



THE OPTIONS CLEARING
CORPORATION

March 16, 2011

Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20581

Re: Request for Order Permitting Commingling of Funds

Ladies and Gentlemen:

Introduction. On November 5, 2004, the Commodity Futures Trading Commission (the “Commission”) issued an order (the “2004 Order”) pursuant to Section 4d(a)(2) of the Commodity Exchange Act (the “CEA”) permitting the commingling of futures and non-futures customer funds in accordance with an internal non-proprietary cross-margining program proposed by The Options Clearing Corporation (“OCC”) in rule filings submitted to the Commission pursuant to Regulation 40.6 and submitted to and approved by the Securities and Exchange Commission (“SEC”) pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 (the “Exchange Act”) and Rule 19b-4 thereunder. Pursuant to that program, an OCC clearing member that is both a futures commission merchant (“FCM”) registered as such under the CEA and a securities broker-dealer registered under the Exchange Act (a “Dual Registrant”) may carry with OCC a non-proprietary cross-margining account for “market professionals” (as defined in OCC’s By-Laws)¹ in which security options and security futures (“Securities Products”) that are cleared by OCC in its capacity as an SEC-registered securities clearing agency may be cross-margined with commodity futures and options on commodity futures (“Commodity Products”) that are cleared by OCC in its capacity as a derivatives clearing organization (“DCO”) registered as such under the CEA.

The program to which the 2004 Order relates, which has operated successfully since that time, requires that the Securities Products and Commodity Products be cleared by the same clearing member. In contrast, the existing cross-margining programs between OCC and other DCOs such as the Chicago Mercantile Exchange (“CME”) and the Ice Clear U.S. (“ICE”) permit cross-margining where the clearing member of the DCO is a different entity than its affiliate that is an OCC clearing member. OCC now seeks to expand its internal cross-margining program in a

¹ A market professional is, in essence, a market-maker, specialist or person acting in a similar capacity on a securities exchange, or a member of a futures exchange trading for its own account. A non-proprietary market professional is any market professional that is required to be treated as a “customer” under the CEA, and therefore excludes any market professional that is affiliated with the carrying clearing member in a way that would cause its account to be treated as a “proprietary account” under Section 1.3(y) of the CFTC’s regulations.



similar manner to permit an internal non-proprietary cross-margining account to be maintained at OCC jointly by a pair of affiliated clearing members, each of which is a Dual Registrant and a clearing member of OCC. OCC is therefore requesting that the Commission either amend or supplement the 2004 Order accordingly.

Benefits of Cross-Margining. Cross-margining refers to the practice of combining long and short positions in Securities Products with long and short positions in Commodity Products in a single portfolio, and determining the net risk of the combined portfolio. To the extent that positions in the account are offsetting from a risk perspective (*i.e.*, are on opposite sides of the market), the margin required on the portfolio may be reduced relative to the margin that would be required if the positions were carried separately—an obvious potential benefit to clearing members and their customers. Cross-margining has long been recognized as a means of reducing systemic risk by ensuring that gains on positions representing one side of the market can be immediately applied to losses on the other, thus reducing the reliance on cash and other assets having a fixed value or a value that may have the same risk profile as the obligation it secures. Cross-margining has been endorsed by various Presidentially-appointed task forces and other economic policy makers over the years.

The Commission itself has issued numerous orders approving cross-margining programs involving OCC. For the convenience of the Commission, several of these are listed on the attached Exhibit A.

Segregation Requirement. Section 4d(a) of the CEA provides as follows:

It shall be unlawful for any person to [engage as]² [be]³ a futures commission merchant [or introducing broker in soliciting orders or accepting orders for the purchase or sale of any commodity for future delivery, or involving any contract market or derivatives transaction execution facility]⁴ unless—

(1) [omitted] and

(2) such person shall, [if a futures commission merchant,]⁵ whether a member or nonmember of a contract market or derivatives transaction execution facility, treat and deal with all money, securities, and property received by such person to margin, guarantee, or secure the trades of contracts of any customer of such person, or accruing to such customer as the result of such trades or contracts, as belonging to such customer. Such money, securities, and property shall be separately accounted for and shall

² Effective July 16, 2011, deleted by the Dodd-Frank Act, Public Law 111-203 (2010).

³ Effective July 16, 2011, added by the Dodd-Frank Act, Public Law 111-203 (2010).

⁴ Effective July 16, 2011, deleted by the Dodd-Frank Act, Public Law 111–203 (2010).

⁵ Effective July 16, 2011, deleted by the Dodd-Frank Act, Public Law 111–203 (2010).



not be commingled with the funds of such commission merchant or be used to margin or guarantee the trades or contracts, or to secure or extend the credit, of any customer or person other than the one for whom the same are held[.]

The term “customer” as used in Section 4d means a commodity customer as defined in the CEA. Accordingly, Section 4d is interpreted to prohibit commingling of money, securities and property of commodity customers with money, securities and property of securities customers—even if the commodity and securities customers are the same individuals or entities. But this commingling is of the essence of a cross-margining program.

Relief Requested. The purpose of this letter is to request that the Commission prescribe by order that any money, securities, or property received by a Dual Registrant clearing member in its capacity as an FCM, that is required to be separately accounted for and treated as the property of commodity customers, may be commingled with money, securities, and property received by an affiliated clearing member that is a Dual Registrant in its capacity as a registered broker-dealer for securities customers in a jointly held non-proprietary cross-margining account for market professionals.

Statutory Basis for Granting Relief. The second proviso in Section 4d(a)(2) of the CEA (the “Second Proviso”) authorizes the Commission to prescribe by rule, regulation, or order the terms and conditions in accordance with which money, securities, and property of the customers of an FCM may be commingled and deposited as provided in that section with any other money, securities, and property received by such FCM and required by the Commission to be separately accounted for and treated and dealt with as belonging to the customers of such FCM.

