

associated persons against whom the claim has been filed.<sup>8</sup>

Finally, NASD is proposing to amend the pilot rule to clarify that it applies to respondents who are terminated members and associated persons.<sup>9</sup> As of June 5, 2003, there were 33 cases in which all customers and active industry parties had signed waivers, but the terminated members or associated persons had not signed. Another 51 pending cases involved both active and terminated industry parties that had not yet signed waivers; these cases could not proceed even if the active industry parties were deemed to have waived, unless the rule covered terminated parties. The proposed rule change will eliminate any confusion regarding the scope of the rule and will facilitate the administration of cases against such parties in California while the rule is in effect.

## 2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change as amended is consistent with the provisions of section 15A(b) of the Exchange Act,<sup>10</sup> in general, and furthers the objectives of section 15A(b)(6),<sup>11</sup> in particular, which requires, among other things, that the NASD's rules must 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 will allow customers and associated persons with claims against a member firm or another associated person to exercise their contractual rights to proceed in arbitration in California, notwithstanding the confusion caused by the disputed California Standards.

### *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.

### *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**

NASD has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. A proposed rule change filed under Rule 19b-4(f)(6) normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time. NASD seeks to have the five-business-day pre-filing requirement waived with respect to the proposed rule change. The Commission has determined to waive the five-business-day pre-filing requirement with respect to this proposal. Therefore, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

Pursuant to Rule 19b-4(f)(6)(iii) under the Act,<sup>14</sup> the proposal may not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. NASD has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become immediately effective upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest to waive the 30-day period and to designate that the proposed rule change has become operative as of July 14, 2003.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary

or appropriate in the public interest, for the protection of investors, or would otherwise further 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 proposal 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 such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2003-106 and should be submitted by August 13, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 03-18653 Filed 7-22-03; 8:45 am]

BILLING CODE 8010-01-P

## **SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-48191; File No. SR-OC-2003-06]

### **Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by OneChicago, LLC Relating to MicroSector Futures**

July 17, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-7 under the Act,<sup>2</sup> notice is hereby given that on June 20, 2003, OneChicago, LLC ("OneChicago") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I and II below, which Items have been prepared

<sup>8</sup> The NASD amended this paragraph as it was originally filed to delete a phrase it inadvertently included. Telephone call between Laura Gansler, Counsel, NASD Dispute Resolution, and Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, dated July 14, 2003.

<sup>9</sup> An associated person or member firm's obligation to arbitrate under the NASD Code of Arbitration Procedure survives resignation or termination from membership. See *O'Neel v. NASD*, 667 F. 2d 804 (9th Cir. 1982); *Muh v. Newburger, Loeb & Co., Inc.*, 540 F.2d 970 (9th Cir. 1976).

<sup>10</sup> 15 U.S.C. 78o-3(b).

<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(7).

<sup>2</sup> 17 CFR 240.19b-7.