

Erroneous sell executions will be adjusted to the Theoretical Price (the bid) minus \$.15 for options under \$3, and minus \$.30 for options at or above \$3. This change addresses two issues under the current Rule. First, it simplifies the determination of the appropriate adjustment price and creates certainty for Members who generally do not know which price was first in the market at the time a trade occurs. Second, it protects against abuse of the Rule, as the adjustment price is not as favorable as what the party making the error would have received had it not made an error.

#### *The "Nickel Rule"*

The current obvious error Rule does not contain any special criteria for executions in options with a quote of \$0 to \$.05 (no bid, offered at a nickel). The Exchange proposes to create a special standard for no-bid buyers, as a purchase of these options is extremely rare and most often the result of an error. Under proposed Supplementary Material .05, buyers of options priced at no bid, offered at a nickel, may request that their execution be busted if at least the three strike prices below (for calls) or above (for puts) in the same class were quoted no bid, offered at a nickel at the time of the erroneous execution. The buyer must notify market control as otherwise required under the Rule.

#### 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of section 6(b)(5)<sup>8</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange did not solicit or receive written comments on the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-ISE-2003-10 and should be submitted by June 5, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>9</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

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#### **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-47810; File No. SR-OC-2003-05]

#### **Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto by OneChicago, LLC To Adopt, on a Permanent Basis, the Standards Under Which a Market Maker Can Qualify for Exclusion From OneChicago's Margin Rules**

May 7, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on May 5, 2003, OneChicago, LLC ("OneChicago" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I and II below, which Items have been prepared by OneChicago. On May 6, 2003, OneChicago submitted Amendment No. 1 to the proposed rule change.<sup>3</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and to grant accelerated approval of the proposed rule change.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

OneChicago proposes to adopt, on a permanent basis, Rule 515(n)(ii)(C) ("Exclusion for Market Makers") (herein referred to as "Margin Rule"). On November 7, 2002, the Commission approved the Margin Rule on a pilot basis, ending May 7, 2003 ("the Pilot").<sup>4</sup> OneChicago believes that permanent approval of the Margin Rule is consistent with the jointly adopted margin rules of the Commission and the Commodity Futures Trading Commission ("CFTC") (collectively, "Commissions").

Below is the text of the proposed rule change that OneChicago proposes to adopt on a permanent basis.

\* \* \* \* \*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See letter from Madge M. Hamilton, Deputy General Counsel, OneChicago, to Theodore Lazo, Senior Special Counsel, Division of Market Regulation, Commission, dated May 5, 2003.

<sup>4</sup> See Securities Exchange Act Release No. 46787 (November 7, 2002), 67 FR 69059 (November 14, 2002).

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 17 CFR 200.30-3(a)(12).