



THE OPTIONS CLEARING  
CORPORATION

October 23, 2009

**VIA E-MAIL**

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

2009 OCT 23 PM 5 18  
O.F.T.O.  
OFFICE OF THE SECRETARIAT

**Re: Rule Filing SR-OCC-2009-18 Rule Certification**

Dear Mr. Stawick:

Attached is a copy of the above-referenced rule filing, which The Options Clearing Corporation ("OCC") is submitting pursuant to the self-certification procedures of Commission Regulation 40.6. This rule filing has been, or is concurrently being, submitted to the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (the "Exchange Act").

In conformity with the requirements of Regulation 40.6(a)(3), OCC states the following: The text of the rule is set forth at Item 1 of the enclosed filing. The date of implementation of the rule is when the proposed rule has been approved by the SEC. No substantive opposing views were expressed to OCC by governing board or committee members, clearing members of OCC, or market participants, that were not incorporated into the rule.

OCC hereby certifies that the rule set forth at Item 1 of the enclosed filing complies with the Commodity Exchange Act and the Commission's regulations thereunder.

JEAN M. CAWLEY

SENIOR VICE PRESIDENT AND DEPUTY GENERAL COUNSEL

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

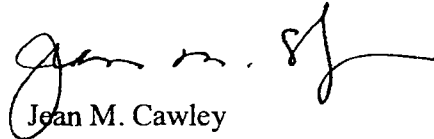
JCAWLEY@THEOCC.COM WWW.OPTIONSCLEARING.COM



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

Sincerely,

  
Jean M. Cawley

Attachments

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

OCC-2009-18 cftc.ltr

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

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Form 19b-4

Proposed Rule Change  
by

**THE OPTIONS CLEARING CORPORATION**

Pursuant to Rule 19b-4 under the  
Securities Exchange Act of 1934

**Item 1. Text of the Proposed Rule Change**

The Options Clearing Corporation (“OCC”) proposes to amend its Rules as set forth below for the purpose of allowing Clearing Members to deposit with OCC fully paid or excess margin securities carried for the account of a securities customer to the extent that such deposits are permitted pursuant to any interpretive guidance or no-action relief of the Securities and Exchange Commission (the “SEC” or the “Commission”) or a securities self-regulatory organization (“SRO”). Material proposed to be added to OCC’s By-Laws and Rules as currently in effect is underlined.

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

\* \* \*

**Chapter VI****Margins**

\* \* \*

**Form of Margin Assets**

RULE 604. To satisfy the margin requirements determined under Rule 601, a Clearing Member may deposit margin assets with the Corporation in the forms specified in paragraphs (a) – (c) of this Rule 604.

(a) [No change]

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

(1) – (4) [No change]

(5) No securities held for the account of a securities customer (other than a Market-Maker) may be deposited hereunder in respect of any account other than the customers’ account or the customers’ lien account. No securities held for the account of any Market-Maker shall be deposited in respect of any account other than such Market-Maker’s account in which such Market-Maker is a participant. No securities carried for the account of any securities customer that is either a “fully paid security” or an “excess

margin security” within the meaning of SEC Rule 15c3-3 shall be deposited with respect to any account hereunder except to the extent permitted pursuant to any interpretive guidance or no-action relief of the SEC or a self-regulatory organization (as defined in Section 3(a) of the Securities Exchange Act of 1934, as amended). Securities held for the account of a futures customer shall be held in accordance with the provisions of the Commodity Exchange Act and the regulations thereunder.

(c) – (f) [No change]

*Interpretations and Policies:* [No change]

\* \* \*

**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 July 28, 2009.

Questions regarding the proposed rule change should be addressed to Jean M. Cawley, Senior Vice President and Deputy General Counsel, at (312) 322-6269.

**Item 3. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

OCC’s rules currently prohibit Clearing Members from depositing with OCC any “fully paid securities” or “excess margin securities” within the meaning of Commission Rule 15c3-3, if carried for the account of a securities customer. The purpose of this proposed rule change is to allow such deposits to the extent permitted pursuant to the Commission’s or an SRO’s interpretive guidance or no-action relief with respect to Commission Rule 15c3-3. The purpose of the limitations on deposits of fully paid and excess margin securities is to conform OCC’s requirements with respect to such securities to those of Rule 15c3-3. However, a Commission no-action letter and related New York Stock Exchange interpretations permit fully paid or excess margin securities carried in a customer account to be deposited with OCC in two situations. First, where a customer makes a specific deposit (see OCC Rule 610(e) and (f)) of

fully paid or excess margin securities with a Clearing Member for purposes of securing its obligations as an option writer, the Clearing Member may in turn, deposit the securities with OCC.<sup>1</sup> Second, any fully paid or excess margin securities held by a Clearing Member to secure a customer's obligations may be posted as margin with OCC to the extent of 140% of the difference between the daily marking price deposits required from such Clearing Member by OCC and the original proceeds of the customer's transaction.<sup>2</sup> The rule change proposed herein would permit deposits of fully paid or excess margin securities in these situations as well as to the extent permitted by any future interpretive guidance or relief of the Commission or an SRO.

