The Commission staff estimates, however, based on past conversations with representatives of the fund industry, that funds could spend as much as half of this amount ($122.4 million) to preserve the books and records that are necessary to prepare financial statements, meet various state reporting requirements, and prepare their annual federal and state income tax returns.

Rule 32a–4 [17 CFR 270.32a–4] is entitled ''Independent Audit Committees.'' The rule exempts a fund from the requirements of section 32(a)(2) of the Investment Company Act that shareholders ratify or reject the selection of the independent public accountant of a registered management company or registered face-amount certificate company if the fund has an audit committee composed wholly of independent directors.

Instead of relying on rule 32a–4, a fund could seek ratification or rejection by shareholders of the selection of its independent public accountant at each annual meeting. Under the rule, a fund is exempt from having to seek shareholder approval of its independent public accountant, if (i) the fund's board of directors establishes an audit committee composed solely of independent directors with responsibility for overseeing the fund's accounting and auditing processes,[11] (ii) the fund's board of directors adopts an audit committee charter setting forth the committee's structure, duties, powers and methods of operation, or sets out similar provisions in the fund's charter or bylaws,[12] and (iii) the fund maintains a copy of such an audit committee charter permanently in an easily accessible place.[13]

As conditions of relying on rule 32a–4, a fund's board of directors must adopt an audit committee charter and must preserve that charter, and any modifications to the charter, permanently in an easily accessible place. The information collection requirement in rule 32a–4 enables the Commission to monitor the duties and responsibilities of an independent audit committee formed by a fund relying on the rule. Commission staff estimates that there are approximately 3,700 management investment companies and face-amount certificate companies that could rely on the rule. We believe that approximately 9.7 percent (360) of those funds have taken advantage of the exemption since adoption of the rule, and approximately 2.7 % (100) of the funds that have not already done so choose to rely on the rule each year. For each of those funds choosing for the first time to rely on the rule, we estimate that the adoption of the audit committee charter requires, on average, 1 hour of directors' time, 2.5 hours of professional time and 1 hour of support staff time, for a total one-time burden of 4.5 hours, and an estimated total one-time cost of $555.40, resulting in an annual aggregate time burden of 450 hours and an annual aggregate cost of $55,540.[14]

In addition to the hour burden described above, rule 32a-4 imposes certain costs on those funds that choose to rely on the exemption. These costs are minimal and are justified by the relief provided by the exemption. We estimate that each of the approximately 360 funds currently relying on the rule is required to spend approximately .5 hours annually to comply with the requirement that it preserve permanently its audit committee charters, for an additional annual hour burden of 180 hours, and an additional annual cost for all funds of $12,439.20.[15]

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/ CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 29, 2002.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

to the net assets of all funds ($7 trillion x .000035 = $244.7 million).

[11] Rule 32a–4(a).

[12] Rule 32a–4(b).

[13] Rule 32a–4(c).

[14] To calculate this cost, the Commission staff used an average hourly wage rate of $300 per hour for directors, an average hourly wage rate of $96.16 per hour for professionals, and an average hourly wage rate of $15 per hour for support staff ((100 x 1 x $300/hour) + (100 x 2.5 x $96.16/hour) + (100 x 1 x $15/hour) = $55,540). See Securities Industry Association, Report on Management & Professional Earnings in the Securities Industry 2001 (Oct. 2001).

[15] In calculating this annual cost, the Commission staff estimated that one-third of the annual hour burden (60 hours) would be incurred by support staff with an average hourly wage rate of $15 per hour, and two-thirds of the annual burden (120 hours) would be incurred by professionals with an average hourly wage rate of $96.16 per hour ((60 x $15/hour) + (120 × $96.16/hour) = $12,439.20).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46739; File No. SR–NASD–2002–146]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending NASD Rule 3011 To Require Members To Identify and Provide Contact Information for Their Anti-Money Laundering Compliance Persons

October 29, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 [2] thereunder, notice is hereby given that on October 22, 2002, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the NASD. NASD filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. 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

NASD proposes to amend NASD rule 3011 to require each member to provide to NASD contact information for the individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the member's anti-money laundering (''AML'') compliance program (''AML Program''). Below is the text of the proposed rule change. New text is in italics.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

3011. Anti-Money Laundering Compliance Program

On or before April 24, 2002, each member shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor the member's compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311, *et seq.*), and the implementing regulations promulgated thereunder by the Department of the Treasury. Each member organization's anti-money laundering program must be approved, in writing, by a member of senior management. The anti-money laundering programs required by this rule shall, at a minimum;

(a) Establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of transactions required under 31 U.S.C. 5318(g) and the implementing regulations thereunder;

(b) Establish and implement policies, procedures, and internal controls reasonably designed to achieve compliance with the Bank Secrecy Act and the implementing regulations thereunder;

(c) Provide for independent testing for compliance to be conducted by member personnel or by a qualified outside party;

(d) Designate, *and identify to NASD (by name, title, mailing address, e-mail address, telephone number, and facsimile number*) an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program *and provide prompt notification to NASD regarding any change in such designation(s)*; and

(e) Provide ongoing training for appropriate personnel.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

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

1. Purpose

The USA PATRIOT Act of 2001 (''PATRIOT Act''),[5] which was signed into law on October 26, 2001, recognizes that effective identification of money laundering and terrorist activities requires the expedited sharing and reporting of information among governmental and law enforcement authorities and financial institutions. In furtherance of this goal, section 314(a) of the PATRIOT Act requires the United States Department of the Treasury (''Treasury'') to adopt regulations to encourage cooperation and information sharing among financial institutions, their regulatory authorities, and law enforcement authorities. In particular, the regulations should be designed to facilitate law enforcement authorities' ability to share information with financial institutions and to request information from financial institutions about persons suspected of engaging in money laundering or terrorist activities. Section 314(a) of the PATRIOT Act further provides that the regulations adopted by Treasury may require that each financial institution designate one or more contact persons to receive information concerning, and to monitor accounts of, identified individuals or entities.

