



THE OPTIONS CLEARING
CORPORATION

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March 9, 2004

VIA FEDERAL EXPRESS

Jean A. Webb
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, N.W.
Washington, DC 20581

Re: Rule Filing SR-OCC-2004-02 Rule Certification

Dear Secretary Webb:

Enclosed is a copy of the above-referenced rule filing, which The Options Clearing Corporation ("OCC") is submitting pursuant to the self-certification procedures of Commission Regulation 40.6. This rule filing has been, or is concurrently being, submitted to the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (the "Exchange Act").

In conformity with the requirements of Regulation 40.6(a)(3), OCC states the following: The text of the rule is set forth at Item 1 of the enclosed filing. The date of implementation of the rule is the date the proposed rule is approved by the SEC or otherwise becomes effective under the Exchange Act. Item 5 of the enclosed filing sets forth a description of any written comments on the rule filing, including any such comments expressing opposing views that were not incorporated into the proposed rule.

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Commodity Exchange Act and the Commission's regulations thereunder.

JEAN M. CAWLEY

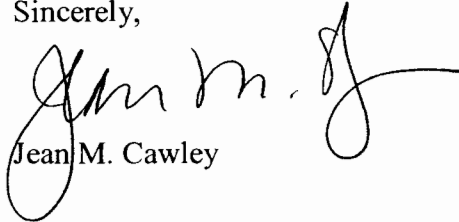
FIRST VICE PRESIDENT AND DEPUTY GENERAL COUNSEL

ONE N. WACKER DRIVE, SUITE 600 CHICAGO, ILLINOIS 60606 TEL 312.322.6269 FAX 312.322.6280

JCAWLEY@THEOCC.COM WWW.OPTIONSCLEARING.COM

Should you have any questions regarding this matter, please do not hesitate to contact the undersigned at (312) 322-6269.

Sincerely,



Jean M. Cawley

Enclosure

cc: CFTC Central Region (w/ enclosure)
525 West Monroe Street, Suite 1100
Chicago, IL 60661
Attn: Frank Zimmerle

Jerry W. Carpenter
Assistant Director (SEC)

2004-02cftc.ltr





THE OPTIONS CLEARING
CORPORATION

March 9, 2004

VIA COURIER DELIVERY

Jerry W. Carpenter
Assistant Director
Division of Market Regulation
Mail Stop 10-1
Securities and Exchange Commission
450 Fifth Street, NW
Washington, DC 20549

**Re: The Options Clearing Corporation
File No. SR-OCC-2004-02**

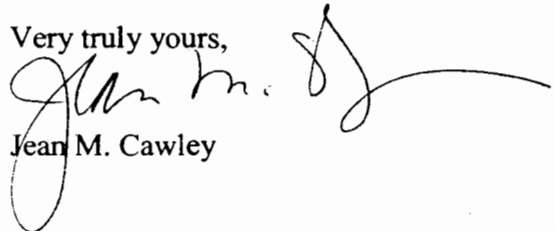
Dear Jerry:

The Options Clearing Corporation hereby files a manually signed original and eight copies of the referenced rule change. The purpose of this rule change is twofold. First, the rule change proposes to amend OCC's by-laws and rules to permit clearing members to maintain with OCC two new futures accounts. Second, the rule change clarifies that a clearing member may carry the positions of proprietary market makers in a combined account that is a separate account from any other combined market makers' accounts, and likewise, may carry the positions of associated market makers in a combined account that is a separate account from any other combined account.

This rule filing is being made pursuant to Section 19(b)(3)(a) of the Securities Exchange Act of 1934, as amended, and Rule 19b-4(f)(2) thereunder, for immediate effectiveness. The rule change effects changes in existing services of OCC that (1) do not adversely affect the safeguarding of securities or funds in the custody or control or for which it is responsible, and (2) do not significantly affect the respective rights or obligations of OCC or its clearing members.

The Federal Register notice will be emailed to you. Please call me at (312) 322-6269 with any questions you may have on this filing.

Very truly yours,



Jean M. Cawley

cc: Jean A. Webb
Secretary (CFTC)

JEAN M. CAWLEY

FIRST VICE PRESIDENT AND DEPUTY GENERAL COUNSEL

ONE N. WACKER DRIVE, SUITE 600 CHICAGO, ILLINOIS 60606 TEL 312.322.6269 FAX 312.322.6280

JCAWLEY@THEOCC.COM WWW.OPTIONSCLEARING.COM

File No. SR-OCC-2004-02

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 Articles I and VI of its By-Laws and Chapters VI and XI of its Rules as set forth below. Material to be added to OCC’s By-Laws and Rules as currently in effect is underlined. Material to be deleted is enclosed in bold brackets. Material proposed to be added in pending rule filings is indicated by double underlining, and material proposed to be deleted in pending rule filings is indicated by double bold brackets.

THE OPTIONS CLEARING CORPORATION

BY-LAWS

ARTICLE I

Definitions

Definitions

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

A.– E. [unchanged]

F.

(1)-(2) [unchanged]

Firm Account

(3) The term “firm account” in respect of a Clearing Member means an account established by the Clearing Member which is confined to Exchange transactions cleared and positions carried on behalf of non-customers of the Clearing Member. The term “firm lien account” means a firm account as to which the Corporation shall have a lien on all long positions in the account pursuant to Sections 3(a), (b)(iv), (c)(v), and (k) of Article VI of the By-Laws, and

the term “firm non-lien account” means a firm account as to which the Corporation shall have a lien only on unsegregated long positions therein.

(4)-(11) [unchanged]

Futures Professional

(12) The term “futures professional” means a member of a futures market or security futures market that acts as a floor trader or in the capacity of a market-maker, specialist, or similar liquidity provider under the rules of the futures market or security futures market on which such futures professional’s trading activity is conducted.

G. – O. [unchanged]

P.

(1) – (7) [unchanged]

Proprietary Futures Professional Account

(8) The term “proprietary futures professional account” in respect of a Clearing Member means an account of the Clearing Member on the records of the Corporation which is confined to Exchange transactions cleared and positions carried by the Clearing Member on behalf of futures professionals who are not futures customers.

