



James E. Brown  
Executive Vice President  
General Counsel and Secretary

June 1, 2012

**Via Mail and E-mail**

Mr. Ananda Radhakrishnan  
Director  
Division of Clearing and Risk  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581  
[dcioletters@cftc.gov](mailto:dcioletters@cftc.gov)

Re: Section 5b(C)(2)(H) of the Commodity Exchange Act  
Rule 39.17(a)

Dear Mr. Radhakrishnan:

We are writing to request that the Commission Division of Clearing and Risk (the "Division") confirm, on an expedited basis, that it will not recommend that the Commission take enforcement action against The Options Clearing Corporation ("OCC") as a result of OCC's waiving the applicability of certain of OCC's By-Laws and Rules as discussed below. This request is being made to facilitate a transaction involving the transfer, assignment and assumption of the securities correspondent clearing business of one OCC Clearing Member to another. The transferee of the correspondent clearing business, which currently acts as a Managing Clearing Member (as defined below) for other Clearing Members, will, in turn, transfer its business as Managing Clearing Member to Broadridge Securities Processing Solutions, LLC ("BSPS").

OCC intends to permit BSPS to act as a Clearing Member of OCC for a limited period, as may be extended from time to time (the "Waiver Period") in accordance with the proposed Agreement for Limited Provisional Clearing Membership (the "Agreement") between OCC and BSPS, substantially in the form that has been separately provided to the Division, and to the limited extent necessary to permit BSPS to act as a "Managing Clearing Member" (as defined in OCC Rule 309) on the terms and conditions set forth in the Agreement. Ridge Clearing & Outsourcing Solutions, Inc. ("Ridge Clearing") is currently a Managing Clearing Member of OCC. Ridge Clearing is a party to various facilities management agreements ("FMAs") with other OCC Clearing Members, including Penson Financial Services, Inc. ("Penson"). On or about May 31, 2012, Ridge Clearing and certain other parties consummated (subject to regulatory approvals) a transaction that, when effective, would result in a change in ownership of Ridge Clearing that would facilitate the acquisition by Ridge Clearing of certain accounts from

Penon (the “Ridge Transaction”).<sup>1</sup> As part of the Ridge Transaction, Ridge Clearing will transfer its rights and obligations under the FMAs to BSPS, as a result of which Ridge Clearing will not continue providing services under the FMAs (the “Services”) on or after June 4, 2012.

Because of the expedited nature of the transaction, and in order to assure seamless continuity with respect to the Services, BPS will need to be in a position to act as a Managing Clearing Member to the limited extent necessary to perform its obligations under the FMAs. BPS is not currently a “Clearing Member” of OCC (as defined in OCC By-Laws), nor is it a registered broker-dealer or other category of regulated entity eligible to become a Clearing Member under the By-Laws and Rules of OCC. Therefore, BPS is not eligible to act as a Managing Clearing Member under OCC Rule 309. However, because of the time-sensitive nature of the current situation and the need for continuity under the FMAs, and in light of the restrictions set forth in the Agreement (as described below), OCC proposes to permit BPS to act as a Clearing Member, for the Waiver Period and solely to the extent necessary to allow BPS to carry out its obligations under the FMAs, and future facilities management agreements that BPS may enter into in accordance with the terms of the Agreement, as a Managing Clearing Member. In order to do so, OCC must temporarily waive the applicability of certain OCC Rules and By-Laws in respect of BPS.

OCC proposes to permit BPS to act as a Managing Clearing Member effective upon the consummation of the Ridge Transaction (the “Effective Date”), subject to (i) receipt of BPS’ initial Clearing Fund Deposit (as defined in OCC Rules and By-Laws), (ii) receipt of a guaranty (the “Parent Guaranty”) acceptable to OCC from BPS’ parent corporation, Broadridge Financial Solutions, Inc. (a public company), of all obligations of BPS to OCC, (iii) receipt of no-action relief from the Division pursuant to this letter, and (iv) receipt of similar no-action relief from the Securities and Exchange Commission (“SEC”).

The “Waiver Period” is the period beginning on the Effective Date of the Agreement and ending on the earlier of (a) the 90<sup>th</sup> calendar day following the Effective Date, or such later date as to which OCC may consent, subject to any approval, if necessary, of the Commission and the SEC, and (b) the date on which BPS transfers its obligations under the FMAs, as set forth below.

During the Waiver Period:

- BPS intends to transfer the obligations under the FMAs to an entity that is (i) registered as a broker-dealer under Section 15(b) of the Securities Exchange Act of 1934, (ii) a Clearing Member of OCC and (iii) eligible to act as a Managing Clearing Member of OCC. BPS will report to OCC as to its progress on such transfer on or about the 30<sup>th</sup> and again prior to the 60<sup>th</sup> calendar day following the Effective Date.
- BPS agrees to be bound by all of the provisions of OCC’s By-Laws and Rules and all procedures of OCC, as the same may be in effect from time to time, that are applicable to

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<sup>1</sup> In connection with the change in ownership, Ridge Clearing will be renamed “Apex Clearing Corporation.” References in this letter to “Ridge Clearing” relating to the period after the change in ownership are references to Apex Clearing Corporation.

BSPS' conduct of the business of a Managing Clearing Member, except as specified in the Agreement and summarized below. To the extent that any provision of the By-Laws and Rules is uninterpretable, ambiguous or impossible for BSPS to comply with until it is registered as a broker-dealer and becomes a Clearing Member, BSPS will comply with such alternative requirement, if any, that OCC may reasonably impose in order to achieve the purpose of such By-Law or Rule.

