



THE OPTIONS CLEARING  
CORPORATION

C.F.T.C.  
OFFICE OF THE SECRETARIAT

2009 APR 14 PM 4 44

April 14, 2009

**VIA E-MAIL**

Mr. David A. Stawick  
Secretary of the Commission  
Commodity Futures Trading Commission  
Three Lafayette Centre  
1155 21<sup>st</sup> Street, N.W.  
Washington, DC 20581

**Re: Rule Filing SR-OCC-2009-08 Rule Certification**

Dear Mr. Stawick:

Attached 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 when the proposed rule has been approved by the SEC. No substantive opposing views were expressed to OCC by governing board or committee members, clearing members of OCC, or market participants, that were not incorporated into the 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

SENIOR VICE PRESIDENT AND DEPUTY GENERAL COUNSEL

ONE N. WACKER DRIVE, SUITE 500 CHICAGO, ILLINOIS 60606 TEL 312.322.6269 FAX 312.322.6280

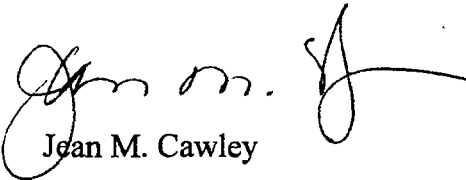
JCAWLEY@THEOCC.COM WWW.OPTIONSCLEARING.COM



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

Sincerely,

  
Jean M. Cawley

Attachments

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

OCC-2009-08 cftc.ltr

**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

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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 and supplement its OCC’s Rules as set forth below in order to revise its eligibility requirements for the deposit of Exchange Traded Funds (“ETFs”) and stocks as margin.

Material proposed to be added is underlined, and material proposed to be deleted is enclosed in bold brackets. The rules are shown without giving effect to changes submitted in SR-OCC-2007-20 (the “Collateral in Margins filing”), which has been approved by the Commission but not yet implemented by OCC.<sup>1</sup>

**THE OPTIONS CLEARING CORPORATION****RULES**

\* \* \*

**CHAPTER VI****Margins**

\* \* \*

**Form of Margin Assets**

Rule 604. (a) [No change]

(b) *Securities*. The types of securities specified in subparagraphs (1) – (4) of this paragraph (b) may be deposited with the Corporation in the manner specified for each:

(1) - (3) [No change]

(4) *Equity and Debt Issues*. (i) Clearing Members may deposit, as hereinafter provided, common and preferred stocks (“stocks”) and corporate bonds which meet the standards prescribed below. In order to be eligible for deposit, stocks must have a market value greater than \$3 per share (\$10 per share in the case of preferred stocks) and must be (A) traded on a national securities exchange (B) traded in the Nasdaq Global Market or (C) traded in The Nasdaq

<sup>1</sup> See SEC Release No. 34-58158 (July 15, 2008) (approving SR-OCC-2007-20).

Capital Market. Corporate bonds must (A) be listed on a national securities exchange and not in default, (B) have a current market value that is readily determinable on a daily basis, and (C) be rated in one of the four highest rating categories by a nationally recognized statistical rating organization. An issue that is suspended from trading by, or subject to special margin requirements under the rules of, the market that listed or qualified the issue for trading because of volatility, lack of liquidity or similar characteristics, may not be deposited as margin with the Corporation. If the issue is listed or traded on more than one market and the markets do not take the same action, the Corporation will use its discretion to determine which market's actions will be definitive for purposes of this Rule. Each deposit pursuant to this Rule 604 (b)(4) shall be made with respect to a designated account of the Clearing Member. Deposited stocks and bonds shall be valued on a daily basis at 70% of current market value or such lower value as the Membership/Risk Committee of the Corporation may prescribe from time to time with respect to such stocks or bonds, or any of them. In valuing any stock or bond for the purposes of this Rule 604 (b)(4), its current market value shall be deemed to be its price at the close of regular trading hours (as determined by the Corporation) on such national securities exchange or other domestic security market as the Corporation shall determine during the preceding trading day. If such stock or bond was not traded on such market during regular trading hours, the current market value shall be deemed to be the lowest reported bid quotation for such stock or bond at or about the close of regular trading hours on such day. Equity and debt issues of any one issuer shall not be valued at an amount in excess of 10% of the margin requirement in the account for which such securities are deposited. Common stocks deposited pursuant to Rule 610 shall have no value as margin for the purposes of this Rule 604 (b)(4).

(ii) – (iii) [no change]

(5) [no change]

(c) – (f) [no change]

*... Interpretations and Policies:*

.01 - .12 [no change]

.13 The 10% concentration requirement set forth in Rule 604(b)(4) shall not apply to fund shares traded under the following symbols: SPY, QQQQ, IWM, and DIA. The Membership/Risk Committee may, in its sole discretion, waive the 10% concentration requirement with regard to other fund shares that (1) are based upon liquid, broad-based equity indexes and (2) have a margin interval equal to or less than 30%, as determined by OCC's margin system. This interpretation .13 will be superseded in its entirety when OCC implements the "Collateral in Margins" program that was filed in SR-OCC-2007-20.

**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 March 3, 2009.

Questions regarding the proposed rule change should be addressed to Jean M. Cawley, Senior 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**

OCC is proposing to amend its rules to facilitate the deposit of common stocks and ETFs (collectively referred to as "Valued Securities") as margin collateral by: (1) reducing the minimum price for stocks and ETFs from \$10 to \$3, and (2) eliminating the 10% concentration test for certain ETFs.