(8) – (12) [renumbered as (9) – (13), but otherwise unchanged]

Q. – R. [unchanged]

S.

(1) – (4) [unchanged]

Segregated Futures Professional Account

(5) The term “segregated futures professional account” in respect of a Clearing Member means an account of the Clearing Member on the records of the Corporation which is confined to Exchange transactions cleared and positions carried by the Clearing Member on behalf of futures professionals who are futures customers. A segregated futures professional account is a type of segregated futures account.

(5) – (23) [renumbered as (6) – (24), but otherwise unchanged]

T. - end [unchanged]

* * *

ARTICLE VI

Clearance of Exchange Transactions

* * *

Maintenance of Accounts

SECTION 3. Every Clearing Member may establish and maintain with the Corporation one or more of the following accounts:

(a) [no change]

(b) A separate Market-Maker's account, which shall be confined to the Exchange transactions of the Market-Maker for which it is established. In addition, a Clearing Member who is registered with an Exchange or security futures market as a Market-Maker may maintain a separate Market-Maker's account, which shall be confined to such Clearing Member's Exchange transactions as such Market-Maker (including the Exchange transactions of a specialist unit in which such Clearing Member is a participant). The Clearing Member agrees, and represents to the Corporation that it has obtained the agreement of each Market-Maker on whose behalf positions may be maintained in a Market-Maker's account, that (i) the Corporation shall have a lien on all long positions, securities, margin and other funds in such Market-Maker's account with the Clearing Member as security for the Clearing Member's obligations to the Corporation in respect of all Exchange transactions effected through such account, short positions maintained in such account, and exercise notices assigned to 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, (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 or Market-Maker, and (iv), if the Market-Maker is the Clearing Member or a proprietary Market-Maker, the Corporation's lien on all long positions and on all other securities, margin, and other funds in such account shall be security for all of the Clearing Member's obligations to the Corporation and the account shall be a "firm lien account."

(c) A combined Market-Makers' account, which shall be confined to the Exchange transactions of the Market-Makers for which it is established. No Exchange transactions of the Clearing Member or proprietary [or associated] Market-Makers shall be included in a combined Market-Makers' account that is used for the Exchange transactions of Market-Makers that are not proprietary Market-Makers. Likewise, no Exchange transactions of associated Market-Makers shall be included in a combined Market-Makers' account that is used for the Exchange transactions of Market-Makers that are not associated Market-Makers. The

Clearing Member agrees, and represents to the Corporation that it has obtained the agreement of each Market-Maker on whose behalf positions may be maintained in a combined Market-Maker's account, that (i) the positions of such Market-Maker may be commingled in a combined Market-Makers' account with the positions of the Clearing Member acting as Market-Maker or of other proprietary Market-Makers, if such Market-Maker is a proprietary Market-Maker; with positions of other associated Market-Makers, if such Market-Maker is an associated Market-Maker; or with other Market-Makers that are not proprietary or associated Market-Makers, if such Market-Maker is not a proprietary or associated Market-Maker;[,] (ii) the Corporation shall have a lien on all long positions, securities, margin and other funds in such combined Market-Maker's account with the Clearing Member as security for the Clearing Member's obligations to the Corporation in respect of all Exchange transactions effected through such account, short positions maintained in such account, and exercise notices assigned to such account;[,] (iii) 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] (iv) 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 or Market-Maker; and (v) if the Market-Maker is the Clearing Member or a proprietary Market-Maker, the Corporation's lien on all long positions and on all other securities, margin, and other funds in such account shall be security for all of the Clearing Member's obligations to the Corporation and the account shall be a "firm lien account."

(d) – (e) [no change]

(f) Every Clearing Member Organization conducting a public business in which it effects Exchange transactions for futures customers shall also establish and maintain a segregated futures account, which shall be confined to the Exchange transactions in futures and futures options of such Clearing Member Organization's futures customers. Notwithstanding the preceding sentence, if each of the futures customers for which a Clearing Member Organization effects transactions is a futures professional, the Clearing Member Organization is not required to maintain a segregated futures account under this paragraph (f), but instead may maintain a segregated futures professional account, as provided in paragraph (j), below. The Clearing Member, on behalf of itself and each futures customer on whose behalf positions may be maintained in the segregated futures account, agrees that the Corporation shall have a lien on all positions, margin and other funds in such account as security for the Clearing Member's obligations to the Corporation for the positions in that account. The Corporation shall comply with applicable regulations of the Commodity Futures Trading Commission pertaining to the holding of segregated funds by clearing organizations of contract markets.

(g) – (h) [no change]

(i) [unchanged from proposed language in SR-OCC-2003-04]

(j) A segregated futures professional account, which shall be confined to the Exchange transactions in futures and futures options of the Clearing Member's futures customers who are futures professionals. The Clearing Member, on behalf of itself and each futures professional on whose behalf positions may be maintained in the segregated futures professional account, agrees that the Corporation shall have a lien on all positions, margin and other funds in such account as security for the Clearing Member's obligations to the Corporation arising from that account and that 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 or any futures professional. The Corporation shall comply with applicable regulations of the Commodity Futures Trading Commission pertaining to the holding of segregated funds by clearing organizations of contract markets.

(k) A proprietary futures professional account, which shall be confined to the Exchange transactions of futures professionals whose transactions are not required to be treated as the transactions of securities customers or of futures customers. The Clearing Member, on behalf of itself and each other futures professional on whose behalf positions may be maintained in the proprietary futures professional account, agrees that the Corporation shall have a lien on all positions and on all other securities, margin and other funds in such account as security for all of the Clearing Member's obligations to the Corporation, and 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 or any futures professional. Such account shall be a "firm lien account."

.. Interpretations and Policies:

.01 The following requirements shall apply to carrying the following types of accounts: (i) a Clearing Member must be registered as a broker-dealer under Section 15(b)(1) or (2) of the Securities Exchange Act of 1934 in order to carry an account under paragraph (e) of this Section; and (ii) a Clearing Member must be registered as a futures commission merchant under Section 4f(a)(1) of the Commodity Exchange Act in order to carry an account under paragraphs (f) or (j) of this Section.

