

6. Letter from Jack Ehnes, CEO, California State Teachers' Retirement System ("CALSTRS"), to Jonathan G. Katz, Secretary, Commission, dated November 20, 2003 ("CALSTRS Letter").

7. Letter from John Reed, Interim Chairman and CEO, NYSE, to William H. Donaldson, Chairman, Commission, dated November 25, 2003 ("Reed Letter").

8. Letter from Amy B.R. Lancellotta, Senior Counsel, Investment Company Institute, to Jonathan G. Katz, Secretary, Commission, dated December 2, 2003 ("ICI Letter").

9. Letter from Sarah A.B. Teslik, Executive Director, Council of Institutional Investors, to William H. Donaldson, Chairman, Commission, dated November 3, 2003 ("First CII Letter").

10. Letter from Charles W. Austin, President, Public Investors Arbitration Bar Association, to Jonathan G. Katz, Secretary, Commission, dated December 2, 2003 ("PIABA Letter").

11. Letter from Marc E. Lackritz, President, Securities Industry Association, to Jonathan G. Katz, Secretary, Commission, dated December 5, 2003 ("SIA Letter").

12. Letter from Alan Hevesi, Comptroller, State of New York; Phil Angelides, Treasurer, State of California; Richard H. Moore, Treasurer, State of North Carolina; Sean Harrigan, President, CalPERS; Jack Ehnes, CEO, CALSTRS; Dale McCormick, Treasurer, State of Maine; Randall Edwards, Treasurer, State of Oregon; Michael Fitzgerald, Treasurer, State of Iowa; Jonathan Miller, Treasurer, State of Kentucky; Denise Nappier, Treasurer, State of Connecticut; and Brian K. Krolicki, Treasurer, State of Nevada; to Chairman Donaldson, Commission, dated November 20, 2003 ("State Treasurers' Letter").

13. Letter from James D. Knotter to William H. Donaldson, Chairman, Commission, dated November 10, 2003 ("Knotter Letter").

14. Letter from Hans R. Reinisch to William H. Donaldson, Chairman, Commission, dated November 11, 2003 ("Reinisch Letter").

15. Letter from Sarah A.B. Teslik, Executive Director, Council of Institutional Investors, to Jonathan G. Katz, Secretary, Commission, dated November 24, 2003 ("Second CII Letter").

16. Letter from John S. Reed, Interim Chairman & CEO, NYSE, to Jonathan G. Katz, Secretary, Commission, dated December 11, 2003 ("Second Reed Letter").

17. Letter from J.P. Allen, Chair, Highway Patrol Retirement System; Robert M. Beck, Chair, Ohio Police and Fire Pension Fund; Charlie Adkins, Chair, Public Employees Retirement System of Ohio; Eugene E. Norris, Chair, State Teachers Retirement System of Ohio; and Barbara J. Miller, Chair, School Employees Retirement System of Ohio, to William H. Donaldson, Chairman, Commission, dated November 24, 2003 ("Ohio Retirement Systems Letter").

18. Letter from John B. Licata, CEO, Sonoma Securities Corporation, to William H. Donaldson, Chairman, Commission, dated November 22, 2003 ("Sonoma Letter").

[FR Doc. 03-31641 Filed 12-23-03; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48908; File No. SR-OCC-2003-05]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Assignment of S&P 100 Index Options

December 11, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ notice is hereby given that on July 21, 2003, 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. 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 changes the assignment methodology for S&P 100 ("OEX") index options from random to *pro rata*.

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 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.²

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

At present, OCC uses a random assignment procedure for most classes of options.³ *Pro rata* assignment was approved by the Commission for flexibly structured foreign currency

options⁴ and at present is used only for those options.

The Chicago Board Options Exchange ("CBOE") has asked OCC to change to a *pro rata* assignment methodology for exercises of OEX options. CBOE believes that assigning OEX option exercises on a *pro rata* basis will permit more effective hedging by market participants. When exercises are assigned on a random basis, a holder of a short position in a series in which less than 100% of the open interest is exercised cannot accurately predict whether and to what extent his position will be assigned even after he knows the percentage of open interest exercised. Under the *pro rata* assignment methodology, OCC assigns exercises in a series of options to each clearing member account in approximately the same proportion that the number of short positions of that series carried in the account bears to the total number of short options of that series. As a result, once the percentage of open interest exercised is known, clearing members and market makers can predict whether and to what extent their positions will be assigned and take appropriate market action if desired.⁵

OCC's procedures for assigning exercise notices are not set out in OCC's rules but are treated as a stated policy, practice, or interpretation with respect to OCC Rule 803, which generally addresses assignments to clearing members.⁶ This proposed rule change will not effect a substantive change in either of the assignment procedures. It would merely change the assignment procedure for OEX exercises from random to *pro rata*.

OCC believes that the proposed rule change is consistent with section 17A of the Act because it promotes the prompt and accurate clearance and settlement of securities transactions and fosters cooperation and coordination with persons engaged in the clearing and settlement of securities transactions.

(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.

⁴ Securities Exchange Act Release No. 38165 (January 14, 1997), 62 FR 3070 (January 21, 1997) (File No. SR-OCC-96-19).

⁵ OCC assigns exercises directly to clearing members and market makers. Positions carried in combined market maker accounts are carried net and identified by acronyms that make it possible for OCC to assign exercises to short positions of individual market makers on a *pro rata* basis.

⁶ Upon request to OCC, investors may obtain a description of OCC's assignment procedures and the options classes to which they apply.

¹ 15 U.S.C. 78s(b)(1).

² The Commission has modified parts of these statements.

³ This process was discussed in detail in Securities Exchange Act Release No. 46735 (October 28, 2002), 67 FR 67434 (November 5, 2002) (File No. SR-OCC-2002-19).