On September 18, 2002, Treasury issued a final rule implementing section 314 of the PATRIOT Act. Consistent with section 314(a) of the PATRIOT Act, the rule creates a system for the efficient communication of potential money laundering and terrorist information. Upon receiving a request for information by the Financial Crimes Enforcement Network (''FinCEN''), a bureau of Treasury, the rule requires financial institutions to identify a contact person to handle the request and to receive future information requests. When requested by FinCEN, the financial institution is required to provide the name, title, mailing address, e-mail address, telephone number, and facsimile number of the designated contact person. The financial institution must also promptly notify FinCEN of any changes to the contact information.

NASD rule 3011, NASD's AML Compliance Program Rule, requires each member to designate an individual or individuals responsible for implementing and monitoring the daily operations of the firm's AML Program. To facilitate Treasury's efforts in collecting the AML contact information set forth in Treasury's final rule, NASD proposes to amend NASD rule 3011 to require that members provide to NASD contact information concerning the members' designated AML compliance person(s). The information would be used by Treasury in connection with its regulatory obligations set forth in section 314(a) of the PATRIOT Act and the implementing regulations promulgated thereunder. Consistent with Treasury's final rule, members would be required to provide to NASD the name, title, mailing address, e-mail address, telephone number, and facsimile number of the contact person. Members would also be required to promptly notify NASD of any changes to the information.[6]

NASD intends to initially collect the contact information through the Member Firm Contact Questionnaire on the NASD Website. NASD anticipates that form and system changes necessary to collect the contact information will be completed by November 15, 2002. Members will have until December 31, 2002, to provide NASD with the necessary contact information.[7]

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that NASD's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change is designed to accomplish these ends by expediting the information sharing process necessary to help combat money laundering and terrorism.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[5] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107–56, 115 Stat. 272 (2001).

[6] NASD believes that its proposed amendments to NASD rule 3011 are consistent with New York Stock Exchange, Inc. (''NYSE'') rule 445 (AML Compliance Program), which requires that NYSE member organizations provide to the NYSE contact information identifying the member organization's designated AML compliance person and promptly notify the NYSE of any changes to the information.

[7] New member applicants will be required to provide the contact information during the application process.

[8] 15 U.S.C. 78*o*–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[9] and subparagraph (f)(6) of rule 19b–4[10] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate and NASD has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Association. All submissions should refer to File No. SR–NASD–2002–146 and should be submitted by November 26, 2002.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–28100 Filed 11–4–02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46735; File No. SR–OCC–2002–19]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Random Assignment Processing

October 28, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 15, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order 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 alters OCC's procedures for random assignment processing.

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

OCC proposes to refine its random assignment procedures for processing exercise notices. These procedures are not described in OCC's rules but are treated as a stated policy, practice, or interpretation with respect to Rule 803, which addresses assignments to clearing members.

Current Method

Under OCC's current random assignment process, an assignment ''wheel'' is created for each option series for which there is an exercise and all short positions of that series are placed on the wheel, starting with positions in the customers' account of the clearing member with the lowest identification number, followed by positions in other accounts of that clearing member, then by positions in the customers' account of the clearing member with the next lowest identification number, and so forth. The number of contracts exercised for that series is totaled. If the number of exercised contracts is less than the number of contracts held in open short positions, exercises are assigned in standard assignment increments of 25 contracts.[3] The system calculates a random starting point on the wheel for the first assignment increment. The first 25 contracts are assigned starting at the first position randomly chosen. Based on the number of contracts in the open interest for the series and the number of exercise increments to be assigned, a uniform skip interval is calculated as follows:

S = the total number of contracts being exercised for a particular series
T = the total number of contracts on the wheel
I = the assignment increment
1. T1 = S + I − 1;
2. T2 = T1/I, where T2 is an integer;
3. T3 = T/T2, where T3 is an integer;
4. Skip Interval = T3 '' 1, if I > than T3, skip interval = 0.

After the first assignment, the system skips the calculated skip interval, assigns the next 25 contracts, and skips again to the next assignment increment until all exercises are assigned.

Proposed Change

OCC is proposing minor modifications to its random assignment process. First, positions will be placed on the wheel in sequential order based on a unique data base identification code given to a position account (*i.e.*, an account or subaccount[4] that can hold

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] If the number of contracts being exercised is equal to the number of open short positions, the entire open interest for that series will be assigned automatically.

[4] In a combined market-makers' account, positions of individual market-makers are assigned unique acronyms and are not netted against each other for reporting purposes. Each market-maker acronym is treated as a separate ''position account.''