



THE OPTIONS CLEARING
CORPORATION

C.F.T.C.
OFFICE OF THE SECRETARIA
2009 JUL 1 PM 3 18

July 1, 2009

VIA E-MAIL

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

Re: Rule Filing SR-OCC-2009-13 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

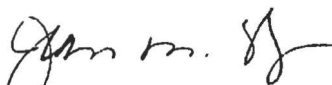
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Mr. David A. Stawick
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Should you have any questions regarding this matter, please do not hesitate to contact the undersigned at (312) 322-6269.

Sincerely,


Jean M. Cawley

Attachments

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

OCC-2009-13 cftc.ltr

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

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 its By-Laws and Rules as set forth below for the purpose of accommodating physically-settled futures contracts on U.S. Treasury Notes and Bonds (“Treasury Futures”). Except where otherwise indicated, material proposed to be added to OCC’s By-Laws and Rules as currently in effect is underlined and material proposed to be deleted is enclosed in bold brackets.

THE OPTIONS CLEARING CORPORATION**BY-LAWS****ARTICLE I****Definitions**

SECTION 1. Unless the context requires otherwise (or except as otherwise specified in the By-Laws), the terms defined herein shall, for all purposes of these By-Laws and the Rules of the Corporation, have the meanings herein specified.

A. – B. [No change]

C.

(1) – (27) [No change]

Correspondent Bank¹

(28) The term "correspondent bank" means the Federal Reserve member bank which has been designated by a [Treasury securities] Clearing Member pursuant to Chapter XIII of the Rules to perform on behalf of such Clearing Member certain functions in the settlement of physically-settled Treasury futures, or pursuant to Chapter XIV of the Rules to perform on behalf of such Clearing Member certain functions in the settlement of exercises and assignments of Treasury securities options, in each case as described in the Rules.

(28) – (34) [Renumbered as (29) – (35); otherwise no change]

¹This definition has been moved from Article XIII of the By-Laws and expanded to cover physically-settled Treasury futures. Markings show changes from the definition as it appears in Article XIII.

D.

(1) – (4) [No change]

Delivery Month

(5) The term “delivery month” as used in respect of a physically-settled commodity future means the calendar month in which delivery is permitted (including any permitted delivery days in the following calendar month) or required to be made under the terms of the particular futures contract.

(6) – (8) [No change]

E. – O. [No change]

P.

(1) – (6) [No change]

Physically-Settled Treasury Future

(7) The term “physically-settled Treasury future” means a physically-settled commodity future for which the underlying interest is either a specific Treasury security or any Treasury security constituting a deliverable grade Treasury security.

(7) – (15) [Renumbered as (8) – (16); otherwise no change]

Q. – S. [No change]

T.

(1) – (3) [No change]

Treasury Bill²

(4) The term “Treasury bill” means a Treasury security sold at original issuance at a discount from par with a term to maturity of one year or less.

Treasury Bond

(5) The term “Treasury bond” means a Treasury security with a term to maturity of more than ten years at the time of original issuance.

² The definitions of Treasury bill, Treasury bond and Treasury note have been moved from Article XIV of the By-Laws but otherwise are unchanged. The definition of Treasury security was also moved from Article XIV but the definition of “deliverable grade Treasury security” is new. The definition of “issue of Treasury securities” is taken from Article XIV, but now would be a part of the definition of “Treasury security” rather than a stand-alone definition as it was in Article XIV.

Treasury Note

(6) The term "Treasury note" means a Treasury security with a term to maturity of at least one year but no more than ten years at the time of original issuance.

Treasury Security

(7) The term "Treasury security" means a bond, note, bill, or other evidence of indebtedness issued by the United States Treasury. The term "deliverable grade Treasury security" means a Treasury security meeting the specifications set forth in Chapter 13 of the Rules for Treasury securities that are deliverable in respect of physically-settled Treasury futures. The term "issue of Treasury securities" in respect of Treasury bonds or Treasury notes means all such bonds or notes having the same maturity date and coupon rate. All Treasury bills having the same maturity date shall be deemed to be of the same issue.

(4) [Renumbered as (8); otherwise no change]

U. – Z. [No change]

* * *

ARTICLE XII

Futures, Futures Options and Commodity Options

* * *

General Rights and Obligations of Buyers and Sellers of Futures and Futures Options

SECTION 2. (a) Each buyer and seller of a future shall have the rights and obligations provided in the By-Laws and Rules. Such rights and obligations include, but are not limited to, the right to receive variation payments from the Corporation and the obligation to make variation payments to the Corporation as provided in Rule 1301. The seller of a physically-settled stock or commodity future is obligated to deliver to the buyer thereof, and the buyer is obligated to accept delivery of and make payment to the seller for, a number of shares or units of the underlying [instrument] interest equal to the unit of trading applicable to such future, such delivery and payment to take place on the delivery date in accordance with the By-Laws and Rules.

(b) – (c) [No change]

[Section 2 of this Article replaces paragraphs (a) and (b) of Article VI, Section 9 of the By-Laws.]

* * *

Acceptance of Non-Competitively Executed Trades

SECTION 7. The acceptance by the Corporation of any futures transaction that is identified as an “exchange-for-physical” or “EFP,” a “block trade,” or any other non-competitively executed trade in matching trade information reported by an Exchange or in any instruction submitted directly to the Corporation by a Clearing Member, as applicable, shall be subject to the condition that the Corporation shall have received any variation payments due in the accounts of the purchasing and selling Clearing Members in which the transaction was effected at the first variation settlement after the transaction was reported to the Corporation. Unless such a transaction is rejected as hereinafter provided, the time of such variation settlement shall be the Commencement Time of the transaction. In the event that the Corporation fails to receive any such variation payment when due, the Corporation may (either by a general rule or resolution adopted by the Board of Directors or by action of the officers of the Corporation with respect to specific transactions) reject the transaction. In the event that the transaction is rejected as herein provided, the Corporation shall promptly notify, either orally or in writing, the Clearing Members party to the transaction, and such Clearing Members shall have the remedies (if any) provided in the rules of the Exchange on which the transaction was effected.

Interpretations and Policies:

.01 The Exchange Rules of the relevant Exchange shall govern the execution and, unless otherwise specified in the procedures of the Corporation, submission of all non-competitively executed trades. Instructions in respect of non-competitively executed trades subject to the Exchange Rules of certain Exchanges, which shall be designated by the Corporation in its procedures, may be directly submitted to the Corporation, pursuant to such procedures, by Clearing Members who are also members of such Exchanges, subject to the condition that the counterparty to such trade is, or is represented by, a Clearing Member. The Corporation shall not be responsible for failure to give effect to any such instruction.

* * *

Inability to Deliver

Section 8. (a) If the Corporation shall in its discretion determine that (i) an event affecting the supply of an interest underlying a physically-settled commodity future threatens to reduce the available supply of the underlying interest to a level insufficient to permit performance of the delivery obligations in respect of a series of physically-settled commodity futures contracts, or (ii) such delivery obligations cannot be performed as the result of an emergency, the Corporation may take such action as it deems necessary under the circumstances, and its decision shall be binding upon all buyers and sellers of such futures. Such action by the Corporation may include, without limitation, fixing cash final settlement prices to be paid in settlement of such futures contracts, in which case buyers and sellers of such futures will be deemed to have discharged their obligations, and received full performance, in respect thereof when settlement of the final variation payment has been completed.

(b) Without limiting the generality of paragraph (a) above, if the Corporation makes the determination described in paragraph (a) in respect of a series of Treasury futures, the Corporation may permit the delivery, in settlement of delivery under the affected series, of non-deliverable grade Treasury securities, in which case the Corporation shall adjust the delivery payment amount to reflect the value of such alternative delivery, determined in such manner as the Corporation may, in its discretion, select.

(c) The Corporation may prohibit the submission of delivery intents by Clearing Members who will be unable to meet the settlement obligations resulting from such submission. If a Clearing Member submits a delivery intent in respect of a physically-settled commodity futures contract at a time when any such prohibition is in effect and then fails to meet its delivery obligations by the applicable deadline on the delivery date, such delivery shall be null and void, and the Clearing Member submitting the delivery intent and the assigned Clearing Member shall be restored, as nearly as may be, to the respective positions that they would have occupied had such delivery intent not been filed. In addition, the Clearing Member submitting the delivery intent may be subject to disciplinary action by the Corporation and shall be obligated to compensate the assigned Clearing Member for any loss, damage, or expense sustained by the latter as a result of the purported assignment.

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ARTICLE XIII

Treasury Securities Options

* * *

Definitions

SECTION 1.

[Treasury Security

(a) The term "Treasury security" means a bond, note, bill, or other evidence of indebtedness issued by the United States Treasury.

Treasury Bond

(b) The term "Treasury bond" means a Treasury security with a term to maturity of more than ten years at the time of original issuance.

Treasury Note

(c) The term "Treasury note" means a Treasury security with a term to maturity of at least one year but no more than ten years at the time of original issuance.

Treasury Bill

(d) The term "Treasury bill" means a Treasury security sold at original issuance at a discount from par with a term to maturity of one year or less.

Issue of Treasury Securities

(e) The term "issue of Treasury securities" in respect of Treasury bonds or Treasury notes means all such bonds or notes having the same maturity date and coupon rate. All Treasury bills having the same maturity date shall be deemed to be of the same issue.]

(f) – (o) [Relettered as (a) – (j); otherwise no change]

[Correspondent Bank

(p) The term "correspondent bank" means the Federal Reserve member bank which has been designated by a Treasury securities Clearing Member pursuant to Chapter XIV of the Rules to perform on behalf of such Clearing Member certain functions in the settlement of exercises and assignments of Treasury securities options as described in the Rules.]

* * *

RULES

* * *

Chapter XI

Suspension of a Clearing Member

* * *

Suspension

RULE 1102 (a) The Board of Directors or the Chairman of the Corporation may summarily suspend any Clearing Member which: (i) has been and is expelled or suspended from any self-regulatory organization (as defined in Section 3(a) of the Securities Exchange Act of 1934, as amended, but not including the Municipal Securities Rulemaking Board, or as defined in the rules of the Commodity Futures Trading Commission); (ii) is in default of any delivery of funds or securities to the Corporation; (iii) is in default of any delivery of funds or securities to another Clearing Member required pursuant to the By-Laws or Rules; [(iii)][(iv)] is in default of any delivery of funds or securities to the correspondent clearing corporation, has appointed an Appointed Clearing Member to act on its behalf and such Appointed Clearing Member is in default of any delivery of funds or securities to the correspondent clearing corporation or effects settlement at the correspondent clearing corporation through an identifiable subaccount in an account of CDS at the correspondent clearing corporation and CDS is in default of any delivery of funds or securities to the correspondent clearing corporation; [(iv)][(v)] is in such financial or operating difficulty that the Board of Directors or the Chairman of the Corporation determines and so notifies the appropriate regulatory agency for such Clearing Member (or, in the case of a Non-U.S. Clearing Member, the appropriate Non-U.S. Regulatory Agency) and the Securities and Exchange Commission or the Commodity Futures Trading Commission that suspension is necessary for the protection of the Corporation, other Clearing Members, or the general public; or [(v)][(vi)] in the case of a Non-U.S. Clearing Member, has been and is expelled or suspended by its Non-U.S. Regulatory Agency or any securities exchange or clearing organization of which it

is a member. In addition, the Corporation may summarily suspend any Clearing Member in accordance with Rule 707. In the event that any Clearing Member is suspended, the Corporation shall cease to act for it except as hereinafter specified.

(b) [No change]

* * *

Chapter XIII

Futures, Futures Options and Commodity Options

* * *

Delivery of Underlying Metals

RULE 1302A. (a) – (b) [No change]

(c) On the delivery date in respect of a physically-settled metals future, the Corporation shall effect settlement of the delivery payment amount by withdrawing such delivery payment amount from the Receiving Clearing Member's bank account established in respect of the Receiving Clearing Member's account at the Corporation in which the related long futures position is carried, and shall cause such delivery payment amount to be credited to the Delivering Clearing Member's bank account established in respect of the Delivering Clearing Member's account in which the related short futures position is carried. The Receiving Clearing Member hereby grants to the Corporation a security interest in whatever rights it may have in any vault receipt or warehouse receipt to be delivered to it pursuant to the Exchange Rules and the By-laws and Rules as security for the Receiving Clearing Member's obligation to pay the delivery payment amount, and in the event that Receiving Clearing Member fails to make such payment, the Corporation shall have the rights set forth in the By-Laws and Rules including, without limitation, Rule 1308A.