Terms and Conditions of Relief. An order under the Second Proviso must prescribe the terms and conditions under which relief from the segregation requirements may be granted. In order to conform to prior orders, the terms and conditions would be:

- (a) Each participating market professional execute a Market Professional’s Agreement for Internal Cross-Margining (Affiliated Clearing Members) with OCC and the applicable participating affiliated clearing members;
- (b) OCC, each participating affiliated clearing member, and each depository separately account for cross-margining property maintained in non-proprietary cross-margining accounts and not commingle such cross-margining property with money, securities, and property maintained in any non-cross-margining accounts or proprietary cross-margining accounts;
- (c) OCC, each participating affiliated clearing member, each participating market professional, and each depository provide the Commission with access to its books and records with respect to non-proprietary cross-margining accounts and positions in a manner consistent with Commission Regulation 1.31, 17 CFR 1.31;



(d) each participating affiliated clearing member include all cross-margining property received from participating market professionals to margin, guarantee, or secure commodity futures trades, commodity futures contracts, commodity option transactions, or securities option transactions, or accruing to such participating market professionals as a result of such trades, contracts, commodity option transactions, or securities option transactions, when calculating segregation requirements for purposes of Section 4d(a) of the Act;

(e) each participating affiliated clearing member compute total segregation requirements under Section 4d(a) of the CEA and Commission Regulation 1.32, 17 CFR 1.32, by calculating separately the requirements for cross-margining and non-cross-margining accounts without using any net liquidating equity in one account to reduce a deficit in the other;

(f) each participating affiliated clearing member designate non-proprietary cross-margining accounts and positions as such in its books and records, including both internal documents maintained at the clearing members and account statements sent to participating market professionals;

(g) OCC calculate the margin requirements for each non-proprietary cross-margining account separately from the margin requirements for other accounts, including proprietary cross-margining accounts, collect any margin required with respect to non-proprietary cross-margining accounts separately without applying any margin in any such account to satisfy a margin requirement in any proprietary account or any non-cross-margining customer account and without applying any margin in a non-cross-margining customer account to satisfy a margin requirement in any proprietary account or any non-proprietary cross-margining account; and maintain all cross-margining property received from participating affiliated clearing members to margin, guarantee, or secure commodity futures trades, commodity futures contracts, commodity option transactions, or securities option transactions that are effected for non-proprietary cross-margining accounts or held in such accounts, and all accruals resulting from such trades, contracts, commodity option transactions, or securities option transactions, separately from money, securities, and property received to margin, guarantee, or secure commodity futures trades, commodity futures contracts, commodity option transactions, or securities option transactions that are effected for or held in any proprietary account or any non-cross-margining customer account, and related accruals; and

(h) OCC satisfy any deficiency in a non-proprietary cross-margining account without recourse to non-cross-margining segregated funds.

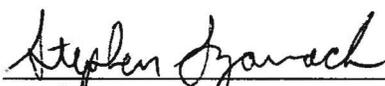
We enclose for the convenience of the Commission a copy of the proposed rule change, as filed with the Securities and Exchange Commission (the "SEC") on March 10, 2011. Item 3 in particular provides additional information about the internal cross-margining program that is the subject of this letter. In accordance with a discussion between our counsel and the Commission staff, OCC will file the attached rule change with the Commission and certify its compliance with the CEA as soon as OCC is notified that the requested relief has been granted.



OCC respectfully requests that this relief be granted in time to make the rule change effective simultaneously with its effectiveness at the SEC, which may be obtained within approximately 45 days of the filing date.

Yours truly,

The Options Clearing Corporation

By: 
Name: Stephen Szarmack
Title: VP and Associate General Counsel

cc: Ananda Radhakrishnan, Director, DCIO
Robert Wasserman, Associate Director, DCIO



EXHIBIT A

CFTC Orders Approving Cross-Margining Programs Involving OCC

1. Order of June 1, 1988, approving the proprietary cross-margining system proposed by the Intermarket Clearing Corporation (“ICC”) and OCC.
2. Order of September 26, 1989, approving the proprietary cross-margining system proposed by the Chicago Mercantile Exchange (“CME”) and OCC.
3. Order of November 26, 1991, approving the expansion of the ICC/OCC cross-margining system to include cross-margining of positions of market professionals in non-proprietary accounts of participating Clearing Members.
4. Order of November 26, 1991, approving the expansion of the CME/OCC cross-margining system to include cross-margining of positions of market professionals in non-proprietary accounts of participating Clearing Members.
5. Order of June 2, 1993, approving the proposals of CME and ICC to implement a tri-lateral cross-margining program with OCC.
6. Amended Order of January 22, 1996, superseding the Order of June 2, 1993 to reflect approval of proposed changes to the CME/ICC/OCC cross-margining program for proprietary and market professional accounts to incorporate the provisions of Appendix B, Framework 1 to the Commission’s Part 190 Regulations and related proposed rule amendments.
7. Amended Order of January 22, 1996, superseding the Order of November 26, 1991 (relating to the ICC) to reflect approval of proposed changes to the ICC/OCC cross-margining program for proprietary and market professional accounts to incorporate the provisions of Appendix B, Framework 1 to the Commission’s Part 190 Regulations and related proposed rule amendments.
8. Order of November 5, 2004, approving the establishment of an internal cross-margining program that permits cross-margining of positions of market professionals in internal non-proprietary accounts of OCC Clearing Members.

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

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

The Options Clearing Corporation (“OCC” or the “Corporation”) proposes to amend its By-Laws and Rules as set forth below to expand its internal cross-margining program to permit a Pair of Affiliated Clearing Members to establish an Internal Non-Proprietary Cross-Margining Account in which securities and security futures that are cleared by OCC in its capacity as a securities clearing agency may be cross-margined with commodity futures and options on such futures that are cleared by OCC in its capacity as a derivatives clearing organization (“DCO”) registered as such under the Commodity Exchange Act (the “CEA”). Material proposed to be added to OCC’s By-Laws and Rules as currently in effect is underlined and material proposed to be deleted is enclosed in bold brackets.

