf of FINRA and other SROs.³

II. Discussion

As FINRA states in the Regulatory Notice, transactions in OTC options are not cleared by a registered clearing agency nor reported to FINRA, the SEC, an exchange, or the Consolidated Audit Trail. OCC agrees with FINRA that this creates a regulatory gap that could mask potentially manipulative behavior and makes surveillance of the securities markets (as well as cross-product markets) more difficult. We believe enhanced surveillance through a reporting requirement for transactions in OTC options on securities with terms that are identical or substantially similar to listed options helps close this regulatory gap and would be beneficial to options investors.

FINRA proposes to limit the scope of the reporting requirement to transactions in OTC options where (i) there is a listed option on the same underlying security or the OTC option is overlying one or more US-listed securities; (ii) the option is a put, call, or option type related to a put or call; and (iii) the exercise style is American, European, Asian, Cliquet, or Binary. “Exotic options,” or options that differ from vanilla options in one or more key terms such as exercise, expiration dates, strike prices, or payment structures, would not be included in the reporting requirement.

OCC believes FINRA’s proposed scope of transactions that firms would be required to report is an appropriate first step for a reporting requirement for OTC options transactions. We also believe a complete and accurate picture of the OTC options market to meet the objectives stated in the Regulatory Notice requires knowledge of the nature and volume of transactions in exotic options, and we encourage FINRA to consider expanding the reporting requirement to include such options transactions promptly after it gains more experience with these reports. We are concerned a lengthy period in which the reporting requirement exists for the scope of transactions contemplated by the Regulatory Notice but not for “exotic options” might have the unintended consequence of incenting trading of more “exotic options” to avoid the reporting requirement.

We also support FINRA’s proposal not to adopt a trade reporting fee or to publicly disseminate the collected OTC options transactions data at this time. If FINRA considers later whether to publicly disseminate the OTC options transaction data it receives, we encourage FINRA to consider whether non-standardization of terms in the OTC options market – or different terms to account for counterparty credit differences – would lead to data that is easily misinterpreted. We also urge FINRA to consider whether sophisticated traders might be able to analyze disaggregated data to deduce trading strategies or otherwise use the data for an unintended purpose.

³ These services are provided on an “as is” and “as available” basis and without express or implied warranty.

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We thank FINRA for the opportunity to comment on Regulatory Notice 22-14 and we encourage efforts to provide additional transparency to the OTC options market. If you have any questions, please do not hesitate to contact me at 312.322.7570 or jkamnik@theooc.com. We would also be pleased to provide FINRA with any additional information or analyses that might be useful in determining the content of final rules.

Sincerely,

A handwritten signature in black ink, appearing to read "J. P. Kamnik". The signature is fluid and cursive, with the first name "J." and last name "Kamnik" clearly distinguishable.

Joseph P. Kamnik
Senior Advisory and Regulatory Counsel