(d) In the event that the Exchange has not received a delivery intent with respect to one or more physically-settled metals futures carried in a short position in any account of a Clearing Member prior to such final deadline for submission of delivery intents as may be specified by the Exchange, the Clearing Member shall be deemed to have submitted a delivery intent in respect of each such future (and shall be deemed to be a Delivering Clearing Member), the Exchange shall simultaneously be deemed to have informed the Corporation of the submission of such delivery intent and, in the event that the Clearing Member fails to make the underlying vault receipt or warehouse depository receipt available to the Exchange for delivery, the provisions of Rule 1308A shall apply.

Delivery of Underlying Treasury Securities³

Rule 1302B. (a) A Clearing Member that is, or represents, the seller in respect of a physically-settled Treasury future may make delivery of the underlying Treasury securities on any business day of the maturity month for such physically-settled Treasury future and, in the case of a physically-settled Treasury future for which the underlying Treasury security is a Treasury Note designated by the Exchange as “medium-term” or “short-term,” on the first, second or third business day of the month following the maturity month. A Clearing Member that has not closed out a short position in a series of physically-settled Treasury futures prior to the close of trading on the last trading day for such series *must* make delivery no later than the last permissible delivery date. The delivery process shall be initiated through the submission (or deemed submission) by such Clearing Member of a delivery intent in accordance with this Rule 1302B. The delivery date for each physically-settled Treasury future in respect of which a delivery intent has been submitted (or deemed to have been submitted) shall be the second business day following such submission (or deemed submission). The Corporation shall from time to time in its discretion prescribe the times by which Clearing Members must submit delivery intents, make delivery or payment or take certain other actions required by this Rule 1302B in connection with deliveries of the underlying interests for physically-settled Treasury futures.

(b) Each Delivering Clearing Member and each Receiving Clearing Member in respect of Treasury securities shall designate, in such manner as the Corporation may prescribe, a correspondent bank where Treasury securities deliverable to such Clearing Member in settlement of physically-settled Treasury futures shall be delivered and paid for. Each Receiving Clearing Member in respect of Treasury securities shall provide to the Corporation standing banking instructions, which may be revised by means specified by the Corporation and upon such advance notice as the Corporation may specify from time to time.

(c) Deliveries of Treasury securities shall be by book-entry transfer between accounts of Clearing Members at correspondent banks designated by Clearing Members pursuant to this Chapter XIII for settlement purposes. Such deliveries shall be in accordance with Part 357 and subpart O of Part 306 of the regulations of the Department of the Treasury.

(d) By the applicable deadline on the second business day preceding the first day of a delivery month for physically-settled Treasury futures and on each business day thereafter through and including the final trading day within such delivery month, each Clearing Member that is, or represents, the buyer shall provide to the Corporation, in such format as the Corporation may prescribe, a report of all open long positions in such futures, grouped by account type and trade date.

(e) A Clearing Member intending to make delivery in respect of a short position in physically-settled Treasury futures on a particular delivery date shall tender a delivery intent by the applicable deadline on the second business day preceding such delivery date. The Corporation shall assign delivery intents in accordance with prescribed procedures to Clearing

³ Proposed Rules 1302B, 1308B and 1309 are entirely new. To improve readability, they have not been underlined.

Members with open long positions in the same series of futures, and such Clearing Members shall be obligated to take delivery. Upon making such assignment, the Corporation shall furnish to each Delivering Clearing Member the names of the Receiving Clearing Members assigned to take delivery from such Delivering Clearing Member, and to each Receiving Clearing Member the names of the Delivering Clearing Members assigned to make delivery to such Receiving Clearing Member.

(f) Each Delivering Clearing Member shall prepare invoices, in the form prescribed by the Corporation, addressed to each Receiving Clearing Member assigned to take delivery from such Delivering Clearing Member. Such invoices shall: (i) identify the Treasury securities that the Delivering Clearing Member is obligated to tender to the Receiving Clearing Member, which shall be deliverable grade securities unless the Corporation has determined, pursuant to Article XII, Section 8(b) of the By-Laws to permit the delivery of non-deliverable grade Treasury securities in respect of the series of Treasury futures to which the relevant delivery intent relates; and (ii) show the delivery payment amount. Each Delivering Clearing Member shall submit such invoices to the Corporation by the applicable deadline on the business day preceding the delivery date. Upon receipt of such invoices, the Corporation shall furnish them to the Receiving Clearing Members to whom they are addressed.

(g) All deliveries and payments pursuant to this Rule 1302B shall be made at such correspondent banks designated, and in accordance with wire instructions of the Receiving Clearing Member provided, pursuant to Rule 1302B(b). By the applicable deadline on the delivery date, the Receiving Clearing Member shall make funds available, and shall notify its correspondent bank to accept the Treasury securities described in the relevant invoice and to remit immediately available funds to the account of the Delivering Clearing Member, at the Delivering Clearing Member's correspondent bank. In the event the Receiving Clearing Member does not agree with the terms of the invoice received from the Delivering Clearing Member, the Receiving Clearing Member shall notify the Delivering Clearing Member and the Corporation, and if the Delivering Clearing Member and the Receiving Clearing Member do not resolve the dispute on the delivery date, by such time as shall be specified by the Corporation from time to time, the invoice terms shall be established by the Corporation in its sole discretion.

(h) By the applicable deadline on the delivery date, the Delivering Clearing Member shall have the Treasury securities described in the relevant invoice in place at its correspondent bank, in deliverable form that is acceptable to its correspondent bank, and shall notify its correspondent bank to transfer such Treasury securities by book entry, on a delivery versus payment basis, to the account of the Receiving Clearing Member at the Receiving Clearing Member's correspondent bank. By the applicable deadline on the delivery date, the Receiving Clearing Member shall take delivery and make payment. In the case of banking holidays, the Receiving Clearing Member shall take delivery and make payment by the applicable deadline on the next business day. Settlement shall be made in immediately available funds on a delivery versus payment basis.

(i) In the event that delivery of Treasury securities in settlement of the Delivering Clearing Member's obligations cannot be accomplished because of a failure of the Federal Reserve wire, or because of a failure of either the Receiving Clearing Member's correspondent

bank or the Delivering Clearing Member's correspondent bank to access the Federal Reserve wire, delivery shall be made by the applicable deadline on the next business day on which the Federal Reserve wire, or bank access to it, is operable. In the event of such failure, the Delivering Clearing Member shall remit to the Receiving Clearing Member such interest on the Treasury securities being delivered as accrues between the delivery date and the day on which such securities are actually delivered. Both the Receiving Clearing Member and the Delivering Clearing Member shall provide to the Corporation evidence in such form and by such deadline as the Corporation may specify from time to time that they gave instructions to their respective correspondent banks in accordance with this Rule 1302B and that they complied with all other provisions of this Rule 1302B.

(j) If a physically-settled Treasury future carried in a short position remains open subsequent to the close of trading on the last trading day for the relevant series of physically-settled Treasury futures, and the Corporation has not received a delivery intent with respect to such future by the applicable deadline on the second business day preceding the final permissible delivery date, the Clearing Member shall be deemed to have submitted a delivery intent in respect of each such future (and shall be deemed to be a Delivering Clearing Member), and, in the event that the Clearing Member fails to make delivery of the underlying Treasury security, the provisions of Rule 1308B shall apply.

* * *

Interpretations and Policies:

.01 For purposes of delivery settlement pursuant to this Rule 1302B, both the Receiving Clearing Member's and Delivering Clearing Member's correspondent bank shall be a U.S. commercial bank (either Federal or State charter) that is a member of the Federal Reserve System, that maintains a terminal providing access to the Federal Reserve wire, that has agreed to act as agent for such Clearing Member in accepting delivery of Treasury securities and making payment therefor and that has capital (capital, surplus and undivided earnings) in excess of \$100 million.

.02 Subject to the condition that all Treasury securities delivered against a single physically-settled Treasury futures contract shall be of the same issue, the delivery obligation of the Delivering Clearing Member in respect of a physically-settled Treasury future shall not require delivery of a particular issue of Treasury securities, but rather may be satisfied through delivery of Treasury securities that have a fixed principal amount and fixed semi-annual coupon payments and satisfy the criteria set forth below corresponding to the specified underlying interest:

1. Treasury Bonds

Treasury bonds, if not callable, shall have a remaining term to maturity of at least fifteen years or, if callable, shall not be callable for at least fifteen years.

2. Treasury Notes Designated by Exchange as "Long-Term"

Long-Term Treasury notes shall have a remaining term to maturity of at least six-and-a-half years, but no more than ten years.

3. Treasury Notes Designated by the Exchange as “Medium-Term”

Medium-Term Treasury notes shall have an original term to maturity of not less than five years and three months and a remaining term to maturity of at least four years and two months.

4. Treasury Notes Designated by the Exchange as “Short-Term”

Short-Term Treasury notes shall have an original term to maturity of not more than five years and three months and a remaining term to maturity of at least one year and nine months as of the first day of the delivery month and not more than two years from the last day of the delivery month.

Except as otherwise specified above, for the purpose of determining whether a Treasury security meets the above specifications its remaining term to maturity (or, if callable, its remaining term to first call) shall be calculated from the first day of the delivery month, and shall be rounded down to the nearest three-month increment, *e.g.*, fifteen years, five months and eighteen days shall be taken to be fifteen years and three months. New issues of Treasury securities that meet the specifications set forth in this Interpretation and Policy will become eligible for delivery as they are issued or such later date as the criteria are met.

Notwithstanding the foregoing, the Corporation shall have the right to determine that any new issue is not eligible for delivery or to further limit outstanding issues from delivery eligibility, or to permit delivery of Treasury securities not satisfying the above criteria.

The per-contract delivery payment amount for a series of physically-settled Treasury futures consists of a base settlement price, multiplied by the unit of trading and a conversion factor established by the Exchange on which such series is trading, with accrued interest added to the resulting product. The base settlement price in respect of a delivery on any date other than the final permissible delivery date for a series of physically-settled Treasury futures shall be the interim settlement price for such series on the date on which the delivery intent is submitted to the Corporation, and in respect of a delivery on the final permissible delivery date shall be the final settlement price for such series. The conversion factor is designed to adjust the base settlement price to account for the characteristics of the Treasury securities being delivered.

.03 In assigning delivery intents pursuant to paragraph (e) of this Rule 1302B, the Corporation shall rely on the report submitted by each Clearing Member pursuant to paragraph (d) of this Rule 1302B, and to the extent the long positions in a series of physically-settled Treasury futures listed on such report for any account exceed the long positions open in such account as of the date of such report, and as a result the Clearing Member receives assignments of deliveries for a number of contracts exceeding the long positions held by such Clearing Member in such account, such assignments shall result in the creation of a short position in such account equal to such excess. In such event, the Clearing Member may tender a delivery intent in respect of such short position.

* * *

Failure by Clearing Member to Deliver or Receive Underlying Metals

Rule 1308A - (a) – (b) [No change]

(c) Every determination of damages by the Corporation in respect of a failure of a Delivering Clearing Member or Receiving Clearing Member pursuant to this Rule 1308A shall be within the sole discretion of the Corporation and shall be conclusive and binding on all Clearing Members and not subject to review.

Failure by Clearing Member to Deliver or Receive Underlying Treasury Securities

Rule 1308B. (a) If a Delivering Clearing Member in respect of a physically-settled Treasury future has failed to make delivery in the manner prescribed by Rule 1302B, the Receiving Clearing Member shall notify the Corporation of such failure within sixty (60) minutes of the time the Delivering Clearing member is required to have deliverable grade Treasury securities in place at its correspondent bank pursuant to Rule 1302B(h), and the Corporation shall determine and assess the damages incurred by the Receiving Clearing Member as a result of such failure, taking into account the delivery payment amount, the market price of the underlying interest, market conditions generally and reasonable and customary transaction costs applicable to transactions in the underlying interest. Such damages shall be paid by the Corporation to the Receiving Clearing Member, and the Corporation is authorized to withdraw the amount of such damages from the applicable bank account of the defaulting Delivering Clearing Member.

