

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-58977; File No. SR-OCC-2008-09)

November 19, 2008

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to Eligible Margin Assets

I. Introduction

On May 15, 2008, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-OCC-2008-09 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”).¹ Notice of the proposal was published in the Federal Register on August 19, 2008.² No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

The primary purpose of this rule change is to eliminate, as eligible forms of margin assets, foreign currency and letters of credit denominated in a foreign currency.

Background

The Philadelphia Stock Exchange, Inc. (“Phlx”) has delisted all physical delivery foreign currency and cross-rate foreign currency options (collectively, “currency options”) and has advised OCC that it does not presently plan to list contracts requiring foreign currency delivery. To support premium and exercise settlement for such currency options, OCC has maintained in various countries bank accounts that also have been used from time to time to hold margin deposits in foreign currencies. With the delisting of physical delivery currency options, these accounts are no longer needed for operational reasons. Few clearing members have deposited

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 58347 (August 12, 2008), 73 FR 48419.

foreign currencies as margin with OCC and only then in de minimis amounts, and no such deposits are currently held by OCC. In light of the limited and infrequent use of this margin asset class by clearing members, OCC has determined to close its foreign currency accounts for cost saving purposes. Closing these accounts means that OCC will no longer have the operational capability to accept foreign currency for margin purposes, and accordingly, OCC is modifying its rules to delete this asset class. Letters of credit denominated in a foreign currency have never been posted with OCC by clearing members, and their acceptance will be eliminated as well.

Rule Changes

To eliminate these forms of margin assets, OCC is amending Rule 604. Specifically, references to deposits of foreign currencies are being deleted from paragraph (a), which relates to cash margin deposits. References to letters of credit denominated in a foreign currency are being deleted from paragraph (c). Other technical, conforming changes will be made to paragraph (c) to reflect such deletion. Because amended paragraph (c) specifies that letters of credit are to be denominated in U.S. dollars, specific references to U.S. dollar denominated letters of credit are being removed from Interpretations and Policies .03 and .08 under Rule 604. Interpretation and Policy .09 is being deleted in its entirety as it solely relates to deposits of letters of credit denominated in a foreign currency.

For rule transparency purposes, OCC is also inserting a notice at the beginning of the By-Law articles and Rule chapters that relate to physical delivery currency options (i.e., Articles XV and XXI and Chapters XVI and XXII) to inform readers that such provisions are inoperative until further notice by OCC.

III. Discussion

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.³ The Commission finds the proposed rule change to be consistent with this requirement because it eliminates a margin asset class that was seldom used by clearing members for margin deposits. In addition, having foreign currencies on deposit is no longer required operationally for OCC to support premium and exercise settlement due to the delisting of all physical delivery currency options. Accordingly, the proposed rule should not affect OCC's obligation to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

³ 15 U.S.C. 78q-1(b)(3)(F).

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2008-09) be and hereby is approved.⁴

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.⁵

Florence E. Harmon
Acting Secretary

⁴ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

⁵ 17 CFR 200.30-3(a)(12).