

## PARTIAL AMENDMENT

The Options Clearing Corporation (“OCC”) hereby submits this partial amendment, constituting Amendment No. 1, to its rule filing SR-OCC-2010-04, in which OCC proposed to amend its by-laws and rules to revise the formula for determining the total size of OCC’s clearing fund. This partial amendment is being filed to accommodate comments recently received from the staff of the Securities and Exchange Commission (the “Staff”) regarding the initial rule filing. Material proposed to be added to the rule filing as originally submitted is marked by double underlining.

### A. Amendments to Item 1.

1. *In order to amend the proposed rule change as originally filed, OCC is amending Rule 1001 as follows:*

#### ... Interpretations and Policies:

.01 Notwithstanding the foregoing provisions of Rule 1001, in no event shall the total size of the clearing fund be set at less than \$1 billion.

.02 For purposes of determining the total size of the clearing fund, the Corporation shall not use confidence levels of less than 99%.

### B. Amendment to Item 3.

1. *In order to reflect the establishment of a minimum clearing fund size, OCC is amending the second paragraph of Item 3 as follows:*

Under the proposed formula for determining the size of the clearing fund, the level of the fund would be equal to the larger of the amount of the charge to the fund that would result from (i) a default by the single Clearing Member Group whose default would be likely to result in the largest draw against the clearing fund, or (ii) an event involving the near-simultaneous default of two randomly-selected Clearing Member Groups, in each case as calculated by OCC with a specified confidence level. Initially, the confidence levels employed by OCC in calculating the charge likely to result from a default by OCC’s largest Clearing Member Group and the default

of two randomly-selected Clearing Member Groups would be 99% and 99.9%, respectively.

However, OCC would have the discretion to employ different confidence levels in these calculations in the future, provided that OCC would not employ confidence levels of less than 99% without filing a rule change with the Commission. The size of the clearing fund would continue to be recalculated monthly, based on a monthly averaging of daily calculations for the previous month, subject to a requirement that the total clearing fund size be not less than \$1 billion. The minimum clearing fund size requirement was established in connection with discussions between OCC and the Commission's staff regarding this proposed rule change.

*The second paragraph in Section II.A. in Exhibit I to the filing (i.e., the draft Federal Register notice) would be similarly amended.*

2. *In order to memorialize OCC's discussions with the Staff regarding the comparative data appearing in the fourth paragraph of Item 3, OCC is amending that paragraph as follows:*

In considering whether to revise the formula for determining the size of the clearing fund, OCC compared the size of the clearing fund that would have resulted from application of the revised formula to the actual size of the clearing fund for each month from February 2008 through September 2009.<sup>3</sup> This analysis revealed that, for this time period, the size of the clearing fund under the revised formula would have been on average 10% larger than under the current formula. In September and October 2008, two months of extreme volatility in the U.S. securities markets, the revised formula would have resulted in a clearing fund size of approximately 31% and 27% greater than under the current formula. The average monthly

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<sup>3</sup> Data was obtained prior to the implementation of the rule changes described in SR-OCC-2007-20. Accordingly, the data does not take into account the effect on the Clearing Fund size calculation of the new rule allowing for certain securities to be analyzed as a single portfolio using OCC's System for Theoretical Analysis and Numerical Simulations risk management methodology to more accurately measure the risk in Clearing Members' accounts and permit OCC to set margin requirements to more precisely reflect such risk.

change in the size of the clearing fund and the standard deviation of clearing fund size from month to month for this time period under the two formulas were broadly similar.<sup>4</sup>

*The fourth paragraph of Section II.A. in Exhibit 1 to the filing (i.e., the draft Federal Register notice) would be similarly amended.*

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<sup>4</sup> Note the comparative data described in this paragraph was obtained using confidence levels set at 99% and above. OCC estimates that using only a 99% confidence level for the months referenced would have lowered by an average of approximately ½% the total size of the clearing fund as determined by the proposed methodology.