(b) If a Receiving Clearing Member shall refuse or fail to pay the Delivering Clearing Member the delivery payment amount due from such Receiving Clearing Member on the delivery date, the Delivering Clearing Member shall notify the Corporation of such failure within sixty (60) minutes of the time the Receiving Clearing member is required to take delivery and make payment pursuant to Rule 1302B(g), and the Corporation shall determine and assess the damages incurred by the Delivering Clearing Member as a result of such failure, taking into account the delivery payment amount, the market price of the underlying interest, market conditions generally and reasonable and customary transaction costs applicable to transactions in the underlying interest. Such damages shall be paid by the Corporation to the Delivering Clearing Member, and the Corporation is authorized to withdraw the amount of such damages from the applicable bank account of the defaulting Receiving Clearing Member.

(c) Every determination of damages by the Corporation in respect of a refusal or failure of a Delivering Clearing Member or Receiving Clearing Member pursuant to this Rule 1308B shall be within the sole discretion of the Corporation and shall be conclusive and binding on all Clearing Members and not subject to review.

(d) Each delivery settlement in respect of a physically-settled Treasury future shall be deemed to have been properly completed, and the obligations of the relevant Delivering Clearing Member and Receiving Clearing Member shall be deemed to have been fully discharged, unless, in the case of a refusal or failure by the Receiving Clearing Member, the Delivering Clearing Member shall have notified the Corporation of such refusal or failure, or in

the case of a refusal or failure by the Delivering Clearing Member, the Receiving Clearing Member shall have notified the Corporation of such refusal or failure, in either case by the deadline specified by the Corporation pursuant to Rule 1308B(a) or Rule 1308B(b), as applicable. Notwithstanding the provisions of Rule 1308B(a) or Rule 1308B(b), the Corporation shall have no obligation to pay damages with respect to a delivery in respect of a physically-settled Treasury future deemed to have been completed pursuant to this Rule 1308B(d).

Disciplinary Action for Failure to Deliver or Receive

Rule 1309.

If, without good cause, a Delivering Clearing Member fails to discharge its delivery obligations under Rule 1308A or 1308B, or a Receiving Clearing Member refuses to accept or fails to pay the settlement amount for an underlying interest tendered to it pursuant to Rule 1308A or 1308B, such failure or refusal may be deemed to constitute a delay embarrassing the operations of the Corporation, and may be subject to discipline under Chapter XII of the Rules. The Chairman, the Management Vice Chairman, or President of the Corporation shall have the authority to determine, subject to review as provided in Chapter XII of the Rules, whether good cause existed for any such failure to deliver or receive.

...Interpretations and Policies:

01. As used in Rule 1309, "good cause" shall be deemed by the Corporation to include, in respect of the settlement of physically-settled Treasury futures, but not to be limited to, failure of the Federal Reserve wire or the failure of access to such wire by the correspondent bank of either the Receiving or the Delivering Clearing Member, provided settlement is made on the next business day on which such wire is operable.

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved by OCC's Board of Directors at a meeting held on December 2, 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 this proposed rule change is to accommodate the Treasury Futures that are currently proposed to be traded by ELX Futures L.P. ("ELX"), an electronic futures market that was designated as a contract market by the Commodity Futures Trading Commission (the "CFTC") on May 22, 2009. The Treasury Futures will be settled through physical delivery, but there is not a single permissible delivery date for the underlying Treasuries. Instead, a seller of Treasury Futures may elect to deliver on any business day during the delivery month, which, in the case of certain Treasury Futures, includes up to the third business day of the following month. Clearing Members may satisfy their delivery obligations in respect of Treasury Futures by delivering different Treasury securities, so long as they meet certain specifications. OCC is proposing amendments to Chapter 13 of its Rules to set forth the specifications for deliverable Treasury securities.

Delivery of the Treasury securities underlying Treasury Futures will be effected directly between Clearing Members rather than through the facilities of OCC. The delivery process will occur over a period of three business days and is initiated by the submission of a delivery intent by the Clearing Member holding a short position in the Treasury Futures. After a delivery intent is submitted to OCC, OCC will assign the delivery intents to open long positions in Treasury futures, beginning with long positions with the oldest trading date. On the second business day of the delivery process, the delivering Clearing Members will be required to submit invoices identifying the specific Treasury securities to be delivered and the amounts the receiving Clearing Members must pay delivering Clearing Members in settlement of the actual deliveries. On the second business day following the submission of a delivery intent, the

Treasury securities are delivered and payment is made, in each case through the correspondent banks of the delivering and receiving Clearing Members. OCC is proposing to add rules to Chapter 13 to address the direct settlement between Clearing Members for the delivery of the underlying Treasury securities upon maturity of the Treasury futures, and to address failure to complete settlement. Specifically, in the event that either the delivering Clearing Member or the receiving Clearing Member in respect of a physically-settled futures contract fails without proper cause to fulfill its obligation, OCC's guarantee will be limited to paying reasonable damages as determined by OCC in accordance with Rule 1308B. Rule 1308B provides that, in the event of such a failure, OCC will make payment to the non-defaulting Clearing Member in an amount equal to the damages incurred by the non-defaulting Clearing Member from such failure, as determined by OCC. Such damages would, of course, be charged by OCC to the defaulting Clearing Member. OCC is proposing to add provisions to its By-laws addressing inability to deliver underlying Treasuries similar to the provisions of Articles XIII of the By-Laws addressing the inability to delivery Treasuries upon the exercise of options on Treasury securities.

In connection with the Treasury Futures and other products proposed to be traded by ELX, OCC has entered into a clearing agreement with ELX dated as of December 5, 2008 (the "Clearing Agreement") pursuant to which OCC will provide clearing and settlement services in respect of the Treasury Futures and other futures, futures options or commodity options that may be traded on ELX. The Clearing Agreement is attached as Exhibit 5 to this rule change. The Clearing Agreement is generally similar to corresponding agreements between OCC and other futures exchanges.

* * *

The proposed changes to OCC's By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended ("Exchange Act"), because they are designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC's obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of investors and the public interest. They accomplish this purpose by applying substantially the same rules and procedures to transactions in Treasury Futures as OCC applies to transactions in security futures and securities options. The proposed rule change is not inconsistent with any 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 material impact 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 has 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)

OCC is filing the proposed rule change for immediate effectiveness pursuant to Section 19(b)(3) of the Exchange Act and Rule 19b-4(f)(4) thereunder. Pursuant to Rule 19b-4(f)(4), a rule change may take effect upon filing with the Commission if it effects a change in an existing service of OCC that does not (i) adversely affect the safeguarding of securities or funds in OCC's custody or control or for which OCC is responsible or (ii) significantly affect the respective rights or obligations of OCC or persons using the service. The products proposed to be listed by ELX are commodity futures within the exclusive jurisdiction of the CFTC, and OCC will therefore clear such contracts in its capacity as a registered derivatives clearing organization under the CFTC's regulatory jurisdiction. Accordingly, although this rule change represents a change in OCC's existing service of clearing commodity futures contracts, that service is not within the jurisdiction of the Commission. This rule change will not affect the safeguarding of funds or securities in OCC's possession because OCC will apply the same procedures and safeguards to the clearing of these contracts that it does to the clearing of securities options and security futures over which the Commission has direct regulatory authority. The respective rights and obligations of OCC and Clearing Members with respect to matters within the Commission's jurisdiction will be unaffected.

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

The proposed rule change is not based on a rule of another securities self-regulatory organization as defined in Section 3(a)(26) of the Exchange Act.

Item 9. Exhibits

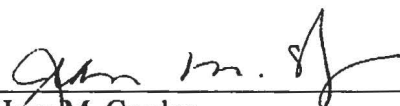
Exhibit 1. Completed notice of the proposed rule change for publication in the Federal Register.

Exhibit 5. Agreement for Clearing and Settlement Services

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: 

Jean M. Cawley
Senior Vice President and
Deputy General Counsel

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-_____ ; File No. SR-OCC-2009-13

SELF-REGULATORY ORGANIZATION

Proposed Rule Change By
The Options Clearing Corporation

Relating to Treasury Futures

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on _____, 2009, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The proposed rule change would accommodate OCC's clearance of physically-settled futures contracts on U.S. Treasury Notes and Bonds ("Treasury Futures").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to accommodate the Treasury Futures that are currently proposed to be traded by ELX Futures L.P. ("ELX"), an electronic futures market that was designated as a contract market by the Commodity Futures Trading Commission (the "CFTC") on May 22, 2009. The Treasury Futures will be settled through physical delivery, but there is not a single permissible delivery date for the underlying Treasuries. Instead, a seller of Treasury Futures may elect to deliver on any business day during the delivery month, which, in the case of certain Treasury Futures, includes up to the third business day of the following month. Clearing Members may satisfy their delivery obligations in respect of Treasury Futures by delivering different Treasury securities, so long as they meet certain specifications. OCC is proposing amendments to Chapter 13 of its Rules to set forth the specifications for deliverable Treasury securities.

Delivery of the Treasury securities underlying Treasury Futures will be effected directly between Clearing Members rather than through the facilities of OCC. The delivery process will occur over a period of three business days and is initiated by the submission of a delivery intent by the Clearing Member holding a short position in the Treasury Futures. After a

delivery intent is submitted to OCC, OCC will assign the delivery intents to open long positions in Treasury futures, beginning with long positions with the oldest trading date. On the second business day of the delivery process, the delivering Clearing Members will be required to submit invoices identifying the specific Treasury securities to be delivered and the amounts the receiving Clearing Members must pay delivering Clearing Members in settlement of the actual deliveries. On the second business day following the submission of a delivery intent, the Treasury securities are delivered and payment is made, in each case through the correspondent banks of the delivering and receiving Clearing Members. OCC is proposing to add rules to Chapter 13 to address the direct settlement between Clearing Members for the delivery of the underlying Treasury securities upon maturity of the Treasury futures, and to address failure to complete settlement. Specifically, in the event that either the delivering Clearing Member or the receiving Clearing Member in respect of a physically-settled futures contract fails without proper cause to fulfill its obligation, OCC's guarantee will be limited to paying reasonable damages as determined by OCC in accordance with Rule 1308B. Rule 1308B provides that, in the event of such a failure, OCC will make payment to the non-defaulting Clearing Member in an amount equal to the damages incurred by the non-defaulting Clearing Member from such failure, as determined by OCC. Such damages would, of course, be charged by OCC to the defaulting Clearing Member. OCC is proposing to add provisions to its By-laws addressing inability to deliver underlying Treasuries similar to the provisions of Articles XIII of the By-Laws addressing the inability to delivery Treasuries upon the exercise of options on Treasury securities.

In connection with the Treasury Futures and other products proposed to be traded by ELX, OCC has entered into a clearing agreement with ELX dated as of December 5, 2008 (the

“Clearing Agreement”) pursuant to which OCC will provide clearing and settlement services in respect of the Treasury Futures and other futures, futures options or commodity options that may be traded on ELX. The Clearing Agreement is attached as Exhibit 5A to this rule change. The Clearing Agreement is generally similar to corresponding agreements between OCC and other futures exchanges.

* * *

The proposed changes to OCC’s By-Laws and Rules are consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended (“Exchange Act”), because they are designed to permit OCC to perform clearing services for products that are subject to the jurisdiction of the CFTC without adversely affecting OCC’s obligations with respect to the prompt and accurate clearance and settlement of securities transactions or the protection of investors and the public interest. They accomplish this purpose by applying substantially the same rules and procedures to transactions in Treasury Futures as OCC applies to transactions in security futures and securities options. The proposed rule change is not inconsistent with any rules of OCC, including any rules proposed to be amended.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

C. 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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (f) of Rule 19b-4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2009-13 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OCC-2009-13. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the

proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100F Fifth Street, N.E., Washington, D.C. 20549-1090. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2009-13 in the caption above and should be submitted on or before [insert date 21 days from publication in the Federal Register.] _____.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Secretary

Dated: _____

AGREEMENT FOR CLEARING AND SETTLEMENT SERVICES

This Agreement for Clearing and Settlement Services (this “Agreement”) is entered into as of December 5, 2008 between The Options Clearing Corporation, a Delaware corporation (the “Corporation”), and ELX Futures L.P., a Delaware limited partnership (the “Market”).