THE OPTIONS CLEARING CORPORATION**BY-LAWS**

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ARTICLE I**Definitions**

* * *

Definitions

SECTION 1. Unless the context requires otherwise (or except as otherwise specified in the By-Laws or Rules), the terms defined herein shall, for all purposes of these By-Laws and the Rules of the Corporation, have the meanings herein specified.

A. – H. [no change]

I.

(1) - (9) [no change]

Internal Non-Proprietary Cross-Margining Account

(10) The term “internal non-proprietary cross-margining account” means an account with the Corporation carried by a Clearing Member or Pair of Affiliated Clearing Members in which positions of non-proprietary Market Professionals in cleared contracts that are eligible for cross-margining treatment in accordance with Article VI, Section 25 of the By-Laws are maintained.

(11) - (13) [no change]

J.

(1) - (2) [no change]

Joint Clearing Member; Pair of Affiliated Clearing Members; OCC Clearing Member; CCO Clearing Member

(3) The term “Joint Clearing Member,” in respect of a cross-margining program with one or more Participating CCOs, means a Clearing Member that is also a clearing member of each Carrying CCO. The term “Pair of Affiliated Clearing Members,” (a) in respect of a cross-margining program with one or more Participating CCOs, means two clearing members that are Affiliates of one another, one of which is an OCC Clearing Member and one or the other of which is a clearing member of each Carrying CCO; and (b) in respect of an internal cross-margining program, means two Clearing Members that are Member Affiliates of one another. The term “OCC Clearing Member,” in respect of a cross-margining program with one or more Participating CCOs, means a Clearing Member of the Corporation. The term “CCO Clearing Member,” in respect of a cross-margining program with one or more Participating CCOs, means a clearing member of a particular Carrying CCO.

K – Z. [no change]

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ARTICLE VI

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Internal Cross-Margining for Non-Proprietary Market Professionals

SECTION 25. (a) The Corporation may establish a cross-margining program permitting a Clearing Member and a Pair of Affiliated Clearing Members to establish an internal non-

proprietary cross-margining account with the Corporation for the purpose of receiving cross-margining treatment for positions of non-proprietary Market Professionals in cleared contracts that have been designated by the Corporation as eligible for inclusion in such account. An internal cross-margining account for non-professionals shall be a segregated futures account carried by the Corporation in accordance with orders of the Commodity Futures Trading Commission and each Clearing Member, and each one of a Pair of Clearing Members, establishing such an account with the Corporation shall be registered as both a futures commission merchant under the Commodity Exchange Act and as a broker-dealer under the Securities Exchange Act of 1934.

(b) Each Clearing Member and each Pair of Affiliated Clearing Members desiring to elect internal non-proprietary cross-margining as described in this Section shall so notify the Corporation in accordance with the procedures specified by the Corporation. Such election shall be subject to the approval of the Corporation and shall remain in effect until terminated by the Corporation. Such election shall also be subject to the execution by each non-proprietary Market Professional whose positions are included in the internal non-proprietary cross-margining account of a “Market Professional’s Agreement for Internal Cross-Margining” in the form specified from time to time by the Corporation. The provisions of this Section shall apply to all cleared contracts carried in any internal non-proprietary cross-margining account and shall supersede all other provisions of the By-Laws and Rules to the extent inconsistent therewith.

(c) Eligible security options positions and eligible positions in security futures, commodity futures and options on commodity futures carried in an internal non-proprietary cross-margining account of a Clearing Member or Pair of Affiliated Clearing Members shall be margined together as a single portfolio. The Corporation shall calculate the margin required in respect of all other accounts of the Clearing Member or Pair of Affiliated Clearing Members without regard for any contracts carried in any internal non-proprietary cross-margining account.

(d) The internal non-proprietary cross-margining account shall be limited to transactions and positions carried by the Clearing Member or Pair of Affiliated Clearing Members with the Corporation on behalf of Market Professionals who are not non-customers of the Clearing Member or Pair of Affiliated Clearing Members and who have signed a “Market Professional’s Agreement for Internal Cross-Margining” as referred to in paragraph (b) above.

(e) On behalf of itself and each Market Professional on whose behalf positions may be maintained in the internal non-proprietary cross-margining account, the Clearing Member or Pair of Affiliated Clearing Members agrees that (i) the Corporation shall have a lien on, security interest in, and right of setoff against such account, including all security option contracts, futures contracts, options on futures contracts and security futures products purchased or carried in such account from time to time, all cash, securities and other property deposited with or held by the Corporation as margin in respect thereof, and all proceeds of any of the foregoing, as security for the obligations of the Clearing Member or Pair of Affiliated Clearing Members to the Corporation in respect of such account, (ii) the Corporation shall have the right to net all writing transactions against all purchase transactions effected in such account in accordance with the Rules, and (iii) the Corporation may close out the positions in the account and apply the

proceeds thereof at any time without prior notice to the Clearing Member, Pair of Affiliated Clearing Members or Market Professional.

(f) In the case of an internal non-proprietary cross-margining account that is maintained by a Pair of Affiliated Clearing Members, the Clearing Members shall select one of them (the "Agent Member") to act as the agent for both of them with respect to such account including, without limitation, to provide instructions to, and receive information from, the Corporation with respect to such account. The Agent Member shall be responsible for meeting all settlement obligations and all other obligations to the Corporation in respect of such account pursuant to the By-Laws and Rules of the Corporation. Notwithstanding the foregoing, such internal non-proprietary cross-margining account shall be a joint account of the two Clearing Members, and each Clearing Member shall be jointly and severally liable to the Corporation with respect to any obligation arising in the account. Each Clearing Member authorizes the Corporation to draft the bank account designated by them for any amount due from such Clearing Members in respect of their internal non-proprietary cross-margining account, and the Corporation is authorized to pay to such account any amount owed to the Clearing Members arising from transactions in such account. Similarly, in the event that eligible contracts include contracts that may require underlying securities to be received from or delivered to the Clearing Members, the Clearing Members shall identify the account at the correspondent clearing corporation to be used for such purpose.