.02 The fact that a Clearing Member may have accounts under more than one Clearing Member number shall have no significance for purposes of a liquidation of a Clearing Member's accounts under Chapter XI of the Rules, and all such accounts—whether or not representing separate business segments or divisions—shall be treated as accounts of the same suspended Clearing Member. Although a Clearing Member may maintain more than one firm lien account with the Corporation, all of the Clearing Member's firm lien accounts established under paragraphs (a), (b)(iv), (c)(v), and (k) of this Section 3 shall be treated as a single firm lien account in the event of such a liquidation. Similarly, in such an event, all of the Clearing Member's firm non-lien accounts established under paragraph (a) of this Section 3 shall be treated as a single firm non-lien account, all of the Clearing Member's [C]combined Market-Makers' accounts established under paragraph (c) of this Section 3 for associated Market-Makers will be treated as a single

[C]combined Market-Makers' Account, all of the Clearing Member's combined Market-Makers' accounts established under paragraph (c) of this Section 3 for Market-Makers that are not proprietary or associated Market-Makers will be treated as a single combined Market-Makers' Account, all of the Clearing Member's customers' accounts established under paragraph (e) of this Section 3 shall be treated as a single customers' account, all of the Clearing Member's segregated futures accounts established under paragraphs (f) and (j) of this Section 3 shall be treated as a single segregated futures account, and all of the Clearing Member's JBO Participants' accounts established under paragraph (e) of this Section 3 shall be treated as a single JBO Participants' account. Each separate account maintained by a Clearing Member under paragraph (b) or (d) of this Section 3, with the exception of a proprietary Market-Maker account, shall be treated in a liquidation as a separate account.

.03 – end [no change]

Obligation of Purchasing Clearing Members

SECTION 4. The Purchasing Clearing Member in an Exchange transaction in respect of a cleared contract other than a future shall be obligated to pay the Corporation the amount of the premium agreed upon in such Exchange transaction. In the event that the Corporation fails to receive such payment at or before the settlement time, the Corporation shall have the right to apply any funds credited to accounts of the Clearing Member with the Corporation or that are otherwise in the possession or at the disposal of the Corporation to the payment of such premium; provided, however, that the Corporation shall not apply funds in a customers' account, segregated futures account (including a segregated futures professional account), customers' lien account,¹ Market-Maker's account (if the Market-Maker is a customer) or in a combined Market-Makers' account (if the Market-Makers are customers) for the payment of premiums on transactions in any account other than such account. Notwithstanding any other provision of the By-Laws or Rules, if the Corporation accepts an opening purchase transaction in an account at a time when the Corporation has not received payment of all amounts due from the Purchasing Clearing Member in respect of such account, the long position resulting from the acceptance of such transaction by the Corporation shall be deemed to be an unsegregated long position, and the Corporation shall have the right to close out or, in the case of options, to exercise such long position and to apply the proceeds in accordance with Chapter XI of the Rules.

¹ Proposed to be added in SR-OCC-2003-04.

* * *

CHAPTER VI

Margins

* * *

Margin on Positions in Stock Options, BOUNDS and Stock Loan and Borrow Positions; Risk Margin on Positions in Stock Futures

RULE 601. (a) – (b) [unchanged]

(c) **Margin Calculation -- Accounts Other Than Customers' Accounts and Firm Non-Lien Accounts.** The aggregate margin requirement for positions in stock options, stock futures and BOUNDS and stock loan and borrow positions carried in an account with the Corporation other than a customers' account or a firm non-lien account shall be calculated as hereinafter provided:

(1) **Stock Option Product Group Margin.** Margin requirements or credits shall be calculated for the stock product group as follows:

(A) Margin calculations shall be based on positions in stock options and BOUNDS and stock loan and borrow positions determined as follows:

(i) [unchanged]

(ii) Option Contracts, Unspread Futures Contracts, BOUNDS and Stock Loan and Borrow Positions.

(A) – (C) [unchanged]

(D) The margin requirement or credit for the stock product group shall be an amount equal to the algebraic sum of (i) the premium margin requirements and credits for the class groups comprising the product group, determined in accordance with paragraph (1)(B), and (ii) the risk margin requirement for the product group, determined in accordance with paragraph (1)(C).

(2) [unchanged]

(3) **Combined Positions.** A Clearing Member may direct the Corporation to combine [the] positions carried in [a] firm lien accounts

[and those carried in a proprietary Market-Maker account] for the purpose of calculating the margin requirement pursuant to this Rule 601 and Rule 602.

(4) – end [unchanged]

Margin on Positions in Non-Equity Options and Stock Loan Baskets and Stock Borrow Baskets; Risk Margin on Positions in Non-Equity Futures

RULE 602. (a) – (b) [unchanged]

(c) **Margin Calculation -- Accounts Other Than Customers' Accounts and Firm Non-Lien Accounts.** The aggregate margin requirement for Contracts and stock loan baskets and stock borrow baskets carried in an account with the Corporation other than a customer's account or a firm nonlien account shall be calculated as hereinafter provided:

(1) – (3) [unchanged]

(4) **Combined Positions.** A Clearing Member may direct the Corporation to combine [the] positions carried in [a] firm lien accounts [and those carried in a proprietary Market-Maker account] for the purpose of calculating the margin requirement pursuant to this Rule 602 and Rule 601; provided that this paragraph (c)(4) shall not apply to exercised long positions and assigned short positions in foreign currency options margined pursuant to paragraph (f) of this Rule 602.

(5) – end [unchanged]

* * *

Forms of Margin

RULE 604. Required margin may be deposited with the Corporation in one or more of the forms specified in paragraphs (a) - (c) of this Rule 604.

(a) – (b) [unchanged]

(c) **Letters of Credit.** Clearing Members may deposit with the Corporation letters of credit denominated in U.S. dollars, or in any foreign currency designated by the Corporation, and issued by banks or trust companies approved by the Corporation for this purpose. Such letters of credit shall be in a form prescribed by the Corporation and shall meet the following criteria:

(1) – (4) [unchanged]

Under unusual circumstances, the Chairman of the Corporation, following consultation with the staff of the Securities and Exchange Commission, may accept, on a temporary basis, a letter of credit which varies from the preceding requirements.

