

II. Maintenance standards for a security futures product based on a single security.

A. OneChicago will not open for trading any security futures product that is physically settled with a new delivery month, and may prohibit any opening purchase transactions in the security futures product already trading, to the extent it deems such action necessary or appropriate, unless the underlying security meets each of the following maintenance requirements; provided that, if the underlying security is an ETF Share, TIR or Closed-End Fund Share, the applicable requirements for initial listing of the related security futures product (as described in I.A. above) shall apply in lieu of the following maintenance requirements:

(i)–(iv) No Change.

(v) The market price per share of the underlying security *has not* closed below \$3.00 on the previous trading day to the Expiration Day of the nearest expiring Contract on the underlying security. The market price per share of the underlying security will be measured by the closing price reported in the primary market in which the underlying security traded.

Requirement (v) as Applied to Restructure Securities:

If a Restructure Security is approved for security futures product trading under the initial listing standards in Section I, the market price history of the Original Equity Security prior to the commencement of trading in the Restructure Security, including “when-issued” trading, may be taken into account in determining whether this requirement is satisfied.

(vi) No Change.

B—DNo Change.

III.–IV. No Change.

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

OneChicago has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

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

#### 1. Purpose

OneChicago proposes to correct Maintenance Standard II.A.v in which

the words “has not” were inadvertently omitted. On February 24, 2003, OneChicago filed a proposed rule change with the Commission that amended OneChicago’s maintenance standards for Single Stock Future that would prevent OneChicago from opening a Single Stock Future contract in a new delivery month if the market price per share of the underlying security closed below \$3.00 on the previous trading day to the expiration of the nearest expiring Contract on the underlying security.<sup>4</sup> OneChicago states that the purpose clause of the February 24, 2003 proposed rule filing properly described the maintenance requirement; however, the rule text inadvertently left out the words “has not.”<sup>5</sup>

The correction made today is consistent with changes made on the option exchanges. Section 6(h)(3)(C) of the Act requires that Listing Standards for security futures “be no less restrictive than comparable Listing Standards for options traded on a national securities exchange. \* \* \*<sup>6</sup>” The Commission has approved similar rule changes for the Chicago Board Options Exchange, Inc. (“CBOE”),<sup>7</sup> the American Stock Exchange LLC (“Amex”),<sup>8</sup> the International Stock Exchange, Inc. (“ISE”),<sup>9</sup> the Philadelphia Stock Exchange, Inc.

<sup>4</sup> See Securities Exchange Act Release No. 47445 (March 5, 2003), 68 FR 11595 (March 11, 2003). The Commission received no comments during the comment period.

<sup>5</sup> The current rule text reads:

II.A. OneChicago will not open for trading any security futures product that is physically settled with a new delivery month, and may prohibit any opening purchase transactions in the security futures product already trading, to the extent it deems such action necessary or appropriate, unless the underlying security meets each of the following maintenance requirements; provided that, if the underlying security is an ETF Share, \* \* \*:

v. The market price per share of the underlying security closed below \$3.00 on the previous trading day to the Expiration Day of the nearest expiring Contract on the underlying security. The market price per share of the underlying security will be measured by the closing price reported in the primary market in which the underlying security traded.

Requirement (v) as Applied to Restructure Securities:

If a Restructure Security is approved for security futures product trading under the initial listing standards in Section I, the market price history of the Original Equity Security prior to the commencement of trading in the Restructure Security, including “when-issued” trading, may be taken into account in determining whether this requirement is satisfied.

<sup>6</sup> 15 U.S.C. 78f(h)(3)(C).

<sup>7</sup> See Securities Exchange Act Release No. 44964 (October 19, 2001), 66 FR 54559 (October 29, 2001).

<sup>8</sup> See Securities Exchange Act Release No. 59278 (November 16, 2001), 66 FR 59278 (November 27, 2001).

<sup>9</sup> See Securities Exchange Act Release No. 45087 (November 20, 2001), 66 FR 60232 (December 3, 2001).

(“Phlx”),<sup>10</sup> and the Pacific Exchange, Inc. (“PCX”).<sup>11</sup> Since CBOE, Amex, ISE, Phlx and PCX have comparable maintenance Listing Standards, the proposed rule change meets the requirement of section 6(h)(3)(C) of the Act.<sup>12</sup>

#### 2. Statutory Basis

The proposed rule change is consistent with section 6(b)(5) of the Act<sup>13</sup> in that it is reasonably designed to prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade.

#### 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. In fact, OneChicago believes the proposed rule change would promote competition since the proposed rule change is no less restrictive than comparable options exchanges.

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

Comments on the 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 October 14, 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>14</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 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.

<sup>10</sup> See Securities Exchange Act Release No. 45086 (November 19, 2001), 66 FR 59832 (November 30, 2001).

<sup>11</sup> See Securities Exchange Act Release No. 45038 (November 6, 2001), 66 FR 57764 (November 16, 2001).

<sup>12</sup> 15 U.S.C. 17f(h)(3)(C).

<sup>13</sup> 15 U.S.C. 78f(b)(5).

<sup>14</sup> 15 U.S.C. 78s(b)(1).