(g) The Corporation may summarily suspend a Clearing Member if such Clearing Member is in default in the payment of funds or any other obligation in respect of an internal non-proprietary cross-margining account. In the case of an internal non-proprietary cross-margining account maintained by a Pair of Affiliated Clearing Members, if the Agent Member fails to meet any margin or settlement obligation to the Corporation in respect of such account, the Corporation may demand immediate payment or performance from its affiliated Clearing Member. If such obligation is not met, the Corporation may suspend such affiliated Clearing Member. Upon the suspension by the Corporation of a Clearing Member of a Pair of Affiliated Clearing Members, the Corporation shall have the right to liquidate the cleared contracts in the internal non-proprietary cross-margining account, and any margin deposited in respect of the internal non-proprietary cross-margining account, and shall deposit any proceeds of such liquidation in an Internal Non-Proprietary Cross-Margining Liquidating Settlement Account as provided for in Chapter XI of the Rules.

... Interpretations and Policies:

.01 The Corporation may designate from time to time those cleared contracts that it deems to be eligible for inclusion in an internal non-proprietary cross-margining account. The Corporation will so designate only those cleared contracts that the Corporation determines to have sufficient price correlation with one another to provide significant risk reduction when positions in one such cleared contract are maintained on the opposite side of the market from positions in one or more other such cleared contracts.

* * *

RULES

* * *

CHAPTER XI

Suspension of a Clearing Member

* * *

Suspension

RULE 1102. (a) The Board of Directors or the Chairman of the Corporation may summarily suspend any Clearing Member which: (i) has been and is expelled or suspended from any self-regulatory organization (as defined in Section 3(a) of the Securities Exchange Act of 1934, as amended, but not including the Municipal Securities Rulemaking Board, or as defined in the rules of the Commodity Futures Trading Commission); (ii) is in default of any delivery of funds or securities to the Corporation; (iii) is in default of any delivery of funds or securities to another Clearing Member required pursuant to the By-Laws or Rules; (iv) is in default of any delivery of funds or securities to the correspondent clearing corporation, has appointed an Appointed Clearing Member to act on its behalf and such Appointed Clearing Member is in default of any delivery of funds or securities to the correspondent clearing corporation or effects settlement at the correspondent clearing corporation through an identifiable subaccount in an account of CDS at the correspondent clearing corporation and CDS is in default of any delivery of funds or securities to the correspondent clearing corporation; (v) is in such financial or operating difficulty that the Board of Directors or the Chairman of the Corporation determines and so notifies the appropriate regulatory agency for such Clearing Member (or, in the case of a Non-U.S. Clearing Member, the appropriate Non-U.S. Regulatory Agency) and the Securities and Exchange Commission or the Commodity Futures Trading Commission that suspension is necessary for the protection of the Corporation, other Clearing Members, or the general public; or (vi) in the case of a Non-U.S. Clearing Member, has been and is expelled or suspended by its Non-U.S. Regulatory Agency or any securities exchange or clearing organization of which it is a member. In addition, the Corporation may summarily suspend any Clearing Member in accordance with Rule 707 or Article VI, Section 25 of the By-Laws. In the event that any Clearing Member is suspended, the Corporation shall cease to act for it except as hereinafter specified.

(b) [no change]

* * *

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by OCC's Board of Directors at a meeting held on May 25, 2010.

Questions regarding the proposed rule change should be addressed to Stephen M. Szarmack, Vice President and Associate General Counsel, at (312) 322-4802.

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

In 2004, the CFTC and the SEC approved OCC's proposal to create an "internal cross-margining" program under which an OCC clearing member could elect to cross-margin a non-proprietary futures account of a "market professional" (as defined in OCC's By-Laws) with a non-proprietary securities account containing positions of the same market professional.¹ At OCC, the securities and futures positions of all market professionals with cross-margined accounts at the clearing member are combined in a single "internal non-proprietary cross-margining account" of the clearing member at OCC. The existing program, which has operated successfully since 2004, requires that the securities and futures positions be cleared by the same clearing member. In contrast, the existing cross-margining programs between OCC and other futures clearing organizations (called "derivatives clearing organizations" or "DCOs") such as the clearing division of the Chicago Mercantile Exchange ("CME") and the ICE Clear U.S. ("ICE") permit cross-margining where the member of the futures clearing organization is a

¹ A market professional is, in essence, a market-maker, specialist or person acting in a similar capacity on a securities exchange, or a member of a futures exchange trading for its own account. A non-proprietary market professional is any market professional that is required to be treated as a "customer" under the CEA, and therefore excludes any market professional that is affiliated with the carrying clearing member in a way that would cause its account to be treated as a "proprietary account" under Section 1.3(y) of the CFTC's regulations.

different entity from the OCC clearing member. The purpose of this proposed rule change is to expand the existing internal cross-margining program in an analogous way so that it would be available to clearing members that clear transactions in securities options and in futures products through two different entities. In order to participate, both entities must be OCC clearing members that are affiliates of one another, and each of which is registered as both a futures commission merchant under the Commodity Exchange Act and as a broker-dealer under the Securities Exchange Act of 1934

OCC's current internal cross-margining program does not provide for internal cross-margining accounts to be carried jointly by a pair of affiliated clearing members because OCC believed in 2004 that there was no clearing member demand for such a feature. Recently, however, OCC has learned that there is demand for such a program. Under OCC's current proposal, two affiliated clearing members could jointly maintain an internal non-proprietary cross-margining account. Transactions in eligible securities options would be submitted to the account for clearance by the clearing member that normally clears transactions in securities options, and transactions in eligible futures products would be submitted to the account by the clearing member that normally clears transactions in futures products.