**BACKGROUND**

Valued Securities currently represent about 55% of the value of total margin deposits. However, the prolonged market decline has made many stocks ineligible for deposit as margin because they no longer meet the \$10 minimum price requirement, and the existing 10% concentration test contained in Rule 604(b)(4) has limited members' ability to deposit broad-based ETFs such as SPDRs.

Under the Collateral in Margins filing, all Valued Securities will be afforded collateral value as determined by OCC's risk-based margin system ("STANS"). The minimum price and 10% concentration test will be made inapplicable to such deposits provided that the securities are deliverable upon exercise or maturity of a contract cleared by OCC or represent ETFs that have as their reference any index that underlies any cleared contract. (Such securities

are referred to hereafter as “option securities,” and all other Valued Securities are referred to as “non-option securities.”) The minimum price requirement for option securities was eliminated in order to provide a greater opportunity for members to hedge their equity options positions with pledges of the underlying securities. The decision also reflected OCC’s judgment that the minimum price requirement is less important in an environment where OCC is able to closely monitor collateral and apply STANS in order to determine the appropriate value that OCC should assign to such collateral. The concentration test was eliminated because STANS contains its own built-in functionality that adequately handles concentrated options and collateral holdings.

Implementation of the Collateral in Margins methodology is scheduled for the second quarter of 2010. In order to address current market conditions, OCC is proposing changes now to reduce the impact of the minimum price requirement and the 10% concentration test, both of which will be eliminated altogether for options securities when Collateral in Margins is implemented.

## **DISCUSSION**

### **Minimum Price Test**

OCC Rule 604(b)(4) requires that all Valued Securities submitted as margin collateral must have a market value greater than \$10 per share. The dramatic fall in equity prices over the last several months has led to a significant increase in the number of stocks that are priced below \$10. Approximately one year ago 11 stocks in the S&P 500 were priced below \$10. As of April 13, 2009, 66 are priced below \$10. OCC’s \$10 minimum price requirement for stock collateral is intended to exclude stocks that might be volatile, illiquid, close to delisting,

etc. But it does so at the expense of excluding many stocks that, if looked at individually, would be deemed appropriate for margin collateral purposes.

Upon implementation of the Collateral in Margins project, OCC will have the ability to adjust stock collateral haircuts on an individual basis and will eliminate the minimum price test for all option securities, although non-option securities would continue to be subject to a minimum share price of greater than \$3. Nevertheless, OCC has performed an analysis of the impact of reducing the minimum share price for common stock from \$10 to \$3 and has concluded that such a change can be implemented for both option and non-option securities without materially increasing risk to OCC. OCC's current approach to valuation of Valued Securities is extremely conservative insofar as the current 30% haircut is very high relative to the haircuts that will be applied upon implementation of the Collateral in Margins project. OCC has examined the member accounts that hold the most volatile Valued Securities and found no instance where the amount of such holdings in any particular account was excessive. OCC nevertheless intends to closely monitor any account with a large amount of deposited Valued Securities that would be subject to a high haircut (i.e., greater than 40%) under STANS. Preferred shares will not be included in the Collateral in margin program, and will remain subject to a minimum share price of greater than \$10.

#### ETF Concentration Test

OCC Rule 604(b)(4) provides that "equity and debt issues of any one issuer shall not be valued at an amount in excess of 10% of the margin requirement in the account for which such securities are deposited." The main purpose of the concentration test is to protect OCC from undue exposure where a single security deposited as collateral by a member suffers a sudden and extreme fall in value or becomes illiquid. Under the concentration test, a clearing



member that wants to satisfy its OCC margin requirement solely with Valued Securities must submit a portfolio that contains at least ten separate securities. The concentration test was developed before the advent of ETFs representing an ownership interest in large numbers of securities (such as those based on the S&P 500, Nasdaq 100, and Russell 2000).

OCC has analyzed such assets from a risk perspective and has concluded that they should be accepted as margin without regard to the concentration limits, but subject to certain conditions. First, the assets acceptable for this purpose should be limited to liquid, broad-based equity index ETFs. Secondly, the applicable STANS margin interval for each deposited ETF exempted from the 10% concentration test must be less than or equal to 30%.

Because this interim proposal for limiting the applicability of the 10% concentration test is narrower than, and not identical to, the corresponding change in the Collateral in Margins filing, OCC is proposing to implement this interim proposal by adding an interpretation under Rule 604. By its terms, the interpretation will be superseded upon full implementation of the Collateral in Margins rule change, and OCC will thereafter remove it from the rule book.

\* \* \*

The proposed changes to OCC's 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 accurate and efficient clearance and settlement of transactions in securities and to safeguard assets within OCC's custody or control. They accomplish this purpose by facilitating the expanded use of Valued Securities as margin collateral while implementing certain limitations and monitoring procedures designed to limit risk. The

proposed rule change is not inconsistent with the existing rules of OCC, including any rules proposed to be amended.

**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 for Commission action on the proposed rule change.

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

OCC is requesting accelerate effectiveness in order to address current market conditions as promptly as possible.

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

Not applicable.

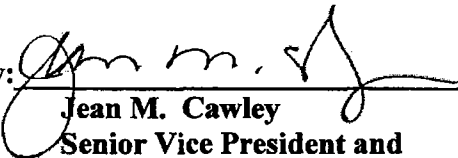
**Item 9.      Exhibits**

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:   
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**Jean M. Cawley**  
**Senior Vice President and**  
**Deputy General Counsel**