



THE OPTIONS CLEARING
CORPORATION

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OFFICE OF THE SECRETARIAT

November 17, 2008

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-2008-18 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 or may otherwise be implemented under the Exchange Act. 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

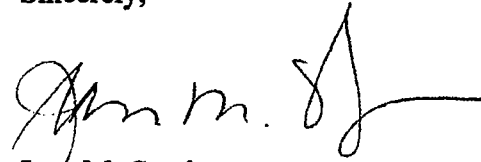
JCAWLEY@THEOCC.COM WWW.OPTIONSCLEARING.COM



Mr. David A. Stawick
Page Two
November 17, 2008

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

Sincerely,



Jean M. Cawley

Attachments

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

OCC-2008-18 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 the Third Amended and Restated Options Exercise Settlement Agreement between OCC and National Securities Clearing Corporation (“NSCC”) as set forth in Amendment No. 2 thereto, attached hereto as Exhibit 5.

Item 2. Procedures of the Self-Regulatory Organization

The proposed rule change was approved on November 14, 2008 by OCC’s Membership/Risk Committee and by its Chairman and Chief Executive Officer.

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

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

The purpose of the proposed rule change is to reduce the burden on clearing members of OCC that are also members of NSCC that results from duplicative margin requirements relating to option exercises and assignments, and to allow clearing members to use stock deposited as margin with OCC to meet settlement obligations at NSCC.

OCC and NSCC are parties to a Third Amended and Restated Options Exercise Settlement Agreement dated as of February 16, 1995, as amended (the “OCC/NSCC Accord”), which provides for a two-way guaranty between OCC and NSCC of the mark-to-market amounts for which NSCC has guaranteed settlement. Through this rule change, OCC seeks approval for

an Amendment No. 2 to the OCC/NSCC Accord (the "Amendment") that would address the matters stated above.

Under the OCC/NSCC Accord as currently in effect, OCC guarantees to NSCC the performance by NSCC members of settlement obligations resulting from E&A positions, with the amount guaranteed by OCC in respect of the performance of an NSCC member's settlement obligation equal to the smaller of the "Net Member Debit to NSCC" and the "Calculated Margin Requirement" in respect of the NSCC member. OCC can make this guarantee because it continues to margin E&A activity through the settlement date. (In the case of E&A activity resulting from exercises at expiration ("Expiration E&A Activity"), the settlement date is normally the Wednesday after expiration.) Similarly, NSCC guarantees to OCC the smaller of the "Net Member Debit to OCC" and the "Calculated Margin Credit." NSCC can make this guarantee because it collects risk-based margin on the member's entire portfolio of E&A activity.¹

Both OCC and NSCC collect margin in respect of E&A positions through settlement, calculated utilizing risk-based margining methodologies, which include volatility charges. OCC collects risk margin to cover (i) the risk that NSCC might decline to settle a defaulting member's pending E&A activity,² thereby forcing OCC to guarantee buy-ins and sell-outs, and (ii) the risk that the market might move against E&A positions accepted by NSCC for settlement, thereby increasing OCC's potential liability to NSCC under the OCC/NSCC Accord. NSCC collects a

¹ Because OCC marks E&A activity to the market, and guarantees that amount to NSCC, NSCC does not mark E&A positions to the market. However, it does collect VAR margin to cover potential losses in liquidating E&A positions.

² Under its rules, NSCC's guaranty does not attach until midnight on T+1. (For exercises on expiration weekend, T+1 is normally the following Monday.)

volatility charge because OCC's liability under the OCC/NSCC Accord is limited to the negative mark-to-market value of E&A positions as of the close on the day before the member was suspended. To a considerable degree, NSCC's VAR margin and OCC's risk margin overlap, covering the same risk.

This dual obligation to OCC and NSCC in respect of E&A positions may constitute a significant temporary financial burden on NSCC members and OCC clearing members, particularly during the three business days following options expiration each calendar month. This burden has significantly grown as recent market conditions have caused an increase in the volatility charges of both clearing corporations. The Amendment addresses this problem in two ways. First, it accelerates NSCC's guarantee of Expiration E&A Activity to the time on T+1 when the member meets its morning NSCC clearing fund requirement instead of midnight.