\* \* \*

The proposed change to OCC's By-Laws and Rules is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended, because it is designed to safeguard securities and funds related to the clearance and settlement of securities transactions for the protection of investors. The rule change accomplishes this purpose by allowing deposits of fully paid and excess margin securities held for a customer's account to the extent permitted by Commission or SRO no-action relief or interpretive guidance. The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

**Item 4. Self-Regulatory Organization's Statement on Burden on Competition**

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

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<sup>1</sup> NYSE Interpretation Handbook, Rule 15c3-3(c), Interpretation /01, citing 1975 SEC No Action Letter (Feb. 11, 1975).

<sup>2</sup> NYSE, Inc., NYSE Rule Interpretations Handbook, Interpretation Memo No. 04-3, Rule 505(c)(1)/020 (June 2004).

**Item 5. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others**

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

**Item 6. Extension of Time Period for Commission Action**

OCC does not consent to an extension of the time period specified in Section 19(b)(2) of the Act.

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

Not applicable.

**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 change of another self-regulatory organization.

**Item 9. Exhibits**

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

**SIGNATURES**

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

**THE OPTIONS CLEARING CORPORATION**

By:

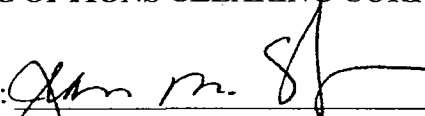
  
\_\_\_\_\_  
Jean M. Cawley  
Senior Vice President  
and Deputy General Counsel



EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34-\_\_\_\_\_ ; File No. SR-OCC-2009-18

SELF-REGULATORY ORGANIZATION

Proposed Rule Change By  
The Options Clearing Corporation

Relating to Deposits of "Fully Paid  
Securities" or "Excess Margin Securities"

Comments requested within \_\_\_\_\_ days  
after the date of this publication.

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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 allow "fully paid securities" or "excess margin securities" deposits to the extent permitted pursuant to the Commission's or an SRO's interpretive guidance or no-action relief with respect to Commission Rule 15c3-3.

## **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**

OCC's rules currently prohibit Clearing Members from depositing with OCC any "fully paid securities" or "excess margin securities" within the meaning of Commission Rule 15c3-3, if carried for the account of a securities customer. The purpose of this proposed rule change is to allow such deposits to the extent permitted pursuant to the Commission's or an SRO's interpretive guidance or no-action relief with respect to Commission Rule 15c3-3. The purpose of the limitations on deposits of fully paid and excess margin securities is to conform OCC's requirements with respect to such securities to those of Rule 15c3-3. However, a Commission no-action letter and related New York Stock Exchange interpretations permit fully paid or excess margin securities carried in a customer account to be deposited with OCC in two situations. First, where a customer makes a specific deposit (see OCC Rule 610(e) and (f)) of fully paid or excess margin securities with a Clearing Member for purposes of securing its obligations as an option writer, the Clearing Member may in turn, deposit the securities with OCC.<sup>1</sup> Second, any fully paid or excess margin securities held by a Clearing Member to secure a

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<sup>1</sup> NYSE Interpretation Handbook, Rule 15c3-3(c), Interpretation /01, citing 1975 SEC No Action Letter (Feb. 11, 1975).

customer's obligations may be posted as margin with OCC to the extent of 140% of the difference between the daily marking price deposits required from such Clearing Member by OCC and the original proceeds of the customer's transaction.<sup>2</sup> The rule change proposed herein would permit deposits of fully paid or excess margin securities in these situations as well as to the extent permitted by any future interpretive guidance or relief of the Commission or an SRO.

\* \* \*

The proposed change to OCC's By-Laws and Rules is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934, as amended, because it is designed to safeguard securities and funds related to the clearance and settlement of securities transactions for the protection of investors. The rule change accomplishes this purpose by allowing deposits of fully paid and excess margin securities held for a customer's account to the extent permitted by Commission or SRO no-action relief or interpretive guidance. The proposed rule change is not inconsistent with the existing rules of OCC, including any other 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.

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<sup>2</sup> NYSE, Inc., NYSE Rule Interpretations Handbook, Interpretation Memo No. 04-3, Rule 505(c)(1)/020 (June 2004).

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

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

**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](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2009-18 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-2009-18. 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-2009-18 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: \_\_\_\_\_