If a Clearing Member shall deposit with the Corporation a letter of credit which indicates on its face that it is being deposited to serve as margin for the Clearing Member's customers' account or for [the Clearing Member's] a segregated futures account, such letter of credit shall not constitute margin for any other account maintained by the Clearing Member until such time as the issuing bank shall instruct the Corporation by amendment to the letter of credit stating that such letter of credit is not so restricted.

Notwithstanding the provisions of any other Rule, the Corporation may draw upon a letter of credit at any time, whether or not the Clearing Member which deposited such letter of credit has been suspended by the Corporation or is in default with respect to any obligation to the Corporation, if the Corporation determines that such draw is advisable to protect the Corporation, other Clearing Members or the general public. If such a draw is made without suspending the Clearing Member, funds received pursuant to the draw will be subject to the By-Laws and Rules applicable to deposits of cash margin.

(4) – (5) [unchanged]

(e) Funds and securities held by or subject to the instructions of the Corporation as margin shall, subject to the rights of the Corporation in respect thereof, remain the property of the respective Clearing Members for whose accounts such funds and securities are held. Funds and securities deposited in respect of [the] a segregated futures account shall be held in accordance with the provisions of Section 4d of the Commodity Exchange Act and regulations thereunder. All other funds held by the Corporation as margin (other than funds invested by the Corporation pursuant to subsection (a) of this Rule and funds credited by the Corporation to a Liquidating Settlement Account pursuant to Chapter XI) shall be deposited to the credit of the Corporation in an account or accounts, designated as Clearing Member trust accounts, with such banks, trust companies or other depositories as the Board of Directors may select. Such funds shall not be commingled with funds of the Corporation or used by the Corporation as working capital. To the extent that funds held by the Corporation as margin are invested by the Corporation in securities pursuant to subsection (a) of this Rule, the Corporation shall maintain records clearly identifying such securities as held in trust for Clearing Members. The Corporation shall have the right to commingle funds and securities held as margin for the account of any Clearing Member with funds and securities held as margin for other Clearing Members.

* * *

Application of Settlement Credit

RULE 606. The Corporation may apply in satisfaction of any margin deficit any credit balance in favor of the Clearing Member shown on his Daily Position Report to be applicable to trades that settle on the business day of such margin deficit; provided, however, that any such balance arising in [the] a segregated futures account may not be applied in satisfaction of any margin deficit arising in any [other] account other than a segregated futures account.

* * *

CHAPTER XI

Suspension of a Clearing Member

* * *

Creation of Liquidating Settlement Account

RULE 1104. (a) Upon the suspension of a Clearing Member, the Corporation shall promptly convert to cash, in the most orderly manner practicable, all margins deposited with the Corporation by such Clearing Member in all accounts (excluding securities held in a specific deposit or escrow deposit) and all of such Clearing Member's contributions to the Clearing Fund; provided, however, that cash derived from margins deposited in respect of [the] segregated futures accounts (including any segregated futures professional account) shall not be commingled with any other cash, and provided, further, that if the issuer of a letter of credit deposited by such Clearing Member pursuant to Rule 604(c) shall agree in writing to extend the irrevocability of its commitment thereunder in a manner satisfactory to the Corporation, the Corporation may, in lieu of demanding immediate payment of the face amount of such letter of credit, but reserving its right thereto, demand only such amounts as it may from time to time deem necessary to meet anticipated disbursements from the Liquidating Settlement Accounts provided for below. These and all other funds of the suspended Clearing Member subject to the control of the Corporation, except funds held in or payable to [the] a segregated futures account, shall be placed by the Corporation in a special account, to be known as the Liquidating Settlement Account, in the name of the suspended Clearing Member, for the purposes hereinafter specified. Funds held in or payable to [the] segregated futures accounts, and only such funds, shall be placed by the Corporation in a separate special account, to be known as the Segregated Liquidating Settlement Account, in the name of the suspended Clearing Member, for the purposes herein specified. Funds obtained from the issuer of a letter of credit shall be disbursed only after all other funds contained in the Liquidating Settlement Account, with the exception of

funds derived from the suspended Clearing Member's contributions to the Clearing Fund, have been exhausted, or in the case of a letter of credit indicating on its face that it is being deposited to serve as margin for [the] a segregated futures account, only after all other funds contained in the Segregated Liquidating Settlement Account have been exhausted. In the event the sum of (i) the proceeds from any restricted letter of credit held in the customers' account, (ii) the proceeds from the closing out of unsegregated long positions in options and BOUNDS and any variation payments received from closing out long or short positions in futures in the customers' account, and (iii) the proceeds from the closing out of exercised option contracts, matured futures and expired BOUNDS in the customers' account should exceed the amount withdrawn by the Corporation from the Liquidating Settlement Account pursuant to Rules 1105 through 1107 in respect of transactions or positions in the customers' account, the excess shall be remitted by the Corporation to the suspended Clearing Member or its representative for distribution to the persons entitled thereto in accordance with applicable law. In the event the sum of (i) the proceeds from any restricted letter of credit held in [the] segregated futures accounts, (ii) any variation payments received from closing out long or short positions in futures in [the] segregated futures accounts, and (iii) the proceeds from the closing out of matured futures and long futures options positions in [the] segregated futures accounts should exceed the amount withdrawn by the Corporation from the Segregated Liquidating Settlement Account pursuant to Rules 1105 through 1107 in respect of transactions or positions in [the] all segregated futures accounts, the excess shall be remitted by the Corporation to the suspended Clearing Member or its representative for distribution to the persons entitled thereto in accordance with applicable law. Notwithstanding the foregoing provisions of this Rule, margin and all other funds of a suspended Clearing Member in respect of sets of X-M accounts (other than such Clearing Member's contributions to the Clearing Fund) shall be subject to Rule 707 and the applicable Participating CCO Agreement and not to this Rule.