WHEREAS, the Corporation is registered with the Commodity Futures Trading Commission (“CFTC”) as a derivatives clearing organization and, as part of its business, provides clearing and settlement services in respect of commodity futures, options thereon (“futures options”) and commodity options (commodity futures, futures options, and commodity options are referred to herein collectively as “Commodity Contracts”));

WHEREAS, the Market is a board of trade that has applied for designation as a contract market under the Commodity Exchange Act, as amended (the “CEA”) by the CFTC;

WHEREAS, the Market wishes to engage the Corporation to provide clearing and settlement services in respect of underlying interests that are selected in accordance with Section 3 (the “Cleared Contracts”); and

WHEREAS, the Corporation is prepared to provide such services to the Market, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants, terms and conditions herein set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Section 1. Market Representations.

The Market represents that (a) as of the date of this Agreement, (i) it is a limited partnership duly organized and validly existing in good standing under the laws of the State of Delaware, (ii) it has all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (iii) this Agreement is the legal, valid and binding obligation of the Market, enforceable against the Market in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors’ rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (iv) its entry into this Agreement and performance of its obligations hereunder do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any other agreement binding on or affecting it or any of its assets and (v) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with and (b) as of the Effective Date (as defined in Section 26), (i) it will be a board of trade that will have been designated by the CFTC

as a contract market pursuant to Section 5 of the CEA, (ii) it will have rules that comply with the provisions of the CEA and regulations of the CFTC thereunder for the trading of Commodity Contracts (as in effect on the Effective Date and as amended from time to time thereafter, the "Market Rules") that are to be cleared by the Corporation in accordance with its By-Laws and Rules, (iii) it will have all governmental and other approvals and consents required to have been obtained by it with respect to the Market Rules, (iv) the Market Rules will be in full force and effect and (v) it will be in compliance with all regulations of the CFTC applicable to a designated contract market; other than, in the case of clauses (a)(iv) (with respect to violations of applicable law), (a)(v) and (b)(v), as would not reasonably be expected to result in a material adverse effect on the ability of the Market to perform its obligations under this Agreement.

Section 2. Corporation Representations.

The Corporation represents that (a) as of the date of this Agreement and as of the Effective Date, (i) it is and will be a corporation duly organized and validly existing in good standing under the laws of the State of Delaware, (ii) it is and will be a derivatives clearing organization registered under Section 5b(c) of the CEA and is permitted to provide facilities for the clearance and settlement of Commodity Contracts, subject to applicable regulations of the CFTC, (iii) it has and will have all requisite power and authority to enter into and perform its obligations hereunder and to conduct its business as currently conducted, (iv) the Agreement is and will be the legal, valid and binding obligation of the Corporation, enforceable against the Corporation in accordance with its terms, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally, and subject, as to enforceability, to equitable principles of general application, regardless of whether enforcement is sought in a proceeding in equity or at law, (v) its entry into this Agreement and performance of its obligations hereunder do not and will not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets and (vi) all governmental and other approvals and consents that are required to have been obtained by it with respect to this Agreement have been obtained and are in full force and effect and all conditions of any such approvals and consents have been complied with and (b) as of the Effective Date, (i) the CFTC will have approved or permitted to become effective all By-Laws and Rules of the Corporation relating to the products listed in Section 3(b)(i) below, (ii) it will be prepared to provide clearing and settlement services for Commodity Contracts in accordance with the Corporation's Rules that have been or will have been adopted for the purpose of clearing products traded on the Market, and (iii) it will be in compliance with all regulations of the CFTC applicable to a derivatives clearing organization engaged in clearing and settlement services for Commodity Contracts other than, in the case of clauses (a)(v) (with respect to violations of applicable law), (a)(vi) and (b)(iii) as would not reasonably be expected to result in a material adverse effect on the business, assets, results of operation or financial condition of the Corporation or the ability of the Corporation to perform its obligations under this Agreement.

Section 3. Selection of Commodity Contracts and Underlying Interests; Classes and Series of Commodity Contracts.

(a) **Types of Contracts Subject to this Agreement.** The Corporation agrees, subject to the provisions of this Agreement relating to selection of underlying interests, to provide clearing services to the Market for commodity futures, futures options and commodity options having terms generally similar to those of other futures, futures options and commodity options that are presently or hereafter cleared by the Corporation. The clearance and settlement of all such Commodity Contracts shall be subject to the By-Laws and Rules of the Corporation as in effect from time to time, provided that the Corporation shall not, without the consent of the Market, adopt any amendment to the By-Laws and Rules that discriminates against the Market or any of its Commodity Contracts or adversely affects the Market or its Commodity Contracts without similarly affecting all similarly situated Markets or Commodity Contracts cleared by the Corporation, provided that an amendment to the By-Laws and Rules of the Corporation that uniquely adversely affects the Market or discriminates against its Commodity Contracts shall not be in violation of this Section if such effect or discriminatory treatment is required under applicable laws or regulations, or by regulatory authorities with jurisdiction over the Corporation.

(b) **General Criteria for Underlying Interests.**

(i) **U.S. Treasury Securities.** The Corporation agrees to provide clearing services, commencing on the Effective Date, for physically settled futures contracts on U.S. Treasury Notes and Bonds and options on such futures. The Corporation understands that the Market will also permit trading in Reduced Tick Calendar Spreads in such futures contracts, which will be submitted to and cleared by the Corporation as separate trades in the constituent futures.

(ii) **Other Underlying Interests for Commodity Futures and Commodity Options.** The Market may select additional underlying interests for commodity futures and commodity options subject to agreement of the Corporation, which shall not be unreasonably withheld. The Corporation has specifically agreed in the Development Agreement of even date herewith between the Corporation and the Market (the “Development Agreement”) to develop at no additional charge, upon request by ELX, systems for the clearance of the products listed on Appendix A hereto (“Appendix A Products”), and shall not unreasonably withhold its consent to clearance of those products after opportunity for review of the specific terms of those products. The Corporation may, in its sole discretion, clear commodity futures and commodity options on underlying interests in addition to the Appendix A Products that are proposed to be traded on the Market, subject to such terms as may be agreed between the parties.

(iii) **Other Underlying Futures for Futures Options.** The Market may select additional commodity futures contracts to be the underlying futures for futures options to be traded on the Market and cleared by the Corporation, subject to the following conditions: (A) such commodity future shall be traded on the Market and cleared by the Corporation; (B) each underlying futures contract shall be open for trading at the time of selection or no later than the date and time that the overlying futures option is opened for trading. As used in this Agreement, the term “futures option” shall be limited to an American-style or European-style option on a

futures contract.

(c) Procedures for Selection of Additional Categories of Underlying Interests. The Market may select additional categories of underlying interests for futures, futures options and commodity options to be cleared by the Corporation by completing and executing a Schedule C in the form attached hereto. A Schedule C shall be submitted when the Market proposes to trade any Commodity Contract on any type of underlying interest other than those referred to Section 3(b)(i) above, including any Appendix A Product. The Schedules C created pursuant to this Section 3(c) shall be numbered in a single sequence as Schedule C-1, Schedule C-2, etc. For purposes of this Section 3, a “category” of underlying interest refers to a general category such as broad-based stock indexes, foreign currencies, metals, etc. An underlying interest for a Commodity Contracts that is physically settled shall be deemed to be in a different category than the underlying interest for any Commodity Contract that is not physically settled. The Corporation shall have discretion to determine when a Schedule C is needed. In addition, whenever the Market wishes to introduce a new “class” of Commodity Contracts (“class” is defined in the By-Laws of the Corporation to mean all futures on the same underlying interest and, in the case of options, all options of the same type and style and having the same underlying interest), the following procedures shall be followed:

(i) The Market shall notify the Corporation by submitting a certificate as described below (a “Certificate”): (A) in the case of a class of futures options, no earlier than the time at which a Certificate is submitted with respect to the underlying futures contract and no later than 11:00 a.m. (Chicago time) on the trading day before the trading day on which the Market wishes to commence trading; and (B) in the case of a class of any other Commodity Contracts, as far in advance of the trading day on which the Market proposes to commence trading as the parties shall agree. (A “trading day” means any day on which the Corporation is open for business for the purpose of conducting money settlement, not including the expiration date of any option contract that expires on a Saturday.)

(ii) The Certificate shall set forth: (A) the type of contract (future, futures option, commodity option or other); (B) the complete name of the underlying interest; (C) if an option, whether it is American or European style; (D) the expiration or maturity cycle of the class; (E) the series marker, if any; (F) the manner in which the opening and closing settlement price is to be determined; and (G) the date on which the Market proposes to commence listing and trading contracts in the class.

(iii) If the underlying interest for a futures contract is a securities index, the Certificate shall: (A) identify the index; and (B) identify the owner or owners of the index and, if other than the Market, explain the basis for the right of the Market to list and trade futures on the index. If the index is not an underlying index for other contracts that are cleared by the Corporation, the Certificate shall also: (A) identify the securities composing the index by complete name, trading symbol and CUSIP number; (B) identify the reporting authority for the index; (C) set out in detail the method and frequency of calculation of the index; and (D) in the case of a futures option on a securities index future, identify the proposed maturity date of the initial series.

(iv) If the underlying interest for a futures contract or a commodity option is

an index other than a securities index, the Certificate shall also (A) identify the index and state that it is not a group or index of securities (including any interest therein or based on the value thereof), (B) identify the constituents of the index, (C) identify the reporting authority for the index, (D) set out in detail the method and frequency of calculation of the index, and (E) identify the owner or owners of the index, and, if other than the Market, explain the basis for the right of the Market to list and trade options on the index.

(v) In the case of an underlying interest that is neither an index nor a security, the Certificate shall contain the information required for an underlying index to the extent applicable to the underlying interest and such other information as the Market deems relevant or that may be required by the Corporation.

(vi) In the case of futures options, the Certificate shall also state that the Market certifies that the specified underlying interest meets the requirements of 3(b)(iii) of this Agreement and the Market has approved the listing and trading of futures options to be cleared by the Corporation on such underlying interest.

(vii) In the case of Commodity Contracts to be settled by physical delivery, the Certificate shall contain a detailed description of the manner in which physical delivery shall be effected, including without limitation the services to be provided by the Corporation in connection with such delivery.

(viii) Subject to Section 3(f) below, the Market may begin listing and trading Cleared Contracts in accordance with the following schedule:

(A) for a class of index futures, on the tenth trading day after the relevant Certificate has been properly submitted to, and accepted by, the Corporation; and

(B) for a class of other futures and a class of other futures options or commodity options, on the first trading day after the Corporation has authorized the clearance and settlement of such futures, futures options, or commodity options and so notified the Market.

(d) Notice of Additional Maturity or Expiration Dates. The Market may introduce an additional maturity or expiration date for Commodity Contracts of any class previously certified pursuant to Section 3(c) above, as follows:

(i) For a maturity or expiration date in the cycle set forth in the Certificate, by providing notice to the Corporation by e-mail to nog@theocc.com or such other electronic means as may be mutually agreed upon by the Corporation and the Market, or if e-mail (or such other electronic means, if applicable) is unavailable for any reason, by facsimile, specifying the underlying interest, the maturity or expiration date, the series marker (if any), and the exercise price in the case of a series of futures options or commodity options. Such notice shall be provided (A) where practicable, on or before the trading day immediately preceding the trading day on which trading in the new series is to commence, and (B) in any event, not later than ten minutes after commencing to trade the series.

(ii) For a maturity or expiration date not in the cycle set forth in the Certificate, by providing advance notice to the Corporation by e-mail or such other electronic

means as may be mutually agreed upon by the Corporation and the market, or if e-mail (or such other electronic means, if applicable) is unavailable for any reason, by facsimile, no later than 9:00 a.m. (Chicago time) on the trading day immediately preceding the trading day on which trading in the new series is to commence, specifying the underlying interest, the maturity or expiration date, the series marker (if any), the mode of settlement in the case of a series of commodity futures that are not cash-settled, and the exercise price in the case of a series of futures options or commodity options.

