

SECURITIES AND EXCHANGE COMMISSION
(Release No. 34-55716; File No. SR-OCC-2006-15)

May 7, 2007

Self-Regulatory Organizations; The Options Clearing Corporation; Order Granting Approval of a Proposed Rule Change Relating to the Approval of Fund Shares Deposited as Margin

I. Introduction

On August 31, 2006, The Options Clearing Corporation (“OCC”) filed with the Securities and Exchange Commission (“Commission”) proposed rule change SR-OCC-2006-15 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 March 29, 2007.² No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

II. Description

The proposed rule change eliminates the requirement that OCC’s Membership/Risk Committee approve classes of fund shares (e.g., ETFs) for deposit as margin. It deletes Interpretation and Policy .11 to Rule 604, Forms of Margin, which requires that OCC’s Membership/Risk Committee approve classes of fund shares for deposit as margin. Committee approval was deemed to be a prudent safeguard when OCC began accepting fund shares for deposit in 1997 because fund shares had only been trading since 1993, and OCC was not as familiar with them as it is today.³ In 1998, OCC began clearing options on fund shares.⁴ Since

¹ 15 U.S.C. 78s(b)(1).

² Securities Exchange Act Release No. 55504 (March 21, 2007), 72 FR 14844.

³ Securities Exchange Act Release No. 39104 (September 22, 1997), 62 FR 50647 (September 29, 1997) (File No. SR-OCC-97-01).

⁴ Securities Exchange Act Release No. 40132 (June 25, 1998), 63 FR 36467 (July 6, 1998) (File No. SR-OCC-97-02).

then, fund shares have become a widely used investment tool, and OCC has developed a broad understanding of the fund share marketplace. In light of these developments, OCC believes that fund shares should be accepted as margin under the same conditions that apply to the deposit of other equity securities without the need for Committee approval.

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.⁵ OCC's Rule 604 provides that OCC may accept cash, letters of credit, and certain types of liquid securities. In our approval order of the 1997 proposed rule change to allow OCC to accept fund shares as margin, we noted that fund shares are typically traded and cleared like common stock and are typically held in book-entry form at a securities depository in which OCC can readily perfect a security interest.⁶ Given the liquid nature of fund shares and OCC's increased experience with evaluating the risks associated with fund shares, we are satisfied with OCC's determination that it is no longer necessary for its Membership/Risk Committee to approve classes of fund shares before the fund shares can be deposited as margin. 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

⁵ 15 U.S.C. 78q-1(b)(3)(F).

⁶ Securities Exchange Act Release No. 39104 (September 22, 1997), 62 FR 50647 (September 29, 1997) (File No. SR-OCC-97-01).

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.⁷

IT IS THEREFORE ORDERED, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-2006-15) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁸

Florence E. Harmon
Deputy Secretary

⁷ 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).

⁸ 17 CFR 200.30-3(a)(12).