Description of Proposed Rule Change

OCC proposes to amend its current By-Laws and Rules governing internal cross-margining to create rules similar to the rules of the long-standing cross-margining program for affiliated clearing members between OCC and CME, for example, which rules have been previously approved by the CFTC and SEC. In the case of the cross-margining programs between OCC and other DCOs, there are two accounts at the clearing level—one at each of the participating clearing organizations. In the internal cross-margining program, there is no need

for two separate accounts, which would in any event be margined together and for which the affiliated clearing members would in any event be jointly and severally liable as they are for the two accounts in the case of the OCC/CME program.

Article VI, Section 25(b) currently requires clearing members to obtain a “Market Professional’s Agreement for Internal Cross-Margining” from each Market Professional whose positions are included in an internal non-proprietary cross-margining account. OCC proposes to use a modified form of this agreement where the account is held jointly by a pair of affiliated clearing members. The proposed form of the agreement, titled “Market Professional’s Agreement for Internal Cross-Margining (Affiliated Clearing Members)” is attached as Exhibit 5A to this rule filing. The existing “Market Professional’s Agreement for Internal Cross-Margining” applicable to the internal cross-margining program for single clearing members has been re-titled “Market Professional’s Agreement for Internal Cross-Margining (Single Clearing Member)” and is attached hereto as Exhibit 5B. In addition to modifying the title to the form of the agreement applicable to single clearing members, a sentence has been added at the end of paragraph seven to conform to the corresponding provision in the form of the agreement for affiliated clearing members. OCC does not intend to require current participants in the internal cross-margining program to obtain re-executed agreements in updated form because the modifications are clarifications only and not substantive changes.

As in the case of the existing program, the internal non-proprietary cross-margining account would be treated as a segregated futures account under Section 4d of the CEA and, in accordance with Appendix B to Part 190 of the CFTC’s regulations, would be separately segregated from the regular segregated futures account that an OCC clearing member may maintain under Article VI, Section 3(f) of the By-Laws. In order to expand the program to

include accounts carried by pairs of affiliated clearing members, OCC is requesting an amended or new order from the CFTC.

* * *

Since it granted approval of the first cross-margining program in 1988,² the Commission has repeatedly found that cross-margining programs are consistent with clearing agency responsibilities under Section 17A of the Act and highly beneficial to the clearing organization, its clearing members and the public. Cross-margining programs enhance Clearing Member and systemic liquidity, resulting in lower initial margin deposits. They reduce the risk that a Clearing Member will become insolvent in a distressed market and the corresponding risk that one insolvency could lead to multiple insolvencies in a ripple effect, and they enhance the security of the clearing system.³

Implementation; Regulatory Approvals

OCC will not implement the internal cross-margining program for Affiliated Clearing Members until the CFTC has issued an order or amended order under Section 4d of the CEA as discussed above.

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

OCC does not believe that the proposed rule change would impose any material burden on competition.

² SEC Release No. 34-26153 (October 3, 1988)

³ SEC Release No. 34-32708 (August 2, 1993)

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.

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

Neither summary effectiveness nor accelerated effectiveness is sought.

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

The proposed rule change is not based on a rule change of another self-regulatory organization.

Item 9. Exhibits

- | | |
|------------|---|
| Exhibit 1 | Completed notice of the proposed rule change for publication in the <u>Federal Register</u> . |
| Exhibit 5A | Market Professional's Agreement for Internal Cross Margining (Affiliated Clearing Members) |
| Exhibit 5B | Market Professionals Agreement for Internal Cross Margining (Single Clearing Member) |

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: _____
Stephen M. Szarmack
Vice President and
Associate General Counsel

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____; File No. SR-OCC-2011-03)

(a) SELF-REGULATORY ORGANIZATION

Proposed Rule Change By
The Options Clearing Corporation

Proposal Allows for the Expansion
of OCC's Internal Cross-Margining
Program to a Pair of Affiliated
Clearing Members Under Specified
Circumstances

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on _____, 2011, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the
Terms of Substance of the Proposed Rule Change**

The proposed rule change would expand OCC's internal cross-margining program to permit a Pair of Affiliated Clearing Members to establish an Internal Non-Proprietary Cross-Margining Account in which securities and security futures that are cleared by OCC in its capacity as a securities clearing agency may be cross-margined with commodity futures and

options on such futures that are cleared by OCC in its capacity as a derivatives clearing organization (“DCO”) registered as such under the Commodity Exchange Act (the “CEA”).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Background

In 2004, the CFTC and the SEC approved OCC’s proposal to create an “internal cross-margining” program under which an OCC clearing member could elect to cross-margin a non-proprietary futures account of a “market professional” (as defined in OCC’s By-Laws) with a non-proprietary securities account containing positions of the same market professional.⁴ At OCC, the securities and futures positions of all market professionals with cross-margined accounts at the clearing member are combined in a single “internal non-proprietary cross-margining account” of the clearing member at OCC. The existing program, which has operated successfully since 2004, requires that the securities and futures positions be cleared by the same

⁴ A market professional is, in essence, a market-maker, specialist or person acting in a similar capacity on a securities exchange, or a member of a futures exchange trading for its own account. A non-proprietary market professional is any market professional that is required to be treated as a “customer” under the CEA, and therefore excludes any market professional that is affiliated with the carrying clearing member in a way that would cause its account to be treated as a “proprietary account” under Section 1.3(y) of the CFTC’s regulations.

clearing member. In contrast, the existing cross-margining programs between OCC and other futures clearing organizations (called “derivatives clearing organizations” or “DCOs”) such as the clearing division of the Chicago Mercantile Exchange (“CME”) and the ICE Clear U.S. (“ICE”) permit cross-margining where the member of the futures clearing organization is a different entity from the OCC clearing member. The purpose of this proposed rule change is to expand the existing internal cross-margining program in an analogous way so that it would be available to clearing members that clear transactions in securities options and in futures products through two different entities. In order to participate, both entities must be OCC clearing members that are affiliates of one another, and each of which is registered as both a futures commission merchant under the Commodity Exchange Act and as a broker-dealer under the Securities Exchange Act of 1934

OCC’s current internal cross-margining program does not provide for internal cross-margining accounts to be carried jointly by a pair of affiliated clearing members because OCC believed in 2004 that there was no clearing member demand for such a feature. Recently, however, OCC has learned that there is demand for such a program. Under OCC’s current proposal, two affiliated clearing members could jointly maintain an internal non-proprietary cross-margining account. Transactions in eligible securities options would be submitted to the account for clearance by the clearing member that normally clears transactions in securities options, and transactions in eligible futures products would be submitted to the account by the clearing member that normally clears transactions in futures products.