(e) Illegality and Risk of Liability. Notwithstanding any other provisions of this Agreement, the Corporation shall have no obligation to clear any Commodity Contract proposed to be traded by the Market unless counsel to the Corporation is satisfied that the clearance and settlement by the Corporation of such Commodity Contracts would not be (A) unlawful or (B) likely to subject the Corporation to liability based upon claims that clearing and settling of such Commodity Contracts on such interest infringes the intellectual property rights of third parties or otherwise.

(f) Underlying Interest Ceases to Meet Requirements. In the event that the Corporation shall determine that an underlying interest has ceased to meet any of the requirements set forth in this Section 3 or that it has otherwise become unlawful or likely to subject the Corporation to liability for the Corporation to clear transactions in Commodity Contracts on such underlying interest, the Corporation may give notice to the Market that it is to cease all trading of such contracts cleared by the Corporation on such underlying interest or, in the alternative, to restrict transactions in such contracts on the Market (i) to closing transactions or (ii) to closing transactions for all accounts other than the accounts of (A) market-makers and/or (B) members of the Market to the extent such members execute opening transactions to facilitate the closing transactions of public customers pursuant to the crossing rules of the Market. The Corporation shall not be required to accept for clearance any transaction effected in violation of such notice after the Market has had a reasonable time to halt trading. In the event that the Corporation gives any notice pursuant to this Section 3(f), the Market and the Corporation shall promptly consult with one another to determine an appropriate course of action to restore the underlying interest to compliance with the requirements of this Section 3 or to permit the orderly and lawful liquidation of open interest.

(g) Monitoring of Underlying Security Indexes. The Market shall monitor the status of each underlying security index that it has selected in order to confirm that the index remains a broad-based index and shall promptly notify the Corporation if it determines that the index has ceased, or is likely to cease, to meet the applicable definition. If the index ceases to meet the applicable definition, and in the opinion of counsel to the Corporation there is a significant risk that the clearance of futures contracts on such index or options on futures on such index by the Corporation would be unlawful or likely to subject the Corporation to liability, then the provisions of Section 3(f) above shall apply.

(h) Breach by Market of Section 3. If the Market, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of this Section 3, then the Corporation shall not be obligated to clear transactions in Commodity Contracts deriving from or related to the breach (the "Affected Transactions") unless and until the Market has corrected such breach or fulfilled such conditions as the Corporation may set. The Corporation

shall, promptly upon determining not to clear Affected Transactions effected on the Market, notify the Market of such determination; provided, however, that the Corporation will continue to accept Affected Transactions for clearance until the Market has had a reasonable opportunity to halt trading, unless acceptance of such transactions for clearance would be unlawful or likely to subject the Corporation to liability. Such determination shall not affect the validity of any previously outstanding Cleared Contracts or any matched trade that the Corporation has previously accepted for clearance, nor relieve the Corporation of its obligations with respect thereto, nor shall such determination affect any other obligation of either party under this Agreement or any remedy which such party may have or any right or obligation of any third party under the By-Laws and Rules of the Corporation.

Section 4. Multiplier; Units of Trading.

Subject to any applicable limitations prescribed by the Market Rules or the By-Laws and Rules of the Corporation, the multiplier or unit of trading, as the case may be, of each series shall be designated by the Market prior to the time such series is first opened for trading on the Market. Unless the Market specifies otherwise, the unit of trading for futures options shall be one contract in the series of futures underlying such option.

Section 5. Comparison of Transactions in Cleared Contracts; Settlement Prices.

(a) Matched Trade Reports. The Market agrees that on each business day it will compile a matched trade report of all transactions in Cleared Contracts and all “exchange-for-physical” transactions effected by its members on that business day, and will furnish such report to the Corporation by such time or times, or on a real-time basis upon the implementation of a real-time reporting facility between the Market and the Corporation, as the Corporation may reasonably prescribe, taking into consideration the ability of the Market to provide such information within such time frames on a cost-effective basis. Unless the parties expressly agree to the contrary, in no event will the Market be required to furnish such reports to the Corporation earlier than the time by which Options Exchanges are required to furnish reports of security options transactions.

(b) Daily Settlement Prices. The Market shall each business day, at such time and in such manner as the parties may agree, notify the Corporation of the settlement price of each futures contract. The Corporation shall adopt such settlement price as the basis for determining the official settlement price for the business day, except in the case of manifest error, in which case the Corporation shall notify the Market of such error and give the Market a reasonable opportunity to cure such error to the reasonable satisfaction of the Corporation; provided, however, that in the case of fungible contracts traded on more than one exchange or market, the daily settlement price will be determined by a method mutually agreed among the Corporation and all such exchanges, and in the absence of such agreement, as specified by the Corporation. If on any business day, any such error is not cured by the Market in accordance with the preceding sentence, then the Corporation, using its best efforts to consult with the Market, shall determine the official settlement price for such day based on such considerations and sources as the Corporation deems appropriate in its reasonable judgment. The Market shall indemnify the

Corporation and each of its directors, officers, committee members, agents, and employees from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement based solely on the Corporation's use of an erroneous settlement price supplied by the Market as the official settlement price. The provisions of Section 16 hereof shall apply to such indemnity as if such indemnity were provided under Section 16(b)(ii) hereof.

(c) **Final Settlement Price.** The Corporation shall determine the final settlement price in respect of a series of futures in accordance with its By-Laws and Rules.

(i) With respect to a futures contract that has an underlying interest (A) traded on one or more organized markets or (B) that is an index derived from constituents traded on one or more organized markets, if the Corporation determines reasonably and in good faith that the primary market(s) (as determined by the Corporation) for one or more constituents of an underlying index in respect of a maturing index future did not open or remain open for trading at or before the time when the settlement price for such futures would ordinarily be determined, or that the price or other value used as or to determine the final settlement price (a "required value") in respect of a series of futures is otherwise unreported, inaccurate, unreliable, unavailable, or inappropriate for such use, the Corporation, using its best efforts to consult with the Market, shall determine the final settlement price in conformity with the By-Laws and Rules of the Corporation, and based on such considerations and sources as the Corporation deems appropriate in its reasonable judgment, and shall promptly notify the Market of its action.

(ii) With respect to a futures contract that has an underlying interest that is not (A) traded on one or more organized markets or (B) an index derived from constituents traded on one or more organized markets, if the Corporation shall determine reasonably and in good faith that a required value (as defined in Section 5(c)(i)) for an underlying interest or a constituent of an underlying index for a futures contract is unreported, inaccurate, unreliable, unavailable or inappropriate for such use, the Corporation, using its best efforts to consult with the Market, shall determine the final settlement price in conformity with the By-Laws and Rules of the Corporation and shall promptly notify the Market of its action.

Section 6. Clearance of Transactions in Cleared Contracts.

(a) **Provision of Clearing Services.** The Corporation will provide, pursuant to and in accordance with the By-Laws and Rules of the Corporation and applicable regulatory requirements, all services reasonably necessary to perform its obligations under this Agreement, including without limitation the clearing and settlement services identified in Schedule A attached hereto and incorporated herein. The clearing and settlement services identified in Schedule A are, to the knowledge of the Corporation, based on its experience, appropriate and sufficient to clear and settle the Cleared Contracts in accordance with usual and customary standards and do not contain any significant omissions or deficiencies in light of similar clearing and settlement services for similar contracts provided or previously provided by the Corporation to other exchanges, trading facilities, trading platforms and markets. The Market will provide assistance and cooperation in accordance with Schedule A. The Corporation will have no obligation to any purchaser or seller of a Cleared Contract arising out of any delay or error in the filing by the Market of any report of matched trades; provided, however, that nothing in this Section 6(a) will be construed to relieve the Corporation of its obligation to accept and clear such

matched trades once received. The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents, and employees for any loss or damage incurred resulting from any delay in the filing by the Market of any report of matched trades or from any error in the information so filed, other than an error in information submitted to the Market by a member of the Market or delays or errors in the filing of information caused by the Corporation or systems under the control of the Corporation. The provisions of Section 16 hereof shall apply to such indemnity as if such indemnity were provided under Section 16(b)(ii) hereof.

(b) Clearing Members. For purposes of this Agreement “Clearing Member” means a Commodity Futures Clearing Member as defined in the By-Laws of the Corporation. Any Commodity Futures Clearing Member that is a member of the Market may clear transactions in Commodity Contracts listed on the Market through the Corporation. Notwithstanding the foregoing, any Commodity Futures Clearing Member may (whether or not a member of the Market) clear transactions in Commodity Contracts listed on the Market through the Corporation pursuant to the Corporation’s “CMTA” and/or allocation procedures.

(c) Cross Margining. The Corporation will use reasonable commercial efforts to establish a cross-margining arrangement between the Corporation, on the one hand, and the Fixed Income Clearing Corporation, on the other hand, in respect of the Commodity Contracts for which cross-margining would be reasonable and appropriate. The Corporation agrees that it will not enter into such an arrangement involving Commodity Contracts traded on the Market unless such arrangement shall be acceptable to the Market or unless such Commodity Contracts are fungible with other contracts cleared by the Corporation and traded on other futures markets.

Section 7. Acceptance of Transactions in Cleared Contracts.

The Corporation agrees to accept, in accordance with and subject to its By-Laws and Rules, all matched trades in Cleared Contracts that are properly submitted to it by the Market in accordance with procedures and practices of which the Market is informed with reasonable advance notice. Upon submission of a matched trade to, and acceptance of such matched trade by, the Corporation, the Corporation shall be substituted through contractual novation, as provided in its By-Laws and Rules, as the counterparty to each of the Clearing Members that were parties to the matched trade. For purposes of the preceding sentence, a Clearing Member to which a trade is given up in accordance with the Corporation’s “CMTA” and/or allocation procedures shall be deemed to have been a party to such trade, and the party giving up such trade shall be deemed not to have been a party to such trade.

Section 8. Non-Discrimination and Consultation.

(a) Certain Agreements. So long as all conditions on the obligations of the Corporation to clear Cleared Contracts for the Market, as set forth in Article XII of the Corporation’s By-Laws, continue to be satisfied, the Corporation agrees not to amend its By-Laws or Rules in any manner so as to limit its obligations hereunder to clear and settle transactions in Cleared Contracts effected on the Market, and further agrees that it will not unfairly discriminate among markets for Cleared Contracts with regard to the nature or quality of the services that it provides or the priority that it assigns to providing such services. If the

Corporation makes a change to its standard form futures agreement for clearing and settlement services (the prototype of this Agreement), the Corporation shall offer to amend this Agreement to conform it to the revised standard form.

(b) Product Design Features. The Corporation agrees that it will consult with the Market and use reasonable efforts to incorporate in its By-Laws, Rules and procedures product design features specified by the Market for Cleared Contracts traded or proposed to be traded on the Market and cleared by the Corporation.

(c) Proposed Rule Changes. Each party shall furnish copies to the other party of all proposed rule changes that can reasonably be expected to have any material impact on the other party, its Clearing Members or members, or the Cleared Contracts traded on the Market and cleared by the Corporation. Such copies shall be furnished to the other party no later than the time that they are filed with the Securities and Exchange Commission (“SEC”) or the CFTC. The party proposing changes to its rules shall use reasonable efforts to consult with the other party before filing the change or placing it into effect if the proposed change is one with respect to which it is reasonable to expect that the other party would want to have advance notice and opportunity to comment. This Section 8(c) does not require disclosure to the other party of any information contained in a rule filing for which the filing party has sought confidential treatment from the agency with which it is filed or which is otherwise non-public information.

(d) Market Personnel, Assistance, and Other Resources. The Market shall provide the personnel, assistance, and other resources necessary to provide services under this Clearing Agreement, including without limitation: (i) senior management and oversight; (ii) competent technical and support staff; (iii) outside experts or consultants, as determined by the Market; (iv) creation, maintenance and enforcement of all necessary rules and/or by-laws; (v) timely reviews, testing (where reasonably necessary) and approvals for system and technical requirements, project deliverables, risk policies, membership standards and other matters; and (vi) cooperation with the Corporation in the conduct of all reasonably necessary external and industry testing.

