UNITED STATES OF AMERICA

Before the

COMMODITY FUTURES TRADING COMMISSION

In the Matter of the Request for an Order Permitting Commingling of Affiliate Funds in an Internal Cross Margining Account at The Options Clearing Corporation

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ORDER TO PERMIT

An Internal Cross-Margining Account to be Maintained at The Options Clearing Corporation Jointly by a Pair of Affiliated Clearing Members of The Options Clearing Corporation, Each of Which is a Registered Broker-Dealer and a Registered Futures Commission Merchant

The Options Clearing Corporation ("OCC") has submitted a petition to the Commodity Futures Trading Commission ("Commission"), under Section 4d(a) of the Commodity Exchange Act (the "Act"), to expand its non-proprietary internal cross-margining program for market professional customers to permit the cross-margining of positions in securities and security futures ("Security Products"), carried by an OCC clearing member and cleared by OCC in its capacity as a securities clearing agency, with commodity futures and options on commodity futures ("Commodity Products"), carried by a different, but affiliated, OCC clearing member and cleared by OCC in its capacity as a derivatives clearing organization ("DCO") registered as such under the Commodity Exchange Act (the "Act"). The cross-margining account would be carried by an OCC clearing member that is a broker-dealer registered as such under the Securities Exchange Act of 1934 and a futures commission merchant ("FCM") registered as such under the Act (a "Dual Registrant"). To implement the non-proprietary internal cross-margining program for affiliated Dual Registrants, OCC seeks an order that would permit Commodity Products, money, or property received by a Dual Registrant clearing member in its capacity as an FCM, which would otherwise be required to be separately accounted for and treated as property of commodity customers, to be commingled with Security Products, money, and property received by an affiliated Dual Registrant clearing member in its capacity as a registered broker-dealer in a jointly carried non-proprietary cross-margining account.

IT IS HEREBY ORDERED, under Sections 4d(a)(2) of the Act:

That the petition is granted and that, subject to the additional terms of this Order, but not withstanding any provision to the contrary in the Commission's regulations, any money, securities, or property received by a Dual Registrant clearing member in its capacity as an FCM, which would otherwise be required to be separately accounted for and treated as property of commodity customers, may be commingled with money, securities, and property received by a Dual Registrant affiliated clearing member in its capacity as a registered broker-dealer in a jointly held, non-proprietary cross-margining account.

IT IS FURTHER ORDERED that the internal affiliate cross-margining program shall be subject to the following conditions:

(a) Each participating market professional shall 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 shall separately account for any cross-margining property maintained in non-proprietary cross-margining accounts and shall not commingle such cross-margining property with money, securities, and property maintained in any non-cross-margining accounts or proprietary cross-margining accounts;

(c) Each participating affiliated clearing member shall 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;

(d) Each participating affiliated clearing member shall 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;

(e) OCC shall 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 affected for or held in any proprietary account or any non-cross-margining customer account, and related accruals;

(f) OCC shall satisfy any deficiency in any non-proprietary cross-margining account without recourse to non-cross-margining segregated funds;

(g) OCC, each participating affiliated clearing member, each participating market professional, and each depository shall 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 Regulations 1.31, 17 CFR 1.31; and

(h) Each participating affiliated clearing member shall compute total segregation requirements under Section 4d(a) of the Act and Commission Regulations 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.

This Order is issued pursuant to Section 4d of the Act based upon the representations made and supporting material provided to the Commission by OCC in its Petition. Any material changes or omissions in the facts or circumstances pursuant to which this Order is granted might require the Commission to reconsider its finding that the terms and conditions set forth herein are appropriate. Further, in its discretion, the Commission may condition, modify, suspend, terminate, or otherwise restrict the exemption granted in this Order, as appropriate, on its own motion.

Issued in Washington, D.C., this 5th day of April

By the Commission

David A. Stawick
Secretary of the Commission