(b) – end [unchanged]

Pending Transactions and Variation Payments

RULE 1105. Notwithstanding any other provision of the By-Laws and Rules, the Corporation shall have no obligation to accept any matched Exchange transaction of a suspended Clearing Member that was effected after the time at which the Clearing Member was suspended. In the event an Exchange transaction of a suspended Clearing Member is rejected by the Corporation, such transaction shall be closed by the other party thereto in accordance with the Exchange Rules of the Exchange, security futures market, futures market or international market on which the transaction was effected. Exchange transactions of a suspended Clearing Member that are accepted by the Corporation shall be treated in the following manner:

(a) [unchanged]

(b) Premiums on closing sale transactions in options or BOUNDS and variation payments received on positions or transactions in security futures in each Market-Maker's account (other than a Market-Maker's account that is a firm lien account[subject to paragraph (c) of this Rule]) shall be held in such account, pending the closing out of all open positions and transactions in such account, for application in accordance with the provisions of Section 3 of Article VI of the By-Laws applicable to such Market-Maker's account.

(c) Premiums on closing sale transactions in options or BOUNDS which have the effect of closing out unsegregated long positions in the customers' account or the firm non-lien account, or long positions in [the] any firm lien account [or any](including a proprietary Market-Maker account or proprietary futures professional account), and variation payments received on positions or transactions in security futures in such accounts, shall be credited by the Corporation to the Liquidating Settlement Account.

(d) [unchanged as proposed in SR-OCC-2003-04]

~~[(d)]~~(e) Premiums payable on opening or closing purchase transactions in options or BOUNDS and variation payments payable on positions or transactions in security futures in any account shall be withdrawn by the Corporation from the Liquidating Settlement Account; provided, however, that (i) any such payments payable in respect of a Market-Maker's account or a customers' lien account² shall first be withdrawn from the funds available in such account and only the amount of any deficit therein shall be withdrawn from the Liquidating Settlement Account; and (ii) any such payments payable in respect of [the] a segregated futures account shall first be withdrawn from the suspended Clearing Member's Segregated Liquidating Settlement Account and only the amount of any deficit therein shall be withdrawn from the Liquidating Settlement Account.

(e) [no change]

(f) All variation payments received on positions or transactions in security futures in [the] a segregated futures account shall be credited to the Segregated Liquidating Settlement Account.

(g) - end [unchanged]

Open Positions

RULE 1106. (a) [unchanged]

(b) - (c) [unchanged]

² This paragraph was proposed to be re-designated as paragraph (e), and the indicated language was proposed to be added, in SR-OCC-2003-04.

(d) Closing of Positions by Offset. If the Corporation elects or is required pursuant to this Rule to close both long positions and short positions in the same series of cleared contract carried by a suspended Clearing Member, the Corporation may, in lieu of closing such positions through closing transactions on an Exchange, futures market or security futures market, offset such positions against each other, reducing each position by the same number of contracts; provided that futures or futures options in [the] segregated futures accounts may be offset only against other futures or futures options in [that]those accounts. If the Corporation closes positions in any series of cleared contracts by offset pursuant to the foregoing sentence, the Corporation shall notify the suspended Clearing Member or its representative thereof, and such positions shall be deemed to have been closed at a price equal to (i) in the case of options or BOUNDS, the per-unit premium margin amount (determined in accordance with Rule 601 or Rule 602, as applicable) for such series on the date when the positions were offset, and (ii) in the case of futures, the settlement price for such series on the date when the positions were offset.

(e) [unchanged]

(f) Protective Action. If the Chairman, the Management Vice Chairman, or the President of the Corporation shall (i) determine that the Corporation is unable, for any reason, to close out in a prompt and orderly fashion any unsegregated long positions or short positions in options or BOUNDS, or long or short positions in futures, or to convert to cash any margin deposits of a suspended Clearing Member, or (ii) elect pursuant to Rule 1106(e) not to close out any such positions or pursuant to Rule 1104(b) not to convert to cash any such margin deposits, such officer may authorize the execution from time to time for the account of the Corporation, solely for the purpose of reducing the risk to the Corporation resulting from the continued maintenance of such positions or the continued holding of such margin deposits, of hedging transactions, including, without limitation, the purchase or sale of underlying interests or interests deemed similar thereto or option contracts or futures contracts on any such underlying or similar interests. Such officer may delegate to specified officers or agents of the Corporation the authority to determine, within such guidelines, if any, as such officer shall prescribe, the nature and timing of such hedging transactions. Any authorization of hedging transactions shall be reported to the Board of Directors within 24 hours, and any such transactions that are executed shall be reported to the Membership/Margin Committee on a daily basis. Any costs or expenses, including losses, sustained by the Corporation in connection with transactions effected for its account pursuant to this paragraph shall be charged to the Liquidating Settlement Account of the suspended Clearing Member, and any gains realized on such transactions shall be credited to such Liquidating Settlement Account; provided, however, that (i) costs, expenses, and gains allocable to the hedging of positions in a Market-Maker's account or a customers' lien account³ shall be charged or credited, as the case may be, to that account, and only the excess, if any, of such costs and expenses over the funds available in that account shall be charged to the Liquidating Settlement Account, and (ii) costs, expenses, and gains allocable to the hedging of

³ Proposed to be added in SR-OCC-2003-04.

positions in [a] segregated futures accounts shall be charged or credited, as the case may be, to the Segregated Liquidating Account, and only the excess, if any, of such costs and expenses over the funds available in [that] such accounts shall be charged to the Liquidating Settlement Account. Reasonable allocations of costs, expenses, and gains among accounts made by the Corporation for the purpose of implementing the proviso to the preceding sentence shall be binding on the Clearing Member and any persons claiming through the Clearing Member and their respective successors and assigns.