(e) Corporation Staffing. The Corporation shall provide the personnel, assistance, and other resources necessary to provide services under this Clearing Agreement, including without limitation: (i) senior management and oversight; (ii) competent technical and support staff; (iii) outside experts or consultants, as determined by the Corporation; (iv) creation, maintenance and enforcement of all necessary rules and/or by-laws; (v) timely reviews, testing (where reasonably necessary) and approvals for system and technical requirements, project deliverables, risk policies, membership standards and other matters; and (vi) cooperation with the Market in the conduct of all reasonably necessary external and industry testing. The type and extent of review and testing that the Corporation is required to perform or participate in performing shall be determined by the Corporation exercising reasonable discretion.

Section 9. Limitations of Authority and Responsibility.

The Corporation shall have no authority or responsibility to establish or enforce standards relating to the conduct of trading on the Market by its members or the supervision of any aspect of the conduct of such members with their customers, except as specifically provided in the

By-Laws and Rules of the Corporation. The Corporation shall have no responsibility for making disclosure to customers of members of the Market or other customers regarding Cleared Contracts or trading therein on the Market except that the Corporation shall furnish to the Market such information regarding the Corporation and the clearance by it of Cleared Contracts as may reasonably be requested by the Market for purposes of disclosure to customers.

Section 10. Margin Requirements of Corporation

The Corporation shall establish in its By-Laws and Rules, and shall have the responsibility to enforce, requirements as to variation (mark-to-market) payments to be made between the Corporation and its Clearing Members, and the amount and form of margin assets to be deposited or maintained with the Corporation by its Clearing Members, in respect of positions in Cleared Contracts. In establishing such requirements, the Corporation shall not discriminate as to the amount of margin assets to be deposited or maintained (a) on the basis of the market on which transactions in Cleared Contracts are effected, (b) among markets listing Cleared Contracts on the same underlying interest, or (c) between Cleared Contracts and other products posing substantially equivalent risk to the Corporation that effectively may substitute for Cleared Contracts, but the Corporation may establish higher margin requirements in respect of (A) Cleared Contracts relating to specific underlying interests or types of underlying interests in cases where the distribution or market liquidity of, or other factors relating to, such Cleared Contracts or underlying interests would, in the judgment of the Corporation, increase the risk of the Corporation, its Clearing Members or the public, or (B) particular Clearing Members based on the positions or financial or operational condition of such Clearing Members or otherwise to protect the Corporation, Clearing Members or the public. With respect to higher margin requirements established pursuant to clause (A) above, the Corporation shall, where reasonably practicable, attempt to notify and consult with the Market in advance of the establishment of such margin requirements. Subject to any applicable regulatory constraints, the Corporation shall provide for appropriate reductions in margin obligations to reflect the reduced risk of offsetting or partially offsetting positions in Cleared Contracts traded on the Market and contracts traded on Options Exchanges or other futures markets cleared by the Corporation that are carried by a Clearing Member in the same account at the Corporation. In the event that the Market at any time believes that margin levels established for Cleared Contracts by the Corporation are too high or otherwise inappropriate, the Market may so inform the Corporation, and representatives of the Corporation will promptly make themselves available to discuss the matter with representatives of the Market, and the Corporation shall give due consideration to any facts or analysis presented by the Market. Unless required by law, the Corporation shall not without the prior written approval of the Market make Cleared Contracts listed for trading by the Market fungible with Cleared Contracts listed for trading by any other market, exchange, electronic trading platform or other entity.

Section 11. Financial Requirements for Clearing Members.

The Corporation shall establish in its By-Laws and Rules financial responsibility standards with which its Clearing Members must comply. The Corporation shall conduct regular and continuous monitoring of the positions, transactions, capital and margin of Clearing Members, based upon the information reported to it in accordance with the By-Laws and Rules of the Corporation and other information made available to the Corporation. Financial

responsibility standards imposed upon Clearing Members clearing Cleared Contracts executed on the Market shall be consistent with those imposed on Clearing Members with respect to other markets, with the exception of those differences that are reasonably necessary to take into account any material differences between the relevant markets and products.

Section 12. Rights and Obligations of Purchasers and Sellers.

The Market Rules shall specifically provide that the rights and obligations of purchasers and sellers of Cleared Contracts, including but not limited to rights and obligations in respect of clearing and settlement, variation payments and performance at maturity, and in the case of futures options and commodity options, upon exercise thereof, shall be as set forth in the By-Laws and Rules of the Corporation.

Section 13. Fees for Clearing Services.

(a) The Corporation shall establish fee structures for the services it performs for Commodity Futures Clearing Members consistent with the provisions of the By-Laws of the Corporation. Such fee structures shall provide, *inter alia*, that fees for services charged to members of the Market shall not be greater than the fees charged by the Corporation in respect of substantially similar products offered by the Options Exchanges or other futures markets. Notwithstanding the foregoing, the Corporation may offer alternative fee structures to such exchanges or markets so long as it offers the same alternatives to the Market on substantially the same terms and so long as the alternative fee structure provides for the equitable allocation of reasonable dues, fees, and other charges among its Clearing Members including Clearing Members that are members of the Market. Actual clearing fees paid (net of any rebates) may therefore differ among exchanges or markets that select different fee structures.

(b) The Corporation shall waive clearing fees for the first six months following the commencement of trading on the Market.

(c) Subject to paragraph (d) of this Section, Commodity Futures Clearing Members that execute trades on the Market shall be eligible to receive any rebates, discounts, and other forms of refund of clearing fees that are made available to Clearing Members of the Corporation based on their pro rata share of clearing fees collected by the Corporation, provided, however, that such Commodity Futures Clearing Members shall not be eligible for such rebates, discounts, or other forms of refund for trades executed in those months during the second six months after commencement of trading on ELX for which the aggregate daily contract volume of the Market is less than 250,000.

(d) At the Market's sole discretion and upon its written instruction with reasonable notice, the Market may agree to pay all or a portion of the clearing fees incurred by all or some of its members, and the Corporation will bill the Market for the fees with respect to which the Market has agreed to make payment. If the Market has agreed to make payment for any clearing fees pursuant to this Section 13(b), all associated rebates, discounts or any other form of refund of clearing fees available to Clearing Members of the Corporation based on their pro rata share of clearing fees collected by the Corporation, including clearing fees for trades executed on the Market, shall be made available by the Corporation to the Market, provided, however, that the

Market shall not be eligible for such rebates, discounts, or other forms of refund for trades executed in those months during the second six months after commencement of trading on the Market for which the aggregate daily contract volume of the Market is less than 250,000.

Section 14. Programs and Projects.

The Corporation agrees that any program or project designed to assist one or more futures markets which it develops at its own expense or which it originates will be made available promptly for the benefit of the Market. Without limiting the generality of the foregoing, the Corporation agrees that, if it proposes to clear any Commodity Contract for any Options Exchange or other futures market, it will offer to clear such Commodity Contract for the Market on terms that are no less favorable in any material respect; provided, however, that this provision shall be subject to the provisions of Section 3(e) of this Agreement.

Section 15. Information Sharing.

The Corporation agrees that it will furnish to the Market all information within its possession relating to Clearing Members that are members of the Market or that clear trades made on the Market (whether or not members), and information regarding Cleared Contracts traded on the Market, to the extent necessary for the Market to perform its regulatory responsibilities under the CEA and CFTC regulations and to the extent that it is reasonable to expect that such information could have a material impact on the Market, including without limitation reporting requirements pursuant to CFTC Regulations 16.00 and 16.01. In addition, each of the Corporation and the Market agrees to provide the other with information as specified in Schedule B attached hereto and incorporated herein.

Section 16. Indemnification.

(a) By the Corporation.

(i) The Corporation agrees to indemnify and hold harmless the Market and each of its partners, members, directors, officers, committee members, agents and employees (each a “Market Indemnified Party” and collectively referred to as the “Market Indemnified Parties”) from and against any and all loss, damage and expense arising out of or based on any violation or alleged violation by the Corporation of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Corporation may otherwise have.

(ii) The Corporation agrees to indemnify and hold harmless each Market Indemnified Party from and against any and all liabilities, judgments, claims, damages, expenses and amounts incurred and/or paid in settlement (collectively referred to as “Losses”) in connection with any action, suit, litigation, claim or proceeding commenced by any person to which any such Market Indemnified Party is made a party defendant, or is threatened to be made such a party, arising out of or based upon any violation or alleged violation by the Corporation of any terms of this Agreement, any alleged default by the Corporation in performing its obligations in accordance with its By-Laws and Rules in respect of any transaction in Cleared Contracts it accepts for clearing, and any violation or alleged violation by the Corporation of any law or

governmental regulation. This indemnity agreement shall be in addition to any liability to any Market Indemnified Party which the Corporation may otherwise have.

(b) By the Market.

(i) The Market agrees to indemnify and hold harmless the Corporation and each of its directors, officers, committee members, agents and employees (each a “Corporation Indemnified Party” and collectively referred to as the “Corporation Indemnified Parties”) from and against any and all loss, damage and expense (whether or not such loss, damage or expense is reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement. This indemnity agreement shall be in addition to any liability which the Market may otherwise have.

(ii) The Market agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, to which any such Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, arising out of or based on any violation or alleged violation by the Market of any of the terms of this Agreement or any violation or alleged violation by the Market of any law or governmental regulation. This indemnity agreement shall be in addition to any liability to any Corporation Indemnified Party which the Market may otherwise have.

(c) Indemnification in Respect of Intellectual Property. Without limiting the generality of subsections (a) and (b) above: (i) the Corporation specifically agrees to indemnify and hold harmless each Market Indemnified Party, and the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party, from and against any and all Losses (whether or not in the case of the Corporation such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any third party claim or cause of action for infringement, misappropriation or violation of the intellectual property rights of such third party, where such claim or cause of action relates to intellectual property that is developed, used or provided by the indemnifying party in connection with the services provided, or the activities engaged in or to be engaged in, hereunder, provided that for purposes of this provision the Corporation shall not be deemed to have used any such intellectual property developed, used or provided by the Market solely by virtue of clearing trades executed on the Market; and, without limiting the generality of clause (i) above, the Market specifically agrees to indemnify and hold harmless each Corporation Indemnified Party from and against any and all Losses (whether or not such Losses are reimbursable by *pro rata* charges to the Clearing Fund contributions of Clearing Members) in connection with any action, suit, litigation, claim or proceeding commenced by any person, asserted against a Corporation Indemnified Party or to which a Corporation Indemnified Party is made a party defendant or is threatened to be made such a party, or is subjected to discovery or testimonial obligations, arising out of or based on (A) any allegation that the Market does not have the right for any reason to list and trade a Commodity Contract traded or proposed to be traded on the Market, or (B) any allegation that the listing and trading of a Commodity Contract by the Market, the issuance by the Corporation of the Commodity Contract so listed and traded, or the clearance and settlement of such trades by

the Corporation constitutes unfair competition or unjust enrichment or infringes, interferes with or misappropriates the intellectual property, contract, common law or other rights of a third party, including without limitation the owner of any proprietary index or any licensee of such index or derivative products based thereon.

(d) Limitation on Rights Conferred. The provisions of this Section 16 are not intended to confer any rights upon any person other than Corporation Indemnified Parties, the Market Indemnified Parties, and each person, if any, who controls the Market within the meaning of Section 13(b) of the CEA.

