

THE OPTIONS CLEARING CORPORATION

POLICY STATEMENT

In Regard to Confidential Information Disclosed to it by Participant Markets

WHEREAS, The Options Clearing Corporation (the “Corporation”) clears and settles transactions submitted to it for such purposes by entities having clearing and settlement agreements with the Corporation (each such entity, a “Participant Market”);

WHEREAS, in the course of its business the Corporation has access to Confidential Information (as defined below) belonging to Participant Markets and requiring protection from unauthorized disclosure or use while in the possession of the Corporation;

WHEREAS, the Corporation believes that it is desirable to set forth its obligations to protect Confidential Information from unauthorized disclosure or use, and also certain limitations on such obligations and certain rights retained by the Corporation;

NOW, THEREFORE, in consideration of the continuing willingness of the Participant Markets to furnish Confidential Information to the Corporation, the Corporation hereby publishes this policy statement, with immediate effect, intending that the obligations set forth herein shall be enforceable against the Corporation by Participant Markets, subject to the limitations on such obligations and the retained rights set forth herein.

Section 1. Definition of “Confidential Information.” “Confidential Information” includes, but is not limited to, information which relates or refers to a Participant Market’s products and services, operations, customers, members, prospects, know-how, design rights, trade secrets, market information, business affairs, information provided to the Corporation pursuant to its By-Laws and Rules and the trades, positions, and financial condition of members of or participants in the Participant Market. All such information disclosed to the Corporation by the Participant Market, whether orally, in writing or electronically, or whether directly or indirectly, shall be deemed to be Confidential Information. Notes, documents, summaries and reports which are prepared from Confidential Information, to the extent specifically referring to Confidential Information, are themselves Confidential Information.

Section 2. Obligations of the Corporation. Subject to Sections 4 and 5 below, the Corporation (1) will treat all Confidential Information as strictly confidential and shall exercise the same degree of care in the protection of the Confidential Information as it exercises with respect to its own confidential information, but in no event shall it be less than a reasonable degree of care, given the nature of the Confidential Information; (2) shall not use the Confidential Information of a Participant Market for any purpose other than fulfilling its obligations to the Participant Market; and (3) shall not disclose Confidential Information received from a Participant Market to any person or entity, except its employees, officers, directors, governors, independent consultants and other agents involved in the performance of the obligations of the Corporation who have a legal obligation to the Corporation that prohibits

the disclosure or unauthorized use of information deemed confidential by the Corporation (“Authorized Persons”).

Section 3. Intellectual Property Rights. All intellectual property rights associated with any Confidential Information, including, without limitation, patent, trademark, copyright and trade secret rights, shall remain with the Participant Market possessed of such rights.

Section 4. Limitations of Obligations. The Corporation’s obligations hereunder shall not extend to (1) information that is already in the possession of the Corporation or its Authorized Persons and not under a duty of non-disclosure; (2) information which is generally known or revealed to the public; (3) information which is revealed to the Corporation or its Authorized Persons by a third party, unless such party is known by the Corporation to be under a duty of non-disclosure; (4) information which the Corporation or its Authorized Persons develop independently of the disclosure; or (5) incorporating Confidential Information relating to the trades, positions and/or financial condition of Participant Market members into statistical information relating to groups of unnamed clearing members of the Corporation or clearing members of the Corporation generally.

Section 5. Right to Disclose Confidential Information in Certain Circumstances. Notwithstanding any other provision of this Policy Statement or the By-Laws and Rules of the Corporation, the Corporation may disclose Confidential Information (1) to a government agency with jurisdiction over the Corporation, (2) in the course of fulfilling any of the Corporation’s regulatory responsibilities, including responsibilities to share information with other regulatory or self-regulatory bodies, or (3) subject to the following sentence, in response to a subpoena or other validly issued judicial process. In the event that the Corporation receives such a subpoena or other validly issued judicial process requesting disclosure of Confidential Information received from a Participant Market, the Corporation shall, to the extent permitted by law or applicable regulation, provide as much advance actual notice of such receipt as is practicable in the circumstances to the General Counsel of the Participant Market, in order to provide the Participant Market with a reasonable opportunity to intervene in the proceeding before the time that the Corporation is required to comply with such subpoena or other process, and shall use its reasonable efforts to limit the extent of any such disclosure.

Section 6. Equitable Relief. The Corporation acknowledges that a Participant Market providing Confidential Information, because of the nature of such Confidential Information, would suffer irreparable harm in the event of a material breach of the provisions of this Policy Statement in that monetary damages would be inadequate to compensate for such a breach, and that in the event of any material breach or threatened material breach of any such provisions by the Corporation, the Participant Market shall be entitled, in addition to such other legal or equitable remedies which might be available, to the remedies of injunction, specific performance and other equitable relief in any court of competent jurisdiction against the threatened material breach or continuation of any such material breach without showing or providing any actual damages sustained by it.

Section 7. Services of Corporation to Third Parties. The obligations of the Corporation hereunder to any Participant Market shall not restrict the Corporation from

providing clearing or other services to other Participant Markets, provided that the Corporation shall neither make use of the Confidential Information of such Participant Market in connection with such other services except as permitted herein, nor otherwise violate any of the provisions of this Policy Statement in connection therewith. Mere possession of Confidential Information by the Corporation shall not be deemed to constitute “use” thereof for purposes of this Policy Statement.

Section 8. **Other Agreements.** The obligations of the Corporation hereunder shall be in addition to the Corporation’s obligations under any agreement heretofore or hereafter entered into with a Participant Market.