(g) [unchanged]

Exercised or Matured Contracts

RULE 1107. (a) Unless the Corporation stipulates otherwise in a particular case, exercised option contracts to which a suspended Clearing Member is a party (either as the exercising Clearing Member or as the assigned Clearing Member) and matured, physically-settled stock futures to which such Clearing Member is a party shall be disposed of as follows:

(1) – (5) [unchanged]

(6) All other exercised option contracts and matured, physically-settled stock futures to which the suspended Clearing Member was a party shall be closed through the buy-in and sell-out procedures provided in the Rules. All losses and gains on such buy-ins and sell-outs shall be paid from or credited to, as the case may be, the Liquidating Settlement Account of the suspended Clearing Member, provided, however, that; (i) all losses on such buy-ins and sell-outs in a Market-Maker's account or a customers' lien account⁴ shall first be paid from such account to the extent there are funds available in such account and only the amount of any deficit therein shall be paid from the Liquidating Settlement Account; and (ii) all losses on such buy-ins and sell-outs in [a] segregated futures accounts shall first be paid from the Segregated Liquidating Settlement Account to the extent permitted by applicable law and to the extent that there are funds available in such accounts, and only the amount of any deficit shall be paid from the Liquidating Settlement Account.

(b) – (c) [unchanged]

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by the Board of Directors of OCC at a meeting held on November 5, 2003.

Questions regarding the proposed rule change should be addressed to Jean M. Cawley, First Vice President and Deputy General Counsel, at (312) 322-6269.

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

The purpose of this rule change is twofold. First, the rule change permits clearing members to open and maintain with OCC two new types of accounts: (1) a segregated futures professional account, in which a clearing member may carry the positions and assets of futures floor traders and similar futures market professionals that are required to be segregated in accordance with Section 4d of the Commodity Exchange Act ("CEA") and the regulations of the Commodity Futures Trading Commission ("CFTC") and (2) an account carrying the positions and assets of futures professionals that are not required to be segregated under those provisions. These new account types are intended to accommodate clearing members' requests in connection with the anticipated start of trading on CBOE Futures Exchange, LLC ("CFE"). Second, the rule change clarifies that a clearing member is permitted to carry its market-maker positions and the positions of proprietary Market-Makers in a combined Market-Makers' account, separate from other combined Market-Makers' accounts; and that, similarly, a clearing member may commingle positions of associated Market-Makers in a combined Market-Makers' account, separate from other combined Market-Makers' accounts.

⁴ Proposed to be added in SR-OCC-2003-04.

A. Creation of Futures Floor Trader Accounts

Futures clearing organizations have traditionally used only two account types: a “firm” or “proprietary” account and a “customer” account. OCC anticipated that clearing members clearing futures products would follow this practice and carry the positions of futures professionals in the same account as positions of all other futures customers. However, some clearing members view the structure of the “combined Market-Makers’ account,” which allows clearing firms to carry the positions of multiple options market-makers, as providing a significant benefit from an administrative perspective. Although the combined Market-Makers’ account is margined on a net basis and treated as a single account for most purposes, it contains subaccounts so that positions of different market-makers can be separately identified as a convenience to market-makers and their clearing firms. In anticipation of the start of trading on CFE, clearing members have asked OCC to provide similar accounts for clearing the transactions of futures floor traders or other members of futures markets performing similar market-making or liquidity providing functions (“futures professionals”). One account would be for futures professionals whose funds and positions are required to be segregated pursuant to Section 4d of the CEA and the CFTC’s regulations governing customer segregated funds. The other account would be for futures professionals whose funds and positions are required to be treated as “proprietary” and therefore not required to be segregated.

In order to accommodate this request, OCC proposes to add three new defined terms to Article I, Section 1 of its By-Laws. The new term “futures professional” means floor traders and persons who serve similar market-making functions. The new term “proprietary

futures professional account” means an account carrying positions only of futures professionals who are not futures customers. And the new term “segregated futures professional account” means a segregated futures account that carries positions only of futures professionals that are futures customers. Thus, these new definitions incorporate existing Article I, Section 1 defined terms: “segregated futures account,” which means an account that carries positions only of futures customers; and “futures customer,” which means a person whose positions are carried by a futures commission merchant in a futures account required to be segregated under Section 4d of the CEA and the CFTC regulations.

OCC also proposes to amend Article VI and Chapters VI and XI. New paragraph (j) to Article VI, Section 3, permits clearing members to open a segregated futures account solely for the positions of futures professionals who are futures customers, and new paragraph (k) to that Section permits clearing members to open a proprietary futures professional account for futures professionals who are not futures customers. Both accounts would be functionally identical to the existing combined Market-Makers’ account. Article VI, Section 3(f) is amended to clarify that a clearing member need not maintain a segregated futures account other than the segregated futures professional account if the clearing member effects transactions only for futures customers that are futures professionals and will carry the positions of such futures professionals in the segregated futures professional account instead of in the segregated futures account. Parenthetical language is added to Article VI, Section 4 merely to remind readers that a segregated futures professional account is a segregated futures account and, therefore, that upon liquidation of a clearing member all amounts in such accounts will be commingled in the

Segregated Liquidating Settlement Account as segregated customer funds, reserved to pay the claims of futures customers. Similarly, Rules 604 and 606 are amended to make clear that a clearing member may maintain more than one segregated futures account (i.e., a “segregated futures account” and a “segregated futures professional account”), and Rules 1104 through 1107 are amended to provide that all segregated futures accounts will be liquidated together in the Segregated Liquidating Settlement Account. Finally, OCC proposes to amend Rule 1105(c) to state that assets in the proprietary futures professional account of a suspended clearing member will be placed in the regular Liquidating Settlement Account.

OCC will not require clearing members to clear transactions of futures professionals in either futures professional account. Because the segregated futures professional account would be separately margined without regard to positions or assets in the segregated futures account, some clearing members may prefer to keep the positions of futures professionals in the regular segregated futures account in order to obtain the benefit of such offsets or for other reasons. Likewise, a clearing member may wish to maintain positions that could be carried in the proprietary futures professional account in the regular Article VI, Section 3(a) firm account. OCC believes that these alternatives should be preserved.