(e) Rights and Duties When Action Commenced. Promptly after receipt by an indemnified party under Section 16(a)(ii), 16(b)(ii) or 16(c) hereof of notice of commencement of any action, suit, litigation, claim or proceeding in which such indemnified party is made a party defendant, such indemnified party will, if a claim in respect thereof is to be made against an indemnifying party under such Section, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party will not relieve it from any liability which it may have to any indemnified party otherwise than under such Section. In case any such action is brought against any indemnified party, and it promptly notifies an indemnifying party of the commencement thereof, the indemnifying party will be entitled to participate in, and, to the extent that it may wish, jointly with any other indemnifying party similarly notified, to assume and control the defense thereof, with counsel chosen by it, and after notice from the indemnifying party to such indemnified party of its election so to assume the defense thereof, the indemnifying party will not be liable to such indemnified party under such Section for any legal or other expenses subsequently incurred by such indemnified party in connection with the defense thereof other than reasonable costs of investigation, provided that (i) the indemnified party may, at its own expense, participate in such defense by counsel chosen by it, and (ii) if the indemnified party determines in good faith that representation of such indemnified party and the indemnifying party by the same counsel would be inappropriate under applicable standards of professional conduct, then the indemnifying party shall not have the right to assume the defense of any such action on behalf of the indemnified party. The indemnifying party may negotiate a compromise or settlement of any such action, provided that such compromise or settlement does not require a contribution by the indemnified party, have a material adverse impact on the business of the indemnified party, includes as an unconditional term thereof the giving by each claimant or plaintiff to each indemnified party of a release from all liability in respect of such action and does not include a statement as to or an admission of fault, culpability or a failure to act, by or on behalf of any indemnified party. As used in this Section 16, the words “party defendant” shall include a counter-defendant, cross-defendant, respondent, and any other capacity in which a claim is asserted against an indemnified party.

Section 17. Notices.

All notices, requests, demands and other communications hereunder must be in writing and shall be deemed to have been duly given (a) when delivered by hand, (b) three business days after having been mailed by first class registered mail, return receipt requested, postage and registry fees prepaid to the address set forth below, (c) under Section 3(f), when sent by e-mail without notice to the sender from a server that delivery of the e-mail has been delayed or has failed, and if such notice is received, then notice shall not be deemed duly given until the e-mail

is sent without such notice, or (d) when sent by facsimile transmission to the facsimile number set forth below, provided that the burden of proving receipt of a facsimile will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine.

(i) If to the Corporation:

The Options Clearing Corporation
One North Wacker Drive, Suite 500
Chicago, IL 60606
Attn: General Counsel
Facsimile Number: 312-322-2593
Telephone Number: 312-322-6200

(ii) If to the Market:

ELX Futures, L.P.
110 East 59th Street
New York, NY 10022
Attn: Chief Executive Officer
Facsimile Number: 212-294-8058
Telephone Number: 212-294-8056

Section 18. Miscellaneous.

(a) Entire Agreement; Order of Precedence. This Agreement and the Schedules and Appendices hereto, as amended from time to time, constitute the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersede and replace the Letter of Intent, (as defined in the Development Agreement) the Confidentiality Agreement (as defined in the Development Agreement) and any other written or verbal agreements.

(b) Amendment and Waiver. Neither this Agreement nor any term hereof may be changed, amended, augmented, rescinded, waived, discharged or terminated orally, in whole or in part, except only by an instrument in writing signed by the party against which enforcement of such change, amendment, augmentation, rescinding, waiver, discharge or termination is sought. No waiver of any of the provisions or conditions of this Agreement or any of the rights of any party hereto shall be effective or binding unless such waiver shall be in writing and signed by the party claimed to have given or consented thereto. Except to the extent that any party hereto may have otherwise agreed in writing, no waiver by that party of any term, condition or other provision of this Agreement, or any breach thereof by the other party shall be deemed to be a waiver of any other term, condition or provision or any breach thereof, or any subsequent breach of the same term, condition or provision by the other party, nor shall any forbearance by the first party to seek a remedy for any noncompliance or breach by the other party be deemed to be a waiver by the first party of its rights and remedies with respect to such noncompliance or breach.

(c) **No Assignment.** All of the terms of this Agreement, whether so expressed or not, shall be binding upon the respective successors and assigns of the parties hereto and shall inure to the benefit of and be enforceable by the parties hereto and their respective successors and assigns; provided, however, that this Agreement may not be assigned by either party hereto without the prior written consent of the other party, but a merger, consolidation, reorganization or reincorporation by, or sale of all or substantially all of the assets of, either party shall not require the consent of the other party so long as (1) the party gives the other party prior notice of such assignment or transfer, (2) such successor agrees in writing to be bound by all of the terms and conditions of this Agreement (including the representations and warranties of the party), and (3) the successor entity or transferee is qualified to carry on the business contemplated herein.

(d) **Severability.** In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting therefor another provision that is valid, legal and enforceable so as to materially effectuate the parties' intent.

(e) **Headings.** The headings of this Agreement are for the purpose of reference only and shall not limit or otherwise affect the meaning hereof.

(f) **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but both of which together constitute one and the same instrument.

(g) **Definitions.** Terms used in this Agreement (whether or not initially capitalized) that are defined in the By-Laws and Rules of the Corporation have the meanings given to them in the By-Laws and Rules, unless expressly defined otherwise in this Agreement or unless the context requires a different meaning.

(h) **No Third-Party Beneficiaries.** Nothing contained in this Agreement is intended to confer upon any third party any rights, benefits or remedies of any kind or character whatsoever, and no third party shall be deemed a third-party beneficiary under or by reason of this Agreement.

(i) **Governing Law.** This Agreement shall be construed and enforced in accordance with and governed by the laws of the state of Illinois, without regard to conflict of laws provisions.

Section 19. Term/Termination.

(a) **Term.** Unless earlier terminated pursuant to Sections 19(b), 19(c), or 19(d), this Agreement shall have an initial term of five years, which shall be extended for two renewal terms of five years each, unless the Market gives notice of non-renewal at least six months prior to the end of the initial term or any renewal term.

(b) Termination of Development Agreement. This Corporation may terminate this Agreement upon written notice to the Market in the event of termination of the Development Agreement.

(c) Breach by Corporation of Section 6 or Section 7. If the Corporation, by reason of its actions or its failure to act, shall have breached in any material respect the provisions of Section 6 or Section 7 hereof, and if as a result of such breach transactions in Cleared Contracts effected on the Market and submitted to the Corporation for clearing are not timely cleared, then the Market may terminate this Agreement upon written notice to the Corporation.

(d) Other Grounds for Termination. The Corporation shall cease clearing Cleared Contracts for the Market and this Agreement shall terminate forthwith if (i)(A) the Market ceases to meet any legal or regulatory requirement necessary to list and trade Commodity Contracts following the Effective Date, (B) the Market terminates the trading of all Cleared Contracts, or (C) any of the representations of the Market in clause (c), (d), or (e) of Section 1 hereof cease to be accurate, or (ii)(A) the Corporation ceases to be registered as a derivatives clearing organization, or (B) its By-Laws or Rules cease to be in full force and effect in a material respect. The Corporation may cease clearing Cleared Contracts for the Market and terminate this Agreement upon at least 30 days prior written notice if the Market is in violation of this Agreement in any material respect, the Corporation provides the Market with written notice of the violation, and the Market fails to cure the violation within 30 days of receipt of the written notice describing the violation. The Market may terminate this Agreement at any time by giving the Corporation at least 60 days prior written notice; provided, however, that the Market shall to the best of its ability ensure that a secondary market is maintained in each series of Cleared Contracts that it has previously opened for trading until the expiration date of each such series, so that it remains possible for Clearing Members to clear through the Corporation transactions closing out positions in each such series that were open at the time of termination hereof.

(e) Transfer of Open Positions to Successor Clearing Organization. If this Agreement is terminated and the Market makes alternative clearing arrangements for transactions in Cleared Contracts executed on the Market thereafter, the Corporation, at the request of any Clearing Member and upon payment of a clearing fee of 7 cents per contract, shall enter into an assignment and assumption agreement satisfactory in form and substance to the Corporation wherein (i) the Corporation assigns to the Market's successor clearing organization (the "Successor") all of the Corporation's right, title and interest in and to such of the Clearing Member's open positions in Cleared Contracts traded on the Market as the Clearing Member may specify, (ii) the Successor assumes all of the Corporation's obligations in respect of such open positions, and (iii) the Successor and such Clearing Member agree to indemnify the Corporation and hold the Corporation harmless against any liability or obligation in respect of such open positions arising from and after the effective time of such assignment and assumption.

Section 20. Survival of Obligations.

Notwithstanding the termination of this Agreement, (a) the Corporation shall continue to be obligated with respect to any matched trade that it shall have accepted for clearance as a result of transactions effected on the Market before the date of termination, and (b) the obligation of the Market to indemnify the Corporation pursuant to Sections 16(b) and 16(c) hereof, and the

obligation of the Corporation to indemnify the Market pursuant to Sections 16(a) and 16(c) hereof shall survive such termination.

Section 21. Dispute Resolution; Submission to Jurisdiction; Jury Trial.

If any dispute, claim or controversy arises between the Market and the Corporation relating to this Agreement, and the most senior employee actively involved in the dispute on behalf of a party (in either case, the “Senior Disputant”) believes that the Corporation’s timely and unimpeded conduct of clearing services for the Market is threatened by the unresolved dispute, the Senior Disputant may notify the other party that a dispute exists. Such notice having been given, the Senior Disputant of each party shall without delay notify the Chief Executive Officer of such party, or if the Chief Executive Officer is not immediately available, the most senior officer of such party that is immediately available (in either case, the “Responsible Officer”), that a dispute exists between the parties. The Responsible Officers of the two parties shall thereupon endeavor in good faith to resolve the dispute and to mitigate its deleterious effects and shall confer with each other to those ends. For the judicial resolution of disputes the parties consent to the exclusive jurisdiction of the United States District Court in Chicago, Illinois, if such court has subject matter jurisdiction over the dispute; otherwise, the courts of Illinois situated in Chicago shall have exclusive jurisdiction. Each party waives any objection which it may have at any time to the laying of venue of any proceedings brought in any such court, waives any claim that such proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such proceedings, that such court does not have any jurisdiction over such party. To the fullest extent permitted by law, and as separately bargained for consideration, each party hereby waives any right to trial by jury in any action, suit, proceeding or counterclaim of any kind arising out of or relating to this Agreement.

Section 22. Notice of Regulatory Action.

The Corporation shall notify the Market of any action taken by a regulatory body or agency that, in the judgment of the Corporation, has or will have a material adverse effect on the Corporation’s performance of its obligations under this Agreement.

Section 23. System Redundancy, Disaster Recovery.

The Corporation maintains, and will continue to maintain, appropriate facilities for system redundancy and disaster recovery, subject to the general oversight of the SEC.

Section 24. Quality Standards.

All services provided by the Corporation to the Market shall be performed substantially in accordance with the By-Laws and Rules of the Corporation and applicable legal and regulatory requirements, and with the same level of care and quality that the Corporation provides to the Options Exchanges and futures markets that clear transactions through the Corporation. The Corporation shall use commercially reasonable efforts to maintain its counterparty credit rating of “AAA” by Standard & Poor’s or a comparable rating by another nationally recognized statistical rating organization.

Section 25. Limitation of Liability.

(a) Neither party shall be liable under any circumstances for incidental, consequential or special damages sustained by the other party under this Agreement, whether or not such damages relate to services covered by this Agreement, even if the party against which an award of damages is sought has been advised of the possibility of such damages; provided, however, that this Section 25 is not intended to limit the indemnification provisions of Section 16 or any other indemnification provisions in this Agreement to the extent that such provisions would otherwise cover incidental, consequential or special damages asserted by third parties against an indemnified party.

(b) Neither party shall be liable for its inability to perform its obligations under this Agreement when such inability arises out of causes beyond its reasonable control, including, without limitation, any act of God, act of war or terrorism, labor dispute, or the failure of any third party to provide any electronic, telecommunication or other service used in connection with the services covered by this Agreement. Each party agrees to notify the other promptly upon learning that any such event has occurred and shall cooperate with the other, upon request, in arranging alternative procedures and in otherwise taking reasonable steps to mitigate the effects of any inability to perform or any delay in performing.

Section 26. Effectiveness of Agreement.

On the Effective Date, and as conditions to the effectiveness of this Agreement, the CFTC shall have approved the rule change filed in respect of this Agreement or allowed such rule change to become effective; the Market shall have paid the fee required pursuant to Article XII of the Corporation's By-Laws; the Market shall deliver to the Corporation a certificate of a senior officer, in form and substance satisfactory to the Corporation, to the effect that the representations of the Market set forth in Section 1 hereof are true and accurate on such date, and the Corporation shall deliver to the Market a certificate of a senior officer, in form and substance satisfactory to the Market, to the effect that the representations of the Corporation set forth in Section 2 hereof are true and accurate on such date. The "Effective Date" of this Agreement shall be the date first above written provided that all conditions exist on that date such that the representations to be made under Sections 1 and 2 would be true or such later date when such conditions exist. If the Effective Date has not occurred on or before December 31, 2009, either party may terminate this Agreement, and each party shall bear its own costs in respect of such termination.