Description of Proposed Rule Change

OCC proposes to amend its current By-Laws and Rules governing internal cross-margining to create rules similar to the rules of the long-standing cross-margining program for

affiliated clearing members between OCC and CME, for example, which rules have been previously approved by the CFTC and SEC. In the case of the cross-margining programs between OCC and other DCOs, there are two accounts at the clearing level—one at each of the participating clearing organizations. In the internal cross-margining program, there is no need for two separate accounts, which would in any event be margined together and for which the affiliated clearing members would in any event be jointly and severally liable as they are for the two accounts in the case of the OCC/CME program.

Article VI, Section 25(b) currently requires clearing members to obtain a “Market Professional’s Agreement for Internal Cross-Margining” from each Market Professional whose positions are included in an internal non-proprietary cross-margining account. OCC proposes to use a modified form of this agreement where the account is held jointly by a pair of affiliated clearing members. The proposed form of the agreement, titled “Market Professional’s Agreement for Internal Cross-Margining (Affiliated Clearing Members)” is attached as Exhibit 5A to this rule filing. The existing “Market Professional’s Agreement for Internal Cross-Margining” applicable to the internal cross-margining program for single clearing members has been re-titled “Market Professional’s Agreement for Internal Cross-Margining (Single Clearing Member)” and is attached hereto as Exhibit 5B. In addition to modifying the title to the form of the agreement applicable to single clearing members, a sentence has been added at the end of paragraph seven to conform to the corresponding provision in the form of the agreement for affiliated clearing members. OCC does not intend to require current participants in the internal cross-margining program to obtain re-executed agreements in updated form because the modifications are clarifications only and not substantive changes.

As in the case of the existing program, the internal non-proprietary cross-margining account would be treated as a segregated futures account under Section 4d of the CEA and, in accordance with Appendix B to Part 190 of the CFTC's regulations, would be separately segregated from the regular segregated futures account that an OCC clearing member may maintain under Article VI, Section 3(f) of the By-Laws. In order to expand the program to include accounts carried by pairs of affiliated clearing members, OCC is requesting an amended or new order from the CFTC.

* * *

Since it granted approval of the first cross-margining program in 1988,⁵ the Commission has repeatedly found that cross-margining programs are consistent with clearing agency responsibilities under Section 17A of the Act and highly beneficial to the clearing organization, its clearing members and the public. Cross-margining programs enhance Clearing Member and systemic liquidity, resulting in lower initial margin deposits. They reduce the risk that a Clearing Member will become insolvent in a distressed market and the corresponding risk that one insolvency could lead to multiple insolvencies in a ripple effect, and they enhance the security of the clearing system.⁶

Implementation; Regulatory Approvals

OCC will not implement the internal cross-margining program for Affiliated Clearing Members until the CFTC has issued an order or amended order under Section 4d of the CEA as discussed above.

⁵ SEC Release No. 34-26153 (October 3, 1988)

⁶ SEC Release No. 34-32708 (August 2, 1993)

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. 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.

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

Within 45 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

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. Please include File Number 2011-03 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-OCC-2011-03. 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 Web site (<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 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 inspection and copying in the Commission's Public Reference Section, 100F Fifth Street, N.E., Washington, D.C. 20549-1090. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2011-03 in the caption above and should be submitted on or before [insert date 21 days from publication in the Federal Register.] _____.

For the Commission by the Division of Market Regulation, pursuant to delegated
authority.

Secretary

Dated: _____

THE OPTIONS CLEARING CORPORATION

**MARKET PROFESSIONAL'S AGREEMENT
FOR INTERNAL CROSS-MARGINING**

(Affiliated Clearing Members)

THIS MARKET PROFESSIONAL'S AGREEMENT FOR INTERNAL CROSS-MARGINING

(this "Agreement") is entered into as of _____, _____ by and between _____ ("Member"), and _____ ("Clearing Member"), and _____ ("Clearing Member") (collectively, the two clearing members are the "Clearing Members").

WHEREAS, Member is a member of one or more exchanges, futures markets or security futures markets, trades on which are cleared by The Options Clearing Corporation (the "Corporation");

WHEREAS, Clearing Members clear transactions in security options, security futures products, commodity futures and/or options on commodity futures through the Corporation;

WHEREAS, Clearing Members maintain with the Corporation an internal non-proprietary cross-margining account (the "Account") in which positions of non-proprietary Market Professionals in certain security options, security futures products, commodity futures and/or options on commodity futures ("Eligible Contracts") may be carried together and cross-margined based upon the net risk of such positions;

WHEREAS, each Clearing Member is registered as both a futures commission merchant under the Commodity Exchange Act and as a broker-dealer under the Securities Exchange Act of 1934;

WHEREAS, Member desires that Clearing Members carry some or all of Member's positions in Eligible Contracts in the Account so that Clearing Members may calculate Member's obligation to deposit margin with Clearing Members on such a cross-margined basis; and

WHEREAS, entry into this Agreement is a precondition to Clearing Members' ability to carry such positions in the Account;

NOW, THEREFORE, the parties agree as follows:

1. Member represents and warrants that it is a non-proprietary Market Professional as defined in the Corporation's By-Laws, and that it trades or proposes to trade Eligible Contracts for its own account.

2. Clearing Members acknowledge and understand that Member desires them to clear and carry some or all, as directed by Member, of Member's positions in Eligible Contracts in the Account ("Cross-Margined Positions") and to provide cross-margining treatment to Member with respect to such positions. Notwithstanding the foregoing, Member agrees that Clearing Members may, at any time and in their sole discretion, determine to clear and/or maintain any one or group of such positions in accounts at the Corporation other than the Account.