B. Combined Market-Makers’ Account

Article VI, Section 3(c) of OCC’s By-Laws currently states that a clearing member may not include the positions of a proprietary or associated Market-Maker in a combined Market-Makers’ account. The prohibition on carrying “proprietary Market-Maker” positions in a combined Market-Makers’ account was intended to avoid any commingling with

“customer” positions that might be interpreted as violating Exchange Act Rules 8c-1 and 15c2-1 (the “hypothecation rules”). With respect to associated Market-Makers, the prohibition was intended to exclude from the combined Market-Makers’ account persons who, although “customers” for purposes of the hypothecation rules, are closely related to the Clearing Member and whose positions commingled in an account with positions of independent Market-Makers could pose difficulties in transferring the account to another clearing member in an insolvency situation. *See* SR-OCC-90-11 and SEC Release No. 34-33492 (Jan. 19, 1994) (approving SR-OCC-90-11).

Notwithstanding the foregoing prohibitions, it is fully consistent with the intent of Article VI, Section 3(c) to permit OCC clearing members to use a combined Market-Makers’ account to carry the positions of multiple proprietary Market-Makers or to carry the positions of multiple associated Market-Makers, so long as such accounts are restricted to positions of proprietary Market-Makers or associated Market-Makers, respectively. OCC now proposes to amend Article VI, Section 3(c) to expressly so provide. In order to avoid compliance issues under the hypothecation rules, OCC would continue to prohibit the commingling of the positions of “customer” Market-Makers (including associated Market-Makers that have not elected to be treated as proprietary Market-Makers) in the same combined accounts with proprietary Market-Makers. And in order to avoid the difficulties associated with transferring a combined Market-Makers’ account holding the positions of both independent and associated Market-Makers to another clearing member in an insolvency situation, OCC would continue to prohibit the commingling of the positions of associated Market-Makers with the positions of independent

Market-Makers. As in the case of a separate Market-Maker's account used for proprietary positions under Section 3(b) of Article VI, a combined Market-Makers' account holding the positions of the clearing member or proprietary Market-Makers would be subject to a lien by OCC on all assets in such account to secure *all* of the clearing member's obligations to OCC, as provided in proposed subpart (v) of Section 3(c). Therefore, such proprietary Market-Maker accounts are properly firm lien accounts, and the definition of "firm account" in Article I of the By-Laws, and related provisions in Article VI, Sections 3(b) and (c) and Interpretation and Policy .02, Rules 601 and 602, and Rule 1105(b) and (c) are amended to identify those accounts as such.

* * *

The proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended, because they are designed to promote the prompt and accurate clearance and settlement of derivative transactions, assure the safeguarding of securities and funds which are in the custody or control of OCC, and, in general, protect investors and the public interest.

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

OCC does not believe that the proposed rule change would impose any 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 Securities Exchange Act of 1934.

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

OCC requests that the proposed rule change be made effective upon filing pursuant to Section 19(b)(3) of the Exchange Act and Rule 19b-4(f)(4) thereunder because the proposed rule change effects changes in existing services of OCC that (1) do not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which is its responsible and (2) do not significantly affect the respective rights or obligations of OCC or its clearing members.

The establishment of futures professional accounts to clear commodity futures contracts to be traded on CFE is proposed in OCC's capacity as a registered derivatives clearing organization subject to the regulatory authority of the CFTC. Accordingly, that portion of the rule filing represents a change in an existing service of OCC (clearing of commodity futures contracts) that is not otherwise within the jurisdiction of the Commission. To the extent the

proposed rule changes are within the Commission's jurisdiction, they nevertheless fall within the scope of Rule 19b-4(f)(4). Permitting OCC clearing members to use a combined Market-Makers' account to carry the positions of multiple proprietary Market-Makers or multiple associated Market-Makers is merely an administrative convenience and is fully consistent with the existing practice of separating clearing member transactions among account types. The proposed rule change does not substantively affect the manner in which OCC safeguards funds or securities or the rights and obligations of clearing members.

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

Not applicable.

Item 9. Exhibits

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

SIGNATURE

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

THE OPTIONS CLEARING CORPORATION

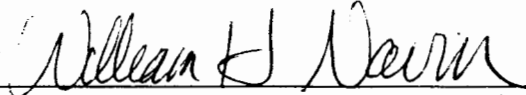
By: 
William H. Navin
Executive Vice President and
General Counsel

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____ ; File No. SR-OCC-2004-02

SELF-REGULATORY ORGANIZATION

Proposed Rule Change By
The Options Clearing Corporation

Relating to Clearing Member Accounts

Comments requested within _____ days
after the date of this publication.

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 _____, 2004, 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 amend OCC's by-laws and rules to permit clearing members to open and maintain with OCC two new types of accounts and to clarify that clearing members may carry multiple combined market-makers' accounts that are separate from one another.

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

The purpose of this rule change is twofold. First, the rule change permits clearing members to open and maintain with OCC two new types of accounts: (1) a segregated futures professional account, in which a clearing member may carry the positions and assets of futures floor traders and similar futures market professionals that are required to be segregated in accordance with Section 4d of the Commodity Exchange Act (“CEA”) and the regulations of the Commodity Futures Trading Commission (“CFTC”) and (2) an account carrying the positions and assets of futures professionals that are not required to be segregated under those provisions. These new account types are intended to accommodate clearing members’ requests in connection with the anticipated start of trading on CBOE Futures Exchange, LLC (“CFE”). Second, the rule change clarifies that a clearing member is permitted to carry its market-maker positions and the positions of proprietary Market-Makers in a combined Market-Makers’ account, separate from other combined Market-Makers’ accounts; and that, similarly, a clearing member may

commingle positions of associated Market-Makers in a combined Market-Makers' account, separate from other combined Market-Makers' accounts.

B. Creation of Futures Floor Trader Accounts

Futures clearing organizations have traditionally used only two account types: a "firm" or "proprietary" account and a "customer" account. OCC anticipated that clearing members clearing futures products would follow this practice and carry the positions of futures professionals in the same account as positions of all other futures customers. However, some clearing members view the structure of the "combined Market-Makers' account," which allows clearing firms to carry the positions of multiple options market-makers, as providing a significant benefit from an administrative perspective. Although the combined Market-Makers' account is margined on a net basis and treated as a single account for most purposes, it contains subaccounts so that positions of different market-makers can be separately identified as a convenience to market-makers and their clearing firms. In anticipation of the start of trading on CFE, clearing members have asked OCC to provide similar accounts for clearing the transactions of futures floor traders or other members of futures markets performing similar market-making or liquidity providing functions ("futures professionals"). One account would be for futures professionals whose funds and positions are required to be segregated pursuant to Section 4d of the CEA and the CFTC's regulations governing customer segregated funds. The other account would be for futures professionals whose funds and positions are required to be treated as "proprietary" and therefore not required to be segregated.

