

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-57543; File No. SR-OCC-2008-03)

March 20, 2008

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Cross-Margining

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ notice is hereby given that on January 29, 2008, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act² and Rule 19b-4(f)(4)³ thereunder so that the proposal was effective upon filing with the Commission. 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 Substance of the Proposed Rule Change

The proposed rule change amends Article VI, Clearance of Exchange Transactions, Section 24, Cross-Margining With Participating CCOs, paragraph (c) of OCC’s By-Laws so that additional OCC-cleared products may be more easily added in the future by amending only the relevant Cross-Margining Agreement and not the By-Law provision.

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

In its filing with the Commission, OCC included statements concerning the purpose of

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78s(b)(3)(A)(iii).

³ 17 CFR 240.19b-4(f)(4).

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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.⁴

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

Existing cross-margining programs between OCC and certain other commodity clearing organizations (each a “CCO”) permit positions in index futures and options on such futures cleared by the CCO to be cleared in a special proprietary or non-proprietary cross-margining account (“X-M Account”) at the CCO which is paired with a corresponding X-M account (proprietary or non-proprietary, as the case may be) at OCC in which securities options are cleared. A non-proprietary X-M account is limited to options market-makers and other “market professionals.” The non-proprietary cross-margining accounts are treated as futures customer accounts in that they are carried subject to the segregation provisions of Section 4d of the Commodity Exchange Act rather than as securities accounts subject to the Commission’s Rule 15c3-3 and other customer protection rules under the Act. Paired X-M Accounts may be established by a “joint clearing member” of OCC and the CCO or by a “pair of affiliated clearing members,” one of which is a clearing member of OCC and the other of which is a clearing member of the CCO. The paired X-M Accounts are treated for margin purposes as if they were a single account, making it possible to margin the paired X-M Accounts based on the net risk of the potentially offsetting positions within them.

⁴ The Commission has modified parts of these statements.

In referring to the types of cleared contracts that may be carried in an X-M Account at OCC, paragraph (c) of Section 24 of Article VI of OCC's By-Laws presently refers only to options. The purpose of the proposed rule change is to expand this reference to include security futures, as defined in the Act and in the CEA, on exchange-traded funds ("ETFs") based on broad-based securities indices and any other cleared contract, as defined in OCC's By-Laws, that has been approved for cross-margining by OCC's Board of Directors.⁵ The precise types of contracts that can be included in X-M Accounts in any particular cross-margining program are identified in a Cross-Margining Agreement between OCC and the CCO. The existing cross-margining programs are limited to index options and OCC-cleared options on ETFs and index futures cleared by a CCO. The immediate reason for expanding the types of cleared products that may be included in X-M Accounts at OCC is to permit security futures on ETFs based on broad-based securities indices to be included.⁶ However, OCC has determined to amend Article VI, Section 24(c) to make it as broad as possible so that additional OCC-cleared products may be added in the future by amending only the relevant Cross-Margining Agreement and not this By-Law provision.

⁵ "Cleared contract" is defined in Article I of OCC's By-Laws to mean "a cleared security or a commodity future or futures option that is cleared by the Corporation." The term "cleared security" is defined as "an option contract (other than a futures option), a security future or a BOUND." In effect, therefore, the term "cleared contract" includes any derivative contract cleared by OCC.

⁶ The Chicago Mercantile Exchange Inc. ("CME") also clears security futures contracts, which are reported to OCC under the terms of the Associated Clearinghouse Agreement between the organizations. Securities Exchange Act Release No. 46653 (October 11, 2002), 67 FR 64689 (October 21, 2002) (File No. SR-OCC-2002-07). Under the terms of the OCC-CME cross-margining agreement, such CME-cleared security futures are eligible contracts for purposes of cross-margining. However, OCC will not treat security futures on broad-based indices as eligible contracts until the CFTC issues an order providing relief from certain provisions of Section 4d(a) of the Commodity Exchange Act to permit the inclusion of such contracts as eligible contracts for purposes the OCC-CME cross-margining program.

The inclusion of security futures in cross-margining is not novel. Under Article VI, Section 25 of the By-Laws, OCC's own internal cross-margining program for non-proprietary accounts already includes OCC-cleared security futures along with all other cleared securities that may be cross-marginated against any OCC-cleared futures products that are cleared by OCC in its capacity as a derivatives clearing organization regulated by the CFTC. Unlike the other cross-margining accounts, the internal cross-margining accounts are not limited to index options, index futures, and OCC-cleared ETF options. OCC has broad authority to designate any cleared contract as eligible for these accounts provided the contract has sufficient price correlation with other eligible contracts to provide significant risk reduction when positions are on opposite sides of the market. As a result, no rule change is needed to allow OCC to include futures on ETFs in these accounts. Moreover, cross-margining of all OCC-cleared securities with OCC-cleared futures and futures options occurs automatically in the firm account and other proprietary accounts because OCC's By-Laws permit any OCC-cleared contract to be carried in these accounts.

The proposed rule change is consistent with the purposes and requirements of Section 17A of the Act because it enhances the utility of existing cross-margining programs by permitting the inclusion of products that did not exist at the time the cross-margining programs were established. Cross-margining enhances the safety of the clearing system while providing lower clearing margin costs to participants. Therefore, expanding the positions that may be included in X-M Accounts is beneficial to the clearing system and its participants. The proposed rule change is not inconsistent with the other 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)(iii) of the Act⁷ and Rule 19b-4(f)(4)⁸ promulgated thereunder because the proposal effects a change in an existing service of OCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of OCC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission could summarily abrogate such rule change if it appears to the Commission that such action was 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

⁷ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸ 17 CFR 240.19b-4(f)(4).

- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-OCC-2008-03 on the subject line.

Paper comments:

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

All submissions should refer to File Number SR-OCC-2008-03. 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 Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. Copies of such filing also will be available for inspection and copying at the principal office of OCC. 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-2008-03 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁹

Florence E. Harmon
Deputy Secretary

⁹ 17 CFR 200.30-3(a)(12).