Second, it provides that in calculating OCC's obligations to NSCC, Expiration E&A Activity would be marked to the previous day's close only: (i) on T+1 (because even if the member failed to settle with OCC on T+1, OCC would be holding risk margin collected on T to cover that risk), and (ii) on T+2 and T+3 if, and only if, OCC had collected that morning's mark-to-market payment. If the member failed before OCC collected that morning's mark, pending Expiration E&A Activity would be marked to the second previous day's close. (See the example at the end of paragraph 3 of the Amendment.)

The combined effect of these two changes is to enable OCC to stop collecting risk margin on Expiration E&A Activity after the morning of T+1. Once the member met its morning clearing fund requirement at NSCC on T+1, NSCC would be responsible for settling those positions, and OCC could not be liable to NSCC under the Accord for more than the mark-

to-market that OCC had already collected, so there would be no risk to be margined. NSCC's risk in this regard would be covered by its collection of margin.

OCC estimates that if this arrangement had been in place during recent months, it would have reduced daily margins for OCC clearing members during the week after expiration by \$2 billion in August (affecting 89 members), \$3.7 billion in September (93 members), and \$3 billion in October (95 members). The Amendment is intended to mitigate burdens on NSCC and OCC members while retaining adequate margin to protect both OCC and NSCC.

In order to further mitigate financial burden and facilitate the settlement, on any exercise settlement date, of the settlement obligations relating to assigned short positions, OCC and NSCC, together with DTC, have established a program to permit an NSCC member that has a security deliver obligation on an exercise settlement date with respect to an assigned short position to request OCC to release underlying securities pledged to it at DTC by the NSCC member to meet the NSCC member's OCC margin or cover requirement, so that the NSCC member may fully or partially complete its continuous net settlement security deliver obligation at NSCC on such exercise settlement date. Some OCC members use stock held at DTC and pledged to OCC as a "specific deposit" to cover short positions. However, if the short position is assigned, the member has to obtain other stock to deliver to NSCC. OCC will release the specific deposit once the member settles with NSCC, but obtaining stock to deliver to NSCC can strain the member's liquidity. Until recently, clearing members expressed little or no interest in using systems designed to allow members to use deposited stock to meet settlement obligations at NSCC if covered positions were assigned. However, clearing members have

expressed increased interest given current demands on member liquidity. For OCC to be able to activate these systems, the Amendment will exclude positions settled by the delivery of specific deposits from the calculation of OCC's guarantee exposure. OCC also needs to do some minor coding and testing. In order to avoid the need for a separate amendment when that work is completed, the necessary amendment is included in Section 4 of the Amendment attached hereto as Exhibit 5. Section 4 will become effective when NSCC and OCC jointly announce that the systems are ready for use.

The Amendment recites that it will be in effect until November 1, 2009 unless further extended by mutual agreement. The reason for this "sunset" provision is that OCC and NSCC intend to restate the OCC/NSCC Accord in its entirety in order to address and clarify various issues.

* * *

The Amendment is consistent with the purposes and requirements of Section 17A of the Exchange Act because it is designed to promote the prompt and accurate clearance and settlement of options exercises and assignments, to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of such transactions, and, in general, to protect investors and the public interest. It accomplishes this purpose by eliminating duplicative margin requirements and providing more efficient stock settlement procedures where stock required to be delivered to NSCC is pledged to OCC. The Amendment is not inconsistent with the existing By-Laws and Rules of OCC.

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

OCC does not believe that the Amendment would impose any material burden on competition.

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

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

Item 6. Extension of Time Period for Commission Action

OCC does not consent to an extension of the time period for Commission action on the Amendment.

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

OCC hereby requests accelerated effectiveness pursuant to Section 19(b)(2) because of the importance of having this relief in place for the week following the November expiration on November 22, 2008.

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

The Amendment is not based on a rule change of another self-regulatory organization or of the Commission except to the extent that the Amendment attached hereto as Exhibit 5 constitutes "rules," for purposes of Commission Rule 19b-4, of NSCC.

Item 9. Exhibits

Exhibit 1 Completed notice of the Amendment for publication in the Federal

Register.

Exhibit 5 Amendment No. 2 to Third Amended and Restated Options

Exercise Settlement Agreement between OCC and NSCC.

SIGNATURES

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

THE OPTIONS CLEARING CORPORATION

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