In order to accommodate this request, OCC proposes to add three new defined terms to Article I, Section 1 of its By-Laws. The new term “futures professional” means floor traders and persons who serve similar market-making functions. The new term “proprietary futures professional account” means an account carrying positions only of futures professionals who are not futures customers. And the new term “segregated futures professional account” means a segregated futures account that carries positions only of futures professionals that are futures customers. Thus, these new definitions incorporate existing Article I, Section 1 defined terms: “segregated futures account,” which means an account that carries positions only of futures customers; and “futures customer,” which means a person whose positions are carried by a futures commission merchant in a futures account required to be segregated under Section 4d of the CEA and the CFTC regulations.

OCC also proposes to amend Article VI and Chapters VI and XI. New paragraph (j) to Article VI, Section 3, permits clearing members to open a segregated futures account solely for the positions of futures professionals who are futures customers, and new paragraph (k) to that Section permits clearing members to open a proprietary futures professional account for futures professionals who are not futures customers. Both accounts would be functionally identical to the existing combined Market-Makers’ account. Article VI, Section 3(f) is amended to clarify that a clearing member need not maintain a segregated futures account other than the segregated futures professional account if the clearing member effects transactions only for futures customers that are futures professionals and will carry the positions of such futures professionals in the segregated futures professional account instead of in the segregated futures

account. Parenthetical language is added to Article VI, Section 4 merely to remind readers that a segregated futures professional account is a segregated futures account and, therefore, that upon liquidation of a clearing member all amounts in such accounts will be commingled in the Segregated Liquidating Settlement Account as segregated customer funds, reserved to pay the claims of futures customers. Similarly, Rules 604 and 606 are amended to make clear that a clearing member may maintain more than one segregated futures account (i.e., a “segregated futures account” and a “segregated futures professional account”), and Rules 1104 through 1107 are amended to provide that all segregated futures accounts will be liquidated together in the Segregated Liquidating Settlement Account. Finally, OCC proposes to amend Rule 1105© to state that assets in the proprietary futures professional account of a suspended clearing member will be placed in the regular Liquidating Settlement Account.

OCC will not require clearing members to clear transactions of futures professionals in either futures professional account. Because the segregated futures professional account would be separately margined without regard to positions or assets in the segregated futures account, some clearing members may prefer to keep the positions of futures professionals in the regular segregated futures account in order to obtain the benefit of such offsets or for other reasons. Likewise, a clearing member may wish to maintain positions that could be carried in the proprietary futures professional account in the regular Article VI, Section 3(a) firm account. OCC believes that these alternatives should be preserved.

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Notwithstanding the foregoing prohibitions, it is fully consistent with the intent of Article VI, Section 3(c) to permit OCC clearing members to use a combined Market-Makers' account to carry the positions of multiple proprietary Market-Makers or to carry the positions of multiple associated Market-Makers, so long as such accounts are restricted to positions of proprietary Market-Makers or associated Market-Makers, respectively. OCC now proposes to amend Article VI, Section 3(c) to expressly so provide. In order to avoid compliance issues under the hypothecation rules, OCC would continue to prohibit the commingling of the positions of "customer" Market-Makers (including associated Market-Makers that have not elected to be

treated as proprietary Market-Makers) in the same combined accounts with proprietary Market-Makers. And in order to avoid the difficulties associated with transferring a combined Market-Makers' account holding the positions of both independent and associated Market-Makers to another clearing member in an insolvency situation, OCC would continue to prohibit the commingling of the positions of associated Market-Makers with the positions of independent Market-Makers. As in the case of a separate Market-Maker's account used for proprietary positions under Section 3(b) of Article VI, a combined Market-Makers' account holding the positions of the clearing member or proprietary Market-Makers would be subject to a lien by OCC on all assets in such account to secure *all* of the clearing member's obligations to OCC, as provided in proposed subpart (v) of Section 3(c). Therefore, such proprietary Market-Maker accounts are properly firm lien accounts, and the definition of "firm account" in Article I of the By-Laws, and related provisions in Article VI, Sections 3(b) and (c) and Interpretation and Policy .02, Rules 601 and 602, and Rule 1105(b) and (c) are amended to identify those accounts as such.

* * *

The proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended, because they are designed to promote the prompt and accurate clearance and settlement of derivative transactions, assure the safeguarding of securities and funds which are in the custody or control of OCC, and, in general, protect investors and the public interest.

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

OCC has requested that the proposed rule change be made effective upon filing pursuant to Section 19(b)(3) of the Exchange Act and Rule 19b-4(f)(4) thereunder because the proposed rule change effects changes in existing services of OCC that (1) do not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which is its responsible and (2) do not significantly affect the respective rights or obligations of OCC or its clearing members.

The establishment of futures professional accounts to clear commodity futures contracts to be traded on CFE are proposed in OCC's capacity as a registered derivatives clearing organization subject to the regulatory authority of the CFTC. Accordingly, that portion of the rule filing represents a change in an existing service of OCC (clearing of commodity futures contracts) that is not otherwise within the jurisdiction of the Commission. To the extent the proposed rule changes are within the Commission's jurisdiction, they nevertheless fall within the

scope of Rule 19b-4(f)(4). Permitting OCC clearing members to use a combined Market-Makers' account to carry the positions of multiple proprietary Market-Makers or multiple associated Market-Makers is merely an administrative convenience and is fully consistent with the existing practice of separating clearing member transactions among account types. The proposed rule change does not substantively affect the manner in which OCC safeguards funds or securities or the rights and obligations of clearing members.

At any time within 60 days of the filing of this proposed rule change, the Commission may summarily abrogate 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 Exchange Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for

inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by _____.

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

Secretary

Dated: _____