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THE OPTIONS CLEARING CORPORATION OF THE SECRETARIAL CORPORATION



June 10, 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-2008-12 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

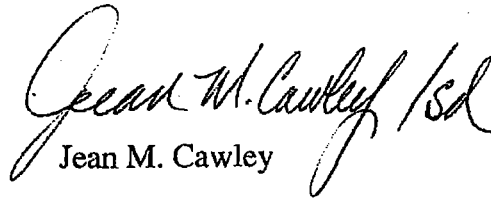
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Should you have any questions regarding this matter, please do not hesitate to contact the undersigned at (312) 322-6269.

Sincerely,

  
Jean M. Cawley

Attachments

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

OCC-2008-12 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”) proposes to amend its Rule 705 as set forth below (the “Proposed Rule Change”). Rule 705 specifies the forms of collateral that may be deposited with respect to cross-margin accounts to meet required margins. The Proposed Rule Change updates the forms of collateral which are currently permitted to be deposited with respect to cross-margin accounts to include shares in money market funds (“MMF Shares”), a form of collateral currently permitted by OCC to be deposited with respect to accounts other than cross-margin accounts. Material proposed to be added to Rule 705 is underlined. Material proposed to be deleted from Rule 705 is enclosed in brackets.

In addition, OCC proposes to amend and restate the Cross-Margining Agreement between OCC and the Chicago Mercantile Exchange Inc. (“CME”) to (i) designate MMF Shares as eligible collateral and (ii) reflect that the New York Clearing Corporation (now known as ICE Clear U.S., Inc. (“ICE Clear”)) terminated its participation in the agreement in 2004. Conforming modifications have also been made to the forms of clearing member and market professional’s agreements used in OCC/CME cross-margining. All revised agreements are attached hereto as Exhibits 5A-5G.

**RULES**

**CHAPTER VII**

**Cross-Margining with Participating CCOs**

\* \* \*

**Forms of Margin**

**RULE 705.** Margin deposited in respect of sets of X-M accounts may be deposited in the form of cash, United States Treasury securities, GSE debt securities, shares in money market funds (“MMF Shares”), letters of credit, common stock meeting the requirements of Rule 604[(d)](b)(3) or a combination of the foregoing. Cash may from time to time be partially or wholly invested in Government securities, and any interest or gain received or accrued on such investments shall belong to the Corporation or the Participating CCO(s) as may be mutually agreed between or among the Corporation and the Participating CCO(s). [U.S.] United States Treasury securities, [and] GSE debt securities and MMF Shares shall meet the requirements of the Corporation as set forth in the Rules and the Participating

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CCO(s) as set forth in its (their) rules, and shall be valued at the lowest value that would be given to them under the Rules or the rules of the Participating CCO(s). Letters of credit shall be in a form mutually acceptable to the Corporation and the Participating CCO(s) and shall be issued by a bank approved by them for that purpose. Notwithstanding the foregoing, a particular form of margin may be deposited in respect of X-M accounts in a particular cross-margining program [common stock meeting the requirements of Rule 604(d) may be deposited], only if mutually acceptable to the Corporation and [the] each Participating CCO[(s)], and shall be valued in accordance with the Participating CCO Agreement executed by the Corporation and the Participating CCO(s).

**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 September 26, 2006.

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 Rule 705 specifies the forms of collateral that may be deposited with respect to cross-margin ("XM") accounts to meet required margin. Currently included are cash, government securities, government sponsored debt securities, letters of credit and, if mutually acceptable to the XM clearing organizations, common stock. OCC staff regularly reviews these forms of collateral for suitability with the intent of balancing clearing members' desire for a diverse combination of readily available and cost-effective instruments with OCC's desire for instruments that are relatively stable in value and easily converted to cash. Based on such a review, OCC is proposing to expand the forms of margin collateral acceptable for XM accounts to include shares in money market funds ("MMF Shares").

MMF Shares have been increasingly used to collateralize accounts at futures clearinghouses following the December, 2000 amendments to Commodity Futures Trading Commission Regulation 1.25, which allow a futures commission merchant or a derivatives clearing organization to

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invest segregated funds in money market funds. OCC has accepted MMF Shares as collateral for several years. XM participants therefore desire to hypothecate shares in such funds as margin for their XM accounts as well.

The funds will be required to continuously meet the qualification standards of both OCC and the participating Commodity Clearing Organization (“CCO”) and will be valued at the lowest value given to MMF Shares under the rules of either OCC or the CCO. Initially, OCC proposes to permit MMF Shares to be deposited as collateral in connection with its XM program with the Chicago Mercantile Exchange Inc. (“CME”).<sup>1</sup> Operationally, the shares will be transferred into an account held with the fund issuer that will be jointly controlled by OCC and CME for purposes of perfecting their security interest in deposited shares.