3. Member agrees that its Cross-Margined Positions, all margin deposited with Clearing Members in respect thereof, and all proceeds of any of the foregoing, may be commingled with positions and property originating with other Market Professionals whose positions and property may be carried by Clearing Members in the Account. Member further agrees that all such property may be used by Clearing Members to purchase, margin, secure, settle or otherwise carry positions in Eligible Contracts on behalf of Member and other non-proprietary Market Professionals. Member acknowledges and understands that the Commodity Futures Trading Commission ("CFTC") has, by order, rendered inapplicable the provisions of the Commission's Regulations, to the extent that such regulations would prohibit the commingling and use of Member's property as provided in this paragraph, and Member acknowledges that such property will be treated in a manner consistent with applicable orders of the CFTC. Member further acknowledges and agrees that such property held on behalf of Member by Clearing Members will be customer property received by a futures commission merchant ("FCM"), to be accounted for, treated and dealt with by such FCM in a manner consistent with Section 4d of the Commodity Exchange Act ("CEA").

4. Member agrees that in the event of the bankruptcy, liquidation or receivership of or other proceeding involving the distribution of funds held by either Clearing Member: (i) Member's claims against such Clearing Member, if any, with respect to Cross-Margined Positions, and all money, securities and property received with respect thereto, shall be subject to the distributional convention established in Appendix B to Part 190 of the CFTC's Regulations; (ii) Cross-Margined Positions and all

cash, securities and other property carried in respect thereof shall not be “customer property” for purposes of the federal securities laws (to the extent necessary to effect cross-margining in accordance with the applicable orders of the CFTC), or for purposes of Subchapter III of Chapter 7 of the Bankruptcy Code (“Subchapter III”) or the Securities Investor Protection Act of 1970 (“SIPA”), and will not be claimed as such, and shall be “customer property” for purposes of the CEA, Subchapter IV of Chapter 7 of the Bankruptcy Code and Part 190 of the Regulations of the CFTC; and (iii) any claim asserted by Member against either Clearing Member arising out of or based upon such property, to the extent that such claim would otherwise represent a claim against or be payable from “customer property” as defined in Subchapter III or SIPA, shall be subordinated to the claims of all other customers, as the term “customer” is defined in Subchapter III or SIPA.

5. Member hereby grants to Clearing Members a lien on, security interest in, and right of setoff against all of its right, title and interest in (i) all of Member’s interest in Cross-Margined Positions from time to time purchased or carried in the Account, (ii) all margin held by the Corporation or Clearing Members in respect thereof, and (iii) all proceeds of any of the foregoing (all such positions, margin and proceeds hereinafter referred to collectively as the “Member Collateral”), as security for the obligations of Member to Clearing Members; provided, however, that the rights of Clearing Members in the Member Collateral shall be subordinate to the rights of the Corporation therein. Member hereby consents to the granting of a security interest in the Member Collateral by Clearing Members to the Corporation as set forth in the By-Laws or Rules of the Corporation. Member represents and warrants to Clearing Members that as of the date of this Agreement, there is no outstanding lien on or security interest in the Member Collateral except as provided in this Section 5 or in the By-Laws and Rules of the Corporation, and agrees that it shall not grant or permit to be created any other lien on or security interest in the Member Collateral without the express written consent of the Clearing Members; provided, however, that the foregoing prohibition shall not apply to any interest in the Collateral that is subordinate to the interest of the Clearing Members and the Corporation.

6. Member acknowledges that in the event of the suspension of a Clearing Member in accordance with the rules of the Corporation, it shall be within the sole discretion of the Corporation to determine whether to transfer or liquidate positions in the Account.

7. Member and each Clearing Member acknowledge and agree that the Corporation is a third party beneficiary of this Agreement and as such shall be entitled to the rights and benefits afforded it under this Agreement to the extent set forth herein as if the Corporation were a party hereto. Member and

each Clearing Member agree not to modify, amend or terminate this Agreement without the prior written consent of the Corporation, and further agree not to modify this Agreement by any other instrument without the written approval of the Corporation. An executed counterpart of this Agreement shall be filed with the Corporation. Notwithstanding the foregoing, Clearing Members and Member may enter into such additional arrangements and agreements between or among themselves as they may deem appropriate to document the account or accounts of Member with one or both Clearing Members to the extent consistent with this Agreement and applicable law.

8. This Agreement shall become effective upon the later of execution of this Agreement and the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the CFTC.

CLEARING MEMBERS

Print Name of Clearing Member

Authorized Signature Date

Print Name and Title

Print Name of Clearing Member

Authorized Signature Date

Print Name and Title

**MEMBER
A CORPORATION, PARTNERSHIP OR
OTHER ENTITY**

Print Name of Entity

Authorized Signature Date

Print Name and Title

**MEMBER
ONE OR MORE INDIVIDUALS
(All account participants must sign)**

Signature Date

Print Name: _____

Signature Date

Print Name: _____

Signature Date

Print Name: _____

THE OPTIONS CLEARING CORPORATION
MARKET PROFESSIONAL'S AGREEMENT
FOR INTERNAL CROSS-MARGINING

(Single Clearing Member)

THIS MARKET PROFESSIONAL'S AGREEMENT FOR INTERNAL CROSS-MARGINING

(this "Agreement") is entered into as of _____, _____ by and between _____ ("Member"), and _____ ("Clearing Member").