Section 27. Nonexclusive Agreement.

This Agreement is nonexclusive and nothing in this Agreement shall prevent (i) the Market from obtaining clearing arrangements from another party during the term of this Agreement or thereafter for Commodity Contracts traded on the Market, or (ii) the Corporation from providing clearing and settlement services to other markets.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first above written.

THE OPTIONS CLEARING CORPORATION

By: Michael E. Cahill
Name: MICHAEL E. CAHILL
Title: President & COO

ELX FUTURES L.P.

By: Neil Willett
Name: Neil Willett
Title: CEO

SCHEDULE A
DESCRIPTION OF CLEARING AND SETTLEMENT SERVICES

In accordance with the terms of this Agreement, the Corporation shall perform the following clearing functions:

1. **Trade Acceptance.** The Corporation shall receive matched trade submissions from the Market in accordance with the By-Laws, Rules, and procedures of the Corporation as in effect from time to time.

2. **Transfers.** The Corporation shall effect the transfer of positions between Clearing Members in accordance with the By-Laws, Rules and procedures of the Corporation as in effect from time to time.

3. **Exercise and Assignment.** The Corporation shall assign exercises in respect of options and future options in accordance with the By-Laws, Rules and Procedures of the Corporation as in effect from time to time.

4. **Position Maintenance and Settlement.** On a daily basis the Corporation shall calculate and collect original margin and variation margin on Cleared Contract trades and positions, and margin on positions in futures options and commodity options, in the accounts of Clearing Members. The Corporation shall settle the gains and losses associated with Cleared Contract trades and positions in the accounts of members at least once each business day. The Corporation shall provide settlement banks with instructions to transfer funds to and from accounts of Clearing Members to effect settlement.

5. **Physical Delivery.** The Corporation shall guarantee the performance of Clearing Members in meeting physical delivery contract terms in accordance with the By-Laws, Rules and procedures of the Corporation as in effect from time to time.

6. **Risk Management.** The Corporation shall clear Market transactions within the Corporation's clearing and risk management system and shall provide intraday surveillance and risk management support for Market transactions in accordance with the By-Laws, Rules and procedures of the Corporation as in effect from time to time.

7. **Collateral and Margins.** The Corporation shall produce options and futures risk arrays to be used by Clearing Members for the calculation of customer margins, provided that the Corporation shall not be required to calculate customer margins. Clearing level margins will be calculated using the System for Theoretical Analysis and Numerical Simulation ("STANS") methodology. The Corporation will use reasonable commercial efforts to establish a cross-margining arrangement between the Corporation and Fixed Income Clearing Corporation/The Depository Trust & Clearing Corporation for Market positions.

8. **Information for Clearing Members.** The Corporation will make available to each Clearing Member on every business day with respect to Cleared Contracts in each account

of such Clearing Member with the Corporation the following information, in machine readable format:

- a. transactions in Cleared Contracts accepted by the Corporation for each account of the Clearing Member;
 - b. give-up trades, position transfers and other transactions that are effected in accordance with the Corporation's "CMTA" and/or allocation procedures;
 - c. balances, records and reports on all trade and post trade activity;
 - d. EFP transactions, which will be identified as such by the Corporation using an available "data field" when such transactions are identified as such to the Corporation by the Market;
 - e. block trades, which will be identified as such by the Corporation using an available "data field" when such transactions are identified as such to the Corporation by the Market;
 - f. the daily mark-to-market of each open position;
 - g. amounts of money due to and from the Corporation from and to the Clearing Member; and
 - h. futures options and commodity options that the Clearing Member has exercised or been assigned the exercise, with the settlement date and amount receivable or payable by the Clearing Member in respect of each.
9. Pay/Collect. The Corporation will determine every Clearing Member's financial obligations to the Corporation each business day and require or make such payments as are necessary to discharge any balance owing in accordance with the Corporation's By-Laws and Rules.
10. Large Trader Reports. The Corporation will make available to the Market and/or the Clearing Member concerned such information as the Corporation may have that is necessary for the generation of any required large trader reports with respect to Cleared Contracts. The Market shall otherwise have responsibility for generating and filing such reports.
11. CMTA and/or Allocation Transactions. The Corporation will make the ENCORE system available to Clearing Members that are members of the Market for processing of CMTA and/or allocation transactions. The Corporation will provide any necessary training on the use of the ENCORE system to the Market and Clearing Members.
12. Delivery Allocation. The Corporation will initially replicate the "oldest long positions" delivery allocation methodology and process deliveries according to the current Chicago Board of Trade contract specifications, and will cooperate with ELX and its members to build requirements for an alternative delivery allocation methodology.

**SCHEDULE B
INFORMATION SHARING**

I. Information Provided by the Corporation to the Market

A. Information provided each trading day

The following information in respect of Cleared Contracts will be provided by the Corporation to the Market each trading day for regulatory and financial surveillance purposes and for purposes of reporting under CFTC Regulations 16.00 and 16.01:

1. Cleared Contracts Compliance Data Service, which includes:
 - Matched Trades – reflects cleared matched trades including transfers and adjustments
 - Allocation Activity – identifies physically-settled and cash settled futures.
 - Open Positions – reflects all open positions
 - Delivery Positions – reflects futures to be settled by physical delivery under Rules [901-912], including contracts for which settlement has been pended.
2. Open Interest—contains all open interest information by position by Cleared Contract
3. Price Data Service—settlement price data
4. Contract Master—product information
5. Give-ups—contains all information regarding executing and carrying firms
6. Exchange-for-physicals, block trades and other non-competitive trades—contains all information relating to such transactions.

B. Information provided as agreed upon by the Corporation and the Market:

1. Watch level reports when generated (monthly) for Clearing Members that are members of the Market
2. Notice of any establishment of higher margin requirements under Section 10 of the Agreement for a Clearing Member that is a member of the Market
3. Notice of any material change in the financial condition of a Clearing Member that is a member of the Market if the Corporation becomes aware of such change and

believes such change may have a material adverse effect on the ability of the Clearing Member to perform its obligations to the Corporation

4. Notice of (a) any Clearing Member default or (b) any suspension of, termination of, ceasing to act for, or liquidation of, any Clearing Member by the Corporation, if, in either case, the Clearing Member is a member of the Market
5. Notice of any disciplinary action taken by the Corporation against a Clearing Member that is a member of the Market involving material non-compliance with financial or financial reporting requirements or material violation of the rules of the Corporation

C. Information provided upon request

1. Results of margin stress-tests performed on Clearing Members who are members of the Market when requested by the Market on a Clearing Member-by-Clearing Member basis
2. The Corporation agrees that the Market shall have the right during normal business hours to examine the Corporation's books, accounts, database, pay/collect and other records, and at the Market's own expense to copy or make extracts from such documents and records and to utilize such database; provided that such examination does not unreasonably interfere with the Corporation's operations and, provided further that the Market shall have no such right with regard to transactions on any other futures market or Options Exchange or which is otherwise competitive information of another futures market or Options Exchange except insofar as (a) such transactions are entered into by members of the Market and are relevant to the Market's assessment of the financial condition of such member or (b) is necessary to protect the integrity of the Market.

II. Information to be provided by the Market to the Corporation

The Market agrees that whenever, in the performance of its functions of monitoring compliance by its members with the financial responsibility standards established by the Market or the financial responsibility standards established by the CFTC, it shall determine that (A) a Clearing Member is not in compliance with such standards, or (B) a Clearing Member is not in compliance with the financial responsibility standards established by the Corporation for its Clearing Members, or (C) the financial condition of a Clearing Member is such that special restrictions should be imposed on such Clearing Member, or (D) the financial condition of a Clearing Member should be reported to the Securities Investor Protection Corporation, the CFTC or any other regulatory body, the Market shall notify the Corporation thereof by telephone promptly following the making of such determination and shall continue to keep the Corporation reasonably informed of the results of the Market's financial surveillance activities in respect of such Clearing Member so long as the Clearing Member is subject to any such special restrictions. The Market further agrees to furnish to the Corporation a copy of all written materials that are furnished to the financial surveillance committee of the Market (the "Committee") respecting a Clearing Member, provided that if the Market does not have a Committee, it hereby agrees to furnish the Corporation with a copy of all written materials respecting the financial condition of

a Clearing Member relating to circumstances described in clauses (A) through (D) of the preceding sentence prepared for the management authority of the Market exercising financial surveillance or similar functions (the "management authority"). Such written materials shall be delivered to the Corporation as promptly as practicable, but in no event later than 2:00 p.m. Central Time on the business day next following the day on which such materials are furnished to the Committee or the management authority; provided that, upon the oral or written request of the Corporation, the Market shall make such materials available for pickup by the Corporation at the same time as they are furnished to the Committee or management authority. If the Market has a Committee, it also agrees (i) to notify the Corporation by telephone of each special or emergency meeting of the Committee (or regular meeting of the Committee called on less than 48 hours notice) concerning a Clearing Member prior to the commencement of such meeting, (ii) to advise the Corporation at the time of such notification as to the reasons for and purposes of such meeting, and (iii) to report by telephone to the Corporation immediately following the end of each meeting of the Committee (whether a regular or special or emergency meeting) as to the conclusions (if any) reached at such meeting concerning any Clearing Member and the reasons therefor. If the Market does not have a Committee, it also agrees to notify the Corporation of any action or proposed action concerning the financial condition of a Clearing Member to be taken by the management authority and the reasons therefor immediately upon making a determination concerning such Clearing Member.

Notwithstanding the provisions of Section 17 of this Agreement, any notice, written materials or telephone communication required to be furnished to the Corporation by this provision shall be delivered or made to any one of the Chairman, the Management Vice Chairman, or the President of the Corporation, or in case of the absence or unavailability of all of them, then to any Executive Vice President or Senior Vice President of the Corporation.

III. Information to be provided by either party to the other

If at any time either the Market or the Corporation becomes aware of the development of an excessive position or any other undesirable situation or practice that it believes is likely to have a material adverse impact upon trading in Commodity Contracts, it shall immediately notify the other party of such circumstances.

SCHEDULE C-[]

INTRODUCTION OF UNDERLYING INTERSET: [identify underlying interest]

[Date]

1. This is one of the Schedules C referred to in Section 3(b) of the Agreement for Clearing and Settlement Services dated _____, 2008 (the "Agreement") between ELX Futures L.P. (the "Market") and The Options Clearing Corporation (the "Corporation"). When completed and duly executed by the parties, this Schedule C shall be incorporated into the Agreement and become a part thereof. Terms used herein and defined in the Agreement shall have the meanings they are given in the Agreement.

2. [Insert information required by Section 3(b) of the Agreement, as relevant.]

IN WITNESS WHEREOF, the parties hereto have duly executed this Schedule as of the date first above written.

ELX FUTURES L.P.

THE OPTIONS CLEARING CORPORATION

By: _____
Name:
Title:

By: _____
Name:
Title:

APPENDIX A

Appendix A Products

Interest Rate Derivatives Futures and Options

- **US Treasuries**
- **Fed Funds**
- **Non-US Bonds (e.g., Bobl, Bund, Schatz, Buxl, JGB . . .)**
- **STIRS (e.g., Eurodollar, Eonia, Eonia Swap Index, Euribor, Short Sterling . . .)**

Equity Index Futures and Options on Index Futures (e.g., S&P 500, DJIA, Mini Dow, eMini Nasdaq . . .), subject to ELX obtaining any necessary licenses

Foreign Exchange Futures and Options

Energy Futures and Options (e.g., Crude, Heating Oil, Nat Gas, Unleaded, Propane, Ethanol . . .)

Metals Futures and Options (e.g., Platinum, Gold, Silver, Aluminum, Copper . . .)

Inflation Derivatives Futures and Options

Credit Derivatives Futures and Options (e.g., iTraxx, CDX Indices), subject to ELX obtaining any necessary licenses

Interest-Rate Swaps Futures and Options