- BSPS will not act as a Clearing Member in any manner other than to act as a Managing Clearing Member with respect to Managed Clearing Members. Without limiting the generality of the foregoing, BSPS will not clear any Exchange transactions or otherwise perform any clearing services or carry positions in any cleared contract on behalf of itself or any customer or non-customer. BSPS will comply with the financial and reporting obligations of Chapter III of the OCC Rules as if BSPS were a registered broker-dealer, or alternative requirements reasonably acceptable to OCC (including, specifically, the Parent Guaranty); subject to the waivers described below.
- BSPS will be required to make Clearing Fund Deposits (as defined in OCC Rules and By-Laws) and will be subject to pro rata charges and additional assessments in accordance with the provisions of the By-Laws and Rules as if it were a regular Clearing Member.
- BSPS will grant to OCC all security interests, liens, rights, and remedies granted by a Clearing Member as set forth in the By-Laws and the Rules.
- BSPS will pay to OCC the fees provided for in the By-Laws and Rules of OCC for clearing and other services as if it were a regular Clearing Member, and after being afforded all rights and protections provided in the By-Laws and Rules of OCC, such fines as may be imposed in accordance with the By-Laws and Rules of OCC for the failure of BSPS to comply therewith.

During the Waiver Period, OCC would waive compliance by BSPS with certain provisions of OCC By-Laws and Rules as follows:

- Requirements of Article V of the By-Laws that a Clearing Member be registered as a broker-dealer under the Securities Exchange Act of 1934 or be within one or more other enumerated categories of regulated entities.
- Requirements under Rule 214 that Clearing Members have "Financial and Operations Personnel" that are registered with specified self-regulatory organizations in specified capacities.
- Financial and reporting requirements of Chapter III of the Rules to the extent that BSPS complies with alternative requirements reasonably acceptable to OCC.
- Net capital requirements of Rules 301, 302, and 309(b), provided that OCC has received the Parent Guaranty referred to above and provided further that BSPS demonstrates compliance with such net capital requirements or such alternative requirements as OCC

and BSPS may agree to, at which time OCC may permit the Parent Guaranty to be terminated unless it is included in such alternative arrangements.

- The definition of “Clearing Member” to the extent it requires a person to have been admitted to membership through the regular procedures of OCC.
- Any other provisions of the By-Laws or Rules that OCC deems to be inconsistent with the arrangements set forth in the Agreement.

If, on or after the 60<sup>th</sup> day following the Effective Date, it appears that BSPS is not likely to transfer its obligations under the FMAs to an entity which will be in a position to act as a Managing Clearing Member by the end of the Waiver Period, OCC shall have the right to notify the relevant parties that the FMAs will be terminated as of the last day of the Waiver Period. If, at the end of a Waiver Period, OCC determines (in its reasonable discretion, after consultation with BSPS) that BSPS has diligently pursued the transfer of its operations support and outsourcing business to an approved Clearing Member, and that such transfer is likely to occur, OCC shall extend the Waiver Period by an additional 30 days.

OCC does not believe that the limited waiver of OCC Rules and regulations in respect of BSPS set forth above will have any direct or indirect adverse effect on OCC or any other OCC Clearing Member.

#### Request for No-Action Relief

Section 5b(c)(2)(H) of the Commodity Exchange Act (the “CEA”) states in relevant part that “[e]ach derivatives clearing organization shall—(i) maintain adequate arrangements and resources for—(I) the effective monitoring and enforcement of compliance with the rules of the derivatives clearing organization . . . and (ii) have the authority and ability to discipline, limit, suspend, or terminate the activities of a member or participant due to a violation by the member or participant of any rule of the derivatives clearing organization . . . ” Commission Regulation 39.17(a) contains substantially identical requirements.

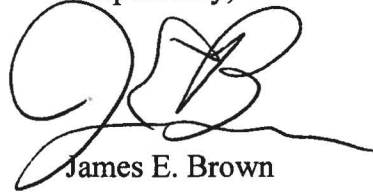
As noted above, OCC intends to waive, during the Waiver Period and on the terms and conditions set forth above, the applicability of certain provisions of the OCC By-Laws and Rules set forth above in respect of BSPS.

OCC hereby requests that the Division confirm that it will not recommend that the Commission take enforcement action against OCC under Section 5b(c)(2)(H) of the CEA or Commission Regulation 39.17(a) as a result of OCC’s waiving the applicability of certain of OCC’s By-Laws and Rules and permitting BSPS to act as a Clearing Member of OCC during the Waiver Period on the terms and conditions described above.

In view of the time-sensitive nature of the relief requested, OCC seeks an immediate response from the Division. OCC believes that immediate relief is necessary in order to avoid significant disruption to Ridge Clearing’s current clearing operations and other market participants, as Ridge Clearing may be unable to continue providing the Services beginning on June 4, 2012.

Please do not hesitate to contact the undersigned at (312) 322-6855 should you need additional information.

Respectfully,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by 'E. Brown' in a cursive script. The signature is positioned above the printed name.

James E. Brown

cc: Phyllis Dietz - CFTC

**CERTIFICATION AND UNDERTAKING OF  
THE OPTIONS CLEARING CORPORATION**

I hereby certify that the material facts set forth in the attached letter dated June 1, 2012 are true and complete to the best of my knowledge.



Name: James E. Brown  
Title: EVP and General Counsel

The undersigned hereby undertakes that if, at any time prior to issuance of a letter by the Division of the Commission with respect to the attached letter dated June 1, 2012 requesting relief, any material representation made in the letter requesting relief ceases to be true and complete, the undersigned will ensure that the Division is informed promptly in writing of all materially changed facts and circumstances.



Name: James E. Brown  
Title: EVP and General Counsel