WHEREAS, Member is a member of one or more exchanges, futures markets or security futures markets, trades on which are cleared by The Options Clearing Corporation (the "Corporation");

WHEREAS, Clearing Member clears transactions in security options, security futures products, commodity futures and/or options on commodity futures through the Corporation;

WHEREAS, Clearing Member maintains with the Corporation an internal non-proprietary cross-margining account (the "Account") in which positions of non-proprietary Market Professionals in certain security options, security futures products, commodity futures and/or options on commodity futures ("Eligible Contracts") may be carried together and cross-margined based upon the net risk of such positions;

WHEREAS, Member desires that Clearing Member carry some or all of Member's positions in Eligible Contracts in the Account so that Clearing Member may calculate Member's obligation to deposit margin with Clearing Member on such a cross-margined basis; and

WHEREAS, entry into this Agreement is a precondition to Clearing Member's ability to carry such positions in the Account;

NOW, THEREFORE, the parties agree as follows:

9. Member represents and warrants that it is a non-proprietary Market Professional as defined in the Corporation's By-Laws, and that it trades or proposes to trade Eligible Contracts for its own account.

10. Clearing Member acknowledges and understands that Member desires it to clear and carry some or all, as directed by Member, of Member's positions in Eligible Contracts in the Account ("Cross-Margined Positions") and to provide cross-margining treatment to Member with respect to such positions. Notwithstanding the foregoing, Member agrees that Clearing Member may, at any time and in its sole discretion, determine to clear and/or maintain any one or group of such positions in accounts at the Corporation other than the Account.

11. Member agrees that its Cross-Margined Positions, all margin deposited with Clearing Member in respect thereof, and all proceeds of any of the foregoing, may be commingled with positions and property originating with other Market Professionals whose positions and property may be carried by Clearing Member in the Account. Member further agrees that all such property may be used by Clearing Member to purchase, margin, secure, settle or otherwise carry positions in Eligible Contracts on behalf of Member and other non-proprietary Market Professionals. Member acknowledges and understands that the Commodity Futures Trading Commission ("CFTC") has, by order, rendered inapplicable the provisions of the Commission's Regulations (including, but not limited to, §§ 1.20(a), 1.22 and 1.24), to the extent that such regulations would prohibit the commingling and use of Member's property as provided in this paragraph, and Member acknowledges that such property will be treated in a manner consistent with applicable orders of the CFTC. Member further acknowledges and agrees that such property held on behalf of Member by Clearing Member will be customer property received by a futures commission merchant ("FCM"), to be accounted for, treated and dealt with by such FCM in a manner consistent with Section 4d of the Commodity Exchange Act ("CEA").

12. Member agrees that in the event of the bankruptcy, liquidation or receivership of or other proceeding involving the distribution of funds held by Clearing Member: (i) Member's claims against Clearing Member, if any, with respect to Cross-Margined Positions, and all money, securities and property received with respect thereto, shall be subject to the distributional convention established in Appendix B to Part 190 of the CFTC's Regulations; (ii) Cross-Margined Positions and all cash, securities and other property carried in respect thereof shall not be "customer property" for purposes of the federal securities laws (to the extent necessary to effect cross-margining in accordance with the applicable orders of the CFTC), or for purposes of Subchapter III of Chapter 7 of the Bankruptcy Code ("Subchapter III") or the Securities Investor Protection Act of 1970 ("SIPA"), and will not be claimed as such, and shall be "customer property" for purposes of the CEA, Subchapter IV of Chapter 7 of the Bankruptcy Code and Part 190 of the Regulations of the CFTC; and (iii) any claim asserted by Member against Clearing Member arising out of or based upon such property, to the extent that such claim would otherwise

represent a claim against or be payable from “customer property” as defined in Subchapter III or SIPA, shall be subordinated to the claims of all other customers, as the term “customer” is defined in Subchapter III or SIPA.

13. Member hereby grants to Clearing Member a lien on, security interest in, and right of setoff against all of its right, title and interest in (i) all of Member’s interest in Cross-Margined Positions from time to time purchased or carried in the Account, (ii) all margin held by the Corporation or Clearing Member in respect thereof, and (iii) all proceeds of any of the foregoing (all such positions, margin and proceeds hereinafter referred to collectively as the “Member Collateral”), as security for the obligations of Member to Clearing Member; provided, however, that the rights of Clearing Member in the Member Collateral shall be subordinate to the rights of the Corporation therein. Member hereby consents to the granting of a security interest in the Member Collateral by Clearing Member to the Corporation as set forth in the By-Laws or Rules of the Corporation. Member represents and warrants to Clearing Member that as of the date of this Agreement, there is no outstanding lien on or security interest in the Member Collateral except as provided in this Section 5 or in the By-Laws and Rules of the Corporation, and agrees that it shall not grant or permit to be created any other lien on or security interest in the Member Collateral without the express written consent of the Clearing Member; provided, however, that the foregoing prohibition shall not apply to any interest in the Collateral that is subordinate to the interest of the Clearing Member and the Corporation.

14. Member acknowledges that in the event of the suspension of Clearing Member in accordance with the rules of the Corporation, it shall be within the sole discretion of the Corporation to determine whether to transfer or liquidate positions in the Account.

15. Member and Clearing Member acknowledge and agree that the Corporation is a third party beneficiary of this Agreement and as such shall be entitled to the rights and benefits afforded it under this Agreement to the extent set forth herein as if the Corporation were a party hereto. Member and Clearing Member agree not to modify, amend or terminate this Agreement without the prior written consent of the Corporation, and further agree not to modify this Agreement by any other instrument without the written approval of the Corporation. An executed counterpart of this Agreement shall be filed with the Corporation. Notwithstanding the foregoing, Clearing Member and Member may enter into such additional arrangements and agreements between themselves as they may deem appropriate to document the account or accounts of Member with Clearing Member to the extent consistent with this Agreement and applicable law.

16. This Agreement shall become effective upon the later of execution of this Agreement and the receipt of all necessary regulatory approvals from the Securities and Exchange Commission and the CFTC.

**MEMBER
A CORPORATION, PARTNERSHIP OR
OTHER ENTITY**

Print Name of Entity

Authorized Signature Date

Print Name and Title

CLEARING MEMBER

Print Name of Clearing Member

Authorized Signature Date

Print Name and Title

**MEMBER
ONE OR MORE INDIVIDUALS
(All account participants must sign)**

Signature Date

Print Name: _____

Signature Date

Print Name: _____

Signature Date

Print Name: _____