Clearing members will request the purchase of money market mutual fund shares from either OCC or CME. The shares will be jointly purchased by the clearinghouses using the funds of the requesting clearing member(s) that have been drafted from the bank account established in respect of the applicable cross-margining account (i.e., proprietary or segregated funds account). These shares will then be deposited in an account jointly controlled by OCC and the CME, and the clearing member(s) will receive margin credit for the collateral value (less the applicable haircut) of the shares purchased. Shares will be redeemed for cash from the fund issuer upon the instruction of either (i) the clearing member(s),

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<sup>1</sup> Presently, OCC maintains XM programs with the CME, The Clearing Corporation (“CCorp”) and ICE Clear U.S., Inc. (“ICE Clear”). However, there is currently no clearing member participating in the OCC/CCorp XM program. If that XM program becomes active again in the future and there is interest in MMF Shares as a form of margin collateral, OCC would then propose to amend the OCC/CCorp XM agreement to include MMF Shares. OCC and ICE Clear have determined to defer including MMF Shares in their XM program until the clearing organizations have determined that there is clearing member interest in using such collateral. Because MMF Shares will not be an allowable form of collateral in all OCC XM programs, Rule 705 has been amended to provide that forms of margin collateral must be mutually acceptable to OCC and each participating CCO. This requirement is currently applied to deposits of common stock.

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with the proceeds being returned to the appropriate bank account, or (ii) the clearing organizations, upon the suspension of the clearing member(s) with proceeds being deposited into the appropriate liquidating settlement account for distribution in accordance with the XM agreement between OCC and CME.

To permit the use of MMF Shares as a form of margin once all necessary regulatory approvals are obtained, OCC and CME have amended and restated their Cross-Margining Agreement (“Original Agreement”), which also has been updated to reflect the withdrawal in 2004 of the New York Clearing Corporation (“NYCC”) as a party thereto.<sup>2</sup> The Amended and Restated Cross-Margining Agreement (“New Agreement”) is attached hereto as Exhibit 5A. With the elimination of NYCC as a party to the Original Agreement, the New Agreement accommodates the current OCC/CME bilateral cross-margining program, but no longer provides for a trilateral cross-margining program. Other significant differences between the Original Agreement and the New Agreement are as follows.

Section 1 of the New Agreement contains definitional terms. Section 1 has been modified to add a definitional term for MMF Shares (Section 1(q)) and to revise other definitions to reflect the bilateral nature of the OCC/CME XM program. As defined, MMF Shares refer to shares in a money market fund which meet the requirements established under the Rules of both OCC and CME. References to NYCC have been eliminated from all the definition provisions, and throughout the cross-margining agreement. The term “Carrying Clearing Organization” has been eliminated as unnecessary. The terms “Pair of Non-Proprietary X-M Accounts” and “Pair of X-M Accounts”, respectively, have replaced the terms “Sets of Non-Proprietary X-M Accounts” and “Sets of Proprietary X-M Accounts” (Sections 1(s) and (w)) in order to reflect the bilateral nature of the OCC/CME XM program. Changes reflecting the deletion of the terms “Carrying Clearing Organization”, “Sets of Non-Proprietary X-M

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<sup>2</sup> From 1997 to 2004, NYCC (now known as ICE Clear) participated in a trilateral XM program with OCC and CME. See Release No. 34-38584 (May 8, 1997). The agreement governing trilateral XM also sets forth the terms and conditions governing the current bilateral program between OCC and CME.

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Accounts” and “Sets of Proprietary X-M Accounts” have been made throughout the New Agreement. The definition of “Market Professional” (Section 1(p)) has been revised to eliminate references to NYFE members, which is the former name of the market for which NYCC provides clearing services. Other than referencing pairs of XM accounts, as applicable, no substantive changes have been made to Sections 2, 3 and 4. Section 5, which relates to the calculation of margin, is also substantively unchanged other than the deletion of an unnecessary provision regarding NYCC’s election to use the margin calculation produced by the designated clearing organization’s margin system.

Section 6 relates to the forms and method of holding initial margin. As revised, Section 6 permits the deposit of MMF Shares as a form of initial margin and requires such shares to be held for the joint benefit of the clearing organizations on the books of the issuing fund or its agent or in such other manner as mutually agreed upon by the clearing organizations. See paragraphs (a) and (b). Unnecessary references to the CME acting as NYCC’s agent for the purpose of executing instructions to release forms of collateral from deposit have been deleted. See paragraphs (a) and (b).

Section 7 describes daily settlement procedures, which are subject to joint coordination and authorization. References to the CME acting as NYCC’s agent for purposes of authorizing fund transfers and other provisions relating to trilateral cross-margining have been deleted. See paragraphs (a) and (b). The time at which the Clearing Organizations are to share position and other related information to the XM accounts has been advanced to 1:00 a.m. (Central Time) from 3:00 a.m. (Central Time). See paragraph (d).

