

met; and to clarify that OneChicago members entering into cross trades in which the member or affiliate of the member is taking the opposite side of a customer order must expose the customer side of the trade on the OneChicago trading system for at least four seconds.

OneChicago's block trade policy currently requires the seller of the block trade to call OneChicago Operations Management ("OOM") to report the block transaction. Under the proposed rule change, if a block trade were a spread or a combination, the seller of the month closest to expiration would be required to report the entire transaction. For example, if the block were comprised of 250 Sep'03 Microsoft contracts and 250 Dec'03 Microsoft contracts, then the seller of the Sep'03 Microsoft contracts would report the entire block transaction to OOM, both the Sep'03 Microsoft contracts and the Dec'03 Microsoft contracts. In addition, the proposed rule change clarifies that the total quantity of the legs of a spread or combination must meet the 500 minimum contracts requirement.

Furthermore, the proposed rule change would add a new provision regarding pre-execution discussions. This provision would explicitly permit OneChicago members and access persons<sup>4</sup> to engage in pre-execution discussions pursuant to which one party may agree in advance to take the opposite side of the other party's order if the following conditions are met:

1. Customers of each party must consent to allow pre-execution discussions with other market participants;
2. Any OneChicago member or access person who is solicited to participate in a OneChicago transaction through pre-execution discussions shall not: (i) Disclose to any other party the details of such discussions or (ii) enter an order or quote through the Exchange to take advantage of information conveyed during such discussions, unless such member or access person has agreed during the pre-execution discussions to participate in the transaction in accordance with this policy, and the order or quote is entered to implement that agreement; and
3. Except for block trades conducted pursuant to OneChicago Rule 417 and exchange of future for physical transactions conducted pursuant to OneChicago Rule 416, a period of four

seconds must elapse between entering the first order or quote and entering the second order for the opposite side. The order or quote initially entered may be filled or lifted by a third party during the four-second waiting period rather than consummating the transaction with the intended party as contemplated by the pre-execution discussion.

The proposed rule change would also amend the provision relating to cross trades to clarify that if a member is taking the other side of its customer's order, the customer side of the order must be entered into the OneChicago trading system for at least four seconds before the member may take the opposite side.

## 2. Statutory Basis

OneChicago believes that the proposed rule change is consistent with Section 6(b)(5) of the Act<sup>5</sup> in that it is reasonably designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade. The proposed rule change is also designed to protect investors and the public interest by requiring certain conditions to be met in order for a member or access person to enter into pre-execution discussions with other market participants. The proposed cross trade amendments are also designed to protect investors and the public interest by requiring that the customer side of a cross trade be entered into OneChicago's trading system for at least four seconds before members may take the other side of the customer's order.

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

OneChicago does not believe that the proposed rule change will have a negative impact on competition.

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

Comments on OneChicago's proposed rule change have not been solicited, and none have been received.

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

The proposed rule change has become effective on September 12, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in

accordance with the provisions of Section 19(b)(1) of the Act.<sup>6</sup>

## 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, conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments also may be submitted electronically to the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). 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 these filings also will be available for inspection and copying at the principal office of OneChicago. All submissions should refer to File No. SR-OC-2003-07 and should be submitted by October 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

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

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## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3546]

### Commonwealth of Virginia (Amendment #3)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective October 1, 2003, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on September 18, 2003 and continuing through October 1, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is

<sup>4</sup> Under OneChicago Rule 101, an access person means any person, other than a clearing member or Exchange member or related party of either, who has been given access to the OneChicago System through a OneChicago workstation by a clearing member.

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

<sup>6</sup> 15 U.S.C. 78s(b)(1).

<sup>7</sup> 17 CFR 200.30-3(a)(75).