



THE OPTIONS CLEARING  
CORPORATION

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OFC. OF THE SECRETARIAT

April 21, 2008

**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-2008-08 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

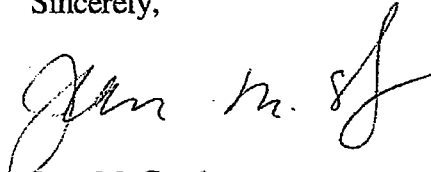
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Should you have any questions regarding this matter, please do not hesitate to contact the undersigned at (312) 322-6269.

Sincerely,



Jean M. Cawley

Attachments

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

OCC-2008-08 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**

OCC proposes to amend Rule 309, which relates to facilities management agreements, as set forth below. Material proposed to be added to Rule 309 is underlined, and material proposed to be deleted is enclosed in brackets.

**RULES**

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**CHAPTER III**

**Financial Requirements**

\* \* \*

**Managing Clearing Members and Managed Clearing Members**

**RULE 309.** (a) - (f) [unchanged]

*...Interpretations and Policies:*

**.01** [unchanged]

**.02** A Managed Clearing Member that proposes to operate without a facilities management agreement may request an expedited review of its proposal. If the Corporation in its sole discretion consents to perform such a review, then the Chairman, the Management Vice Chairman, or the President shall have the authority to determine whether the Managed Clearing Member has the operational capability, experience and competency to perform the managed services as specified in paragraph (e) of this Rule and to approve or disapprove termination of its facilities management agreement. Thereafter, at the next scheduled meeting of the Membership/Risk Committee, the Membership/Risk Committee shall independently review the Managed Clearing Member's operational capability, experience and competency to determine de novo whether the requirements of paragraph (e) have been met and approve or disapprove such termination. Should the Membership/Risk Committee's determination result in the modification or reversal of the action taken by the Chairman, the Management Vice Chairman, or the President, any acts taken by the Corporation or the Clearing Member prior to such modification or reversal shall not be invalidated nor shall any rights of any person arising out of such acts be affected. If the Membership/Risk Committee disapproves the termination of a facilities management agreement that was previously approved by the Corporation's management, the Clearing Member shall be given a reasonable period of time in which to enter into a new facilities management arrangement or terminate its clearing membership.

**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 February 29, 2008.

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**

The purpose of the proposed rule change is to provide an expedited process for reviewing a managed clearing member's request to operate without a facilities management agreement ("FMA").<sup>1</sup>

Under OCC Rule 309(e), a managed clearing member that desires to terminate an FMA must withdraw from membership on the business day before the proposed termination unless the Membership/Risk Committee ("Committee") has determined in accordance with Article V, Section 1 of OCC's by-laws either that the managed clearing member has the operational capability, experience and competence to perform the managed services required of a clearing member or the managed clearing member has entered into another acceptable FMA that will be effective on or before such proposed termination.

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<sup>1</sup> Article V, Section 1 of OCC's by-laws, including the Interpretations and Policies thereunder, set forth the requirements for membership. Interpretation and Policy .04 permits an applicant for clearing membership ("managed clearing member") to meet specified membership requirements by entering into an FMA with another clearing member ("managing clearing member") pursuant to which managing clearing member would perform certain of the applicant's obligations as a clearing member ("managed services"). An operationally capable clearing member also may elect to outsource certain of its obligations as a clearing member, and thereby, become a managed clearing member. See OCC Rule 309(f).

From March, 2006 to February, 2008, the Committee reviewed three requests to terminate FMAs, all of which were approved. In each case, the managed clearing member was required to defer terminating its FMA until the next regularly scheduled Committee meeting. To provide for a more timely review of certain FMA terminations, OCC proposes to adopt a new Interpretation and Policy .02 under Rule 309. Under the new policy, a managed clearing member desiring to terminate its FMA would be permitted to request an expedited review. If OCC consents<sup>2</sup>, a designated officer<sup>3</sup> would be authorized to determine whether, as specified in Rule 309(e), a managed clearing member had the operational capability, experience and competency to perform the managed services required of a clearing member, and to approve or disapprove the termination.

At the next regularly scheduled Committee meeting, the Committee would review *de novo* whether the managed clearing member met the requirements of Rule 309(e) and determine whether or not to approve the FMA's termination. Notwithstanding that, if the Committee modifies or reverses the action taken by the designated officer, any actions taken by OCC or the Clearing Member prior thereto would not be invalidated nor would the rights of any person be affected. In the unlikely event that the Committee disapproved of a termination previously approved by management, the Clearing Member would be given a reasonable time either to establish another FMA or to withdraw from membership.

This proposal is comparable to a process recently approved by the Commission which permits the expedited review of requests by operationally capable clearing members that

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<sup>2</sup> OCC would use the expedited review process for FMA terminations only in cases that present no significant or novel issues. Requests involving complex issues would be presented to the Committee at its next regularly

desire to outsource certain of their clearing member obligations by entering into FMAs.<sup>4</sup> OCC believes that the rationale for giving senior management the authority to approve FMAs on an interim basis applies equally to FMA terminations. The proposal strikes a reasonable balance between meeting the business requirements of clearing members and continuing to ensure appropriate review of their operational capabilities

\* \* \*

The proposed change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), because it promotes the prompt and accurate clearance and settlement of securities transactions by providing an expedited review process for the termination of FMAs as proposed by managed clearing members.

The proposed rule change is not inconsistent with the existing rules of OCC, including any other 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.

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scheduled meeting.

<sup>3</sup> The designated officers are the Chairman, the Management Vice Chairman or the President.

<sup>4</sup> See Interpretation & Policy .01 to Rule 309. See also Release No. 34-57535 (March 20, 2008).

**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)**

Not applicable.

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

Not applicable.

**Item 9. Exhibits**

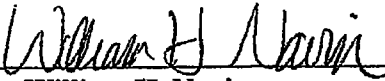
Exhibit 1. Completed Notice of Proposed Rule Change for publication in the Federal Register.



**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**