Section 8 concerns the suspension and liquidation of one or more XM clearing members. Section 8 has been modified to eliminate the loss (surplus) sharing provisions that were effective in the event NYCC was a Carrying Clearing Organization in respect of an XM account, leaving in place terms that provide for equal loss (surplus) sharing subject to the limitation that sharing in a surplus by a clearing



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organization (for purposes of covering its other losses experienced) is capped at an amount equal to such other losses. See paragraphs (d) and (f). In addition, Section 8 has been amended to provide that OCC and CME would demand immediate payment of any letter of credit deposited as margin unless both agreed not to take such action. Provisions that permitted the clearing organizations to defer drawing on a letter of credit on receipt of satisfactory written assurances from the issuing bank extending its irrevocable commitment under the letter have been deleted in favor of the formulation described in the preceding sentence. See paragraph (c). No substantive changes have been made to Sections 9 through 12.

Section 13 concerns the termination of the New Agreement. Provisions that specifically related to termination by NYCC have been deleted. See paragraphs (a), (b), and (c). Paragraph (d), which concerns the treatment of collateral deposited as margin on termination, has been modified to provide for the return of deposited MMF Shares to the depositing clearing member. No substantive changes have been made to Section 14. Section 15, which addresses information sharing, has been conformed to track the provisions of the OCC/ICE Clear XM Agreement other than as it relates to use of a recorded phone line for providing notices pursuant to Section 15.<sup>3</sup> No substantive changes have been made to Sections 16 and 17. Any other changes made to the XM Agreement not specifically described above are not material in nature.

In addition to Exhibit 5A, the following are attached as exhibits:

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<sup>3</sup> See Release No. 34-57188 (January 9, 2008).

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EXHIBIT	NAME
EXHIBIT 5B	Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member)
EXHIBIT 5C	Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members)
EXHIBIT 5D	Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Joint Clearing Member)
EXHIBIT 5E	Non-Proprietary Cross-Margin Account Agreement and Security Agreement (Affiliated Clearing Members)
EXHIBIT 5F	Market Professional's Agreement for Cross-Margining (Joint Clearing Member)
EXHIBIT 5G	Market Professional's Agreement for Cross- Margining (Affiliated Clearing Members)

These forms of agreements have been slightly modified from the forms currently used in OCC/CME cross-margining. Modifications include: (i) deleting provisions and terminology (e.g., "Carrying Clearing Organization") that were applicable to trilateral cross-margining, (ii) reflecting the definition of "market professional" as used in the New Agreement, and (iii) eliminating the requirement that clearing members and market professionals furnish the clearing organizations with financing statements relating to positions, collateral and property maintained with respect to accounts subject to cross-margining. The adoption by all 50 states of revisions to Articles 8 and 9 of the Uniform Commercial Code ("UCC") has eliminated the need to obtain financing statements that were required to perfect security interests in futures and options under earlier versions of those Articles.

\* \* \*

The Proposed Rule Change is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), because it updates the (i)

forms of collateral which are currently permitted to be deposited with respect to cross-margin accounts under the OCC/CME cross-margining program to include MMF Shares, a form of collateral currently permitted by both clearing organizations to be deposited with respect to accounts other than cross-margin accounts; and (ii) documents used in connection with OCC/CME cross-margining. Cross-margining enhances the safety of the clearing system while providing lower clearing margin costs to participants. Expanding acceptable collateral for cross-margin accounts should encourage their use and is therefore beneficial to the clearing system and its participants. Updating the documents governing the OCC/CME cross-margining program provides greater clarity and certainty with respect to the program's operation. The Proposed Rule Change is not inconsistent with the By-Laws and Rules of OCC, including any 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 specified in Section 19(b)(2) of the Act.

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

Pursuant to Section 19(b)(2) of the Exchange Act, OCC requests that the Commission accelerate the effectiveness of this Proposed Rule Change. OCC believes that good cause exists for such acceleration because MMF Shares are a form of collateral currently permitted by both OCC and CME to be deposited with respect to accounts other than XM accounts, therefore, this Proposed Rule Change would allow an existing form of collateral to be utilized in the OCC/CME XM program. In addition, clearing members have requested the ability to hypothecate MMF Shares as margin for their XM accounts because the inclusion of MMF Shares allows such clearing members to further diversify their portfolios and expanding acceptable collateral for XM accounts is beneficial to the clearing system and its participants. Except for the inclusion of MMF Shares as an eligible form of collateral, the principal changes to the documents governing the operation of the OCC/CME XM program reflect the deletion of terms and provisions that supported trilateral cross-margining. Other changes are largely operational, technical or conforming in nature, and do not provide for any significant deviation from the operating procedures currently applied in OCC/CME XM.

**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 the proposed rule change for publication in the  
Federal Register.

**SIGNATURES**

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

**THE OPTIONS CLEARING CORPORATION**

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