

making it available to member organizations for a greater time period.

In approving Crossing Session II, the Commission granted exemptive relief from its Rule 10a-1⁶ under the Act (short sale rule) for transactions effected therein, finding that such transactions did not raise all of the same regulatory concerns that are raised by similar transactions during the 9:30 a.m. to 4 p.m. trading session. The Exchange is requesting that the Commission extend the exemptive relief from Rule 10a-1⁷ currently available for transactions effected in Crossing Session II to transactions effected in Crossing Session II as modified by this proposed rule change.

Exchange Rule 51 provides for the operation of Off-Hours Trading “during such times as the Exchange may from time to time specify.” Upon approval of the proposed rule change, the Exchange will alert its membership and other market participants of the new operating hours for Crossing Session II.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under section 6(b)(5)⁸ that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of 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 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

The proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act⁹ and Rule 19b-4(f)(5)¹⁰ thereunder because it effects a change in an existing order-entry or trading system of a self-regulatory organization that

does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) have the effect of limiting the access to or availability of the system.¹¹ At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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 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 Exchange. All submissions should refer to file number SR-NYSE-2002-38 and should be submitted by October 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-24910 Filed 9-30-02; 8:45 am]

BILLING CODE 8010-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46555; File No. SR-OC-2002-01]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by OneChicago, LLC Relating to Customer Margin Requirements for Security Futures

September 26, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 30, 2002, OneChicago, LLC, (“OneChicago”) filed with 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 OneChicago. On September 25, 2002, OneChicago submitted Amendment No. 1 to the proposed rule change.³ On September 25, 2002, OneChicago submitted Amendment No. 2 to the proposed rule change.⁴ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

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

OneChicago is proposing to adopt new Rule 515, including Schedule A thereto (the “Proposed Rule”), to (i) establish general requirements and procedures relating to customer margining by security futures intermediaries (the “General Margin Rules”), (ii) set initial or maintenance margin levels for offsetting positions involving security futures and related positions at levels lower than the levels that would be required if those positions were margined separately (the “Margin Offset Rule”) and (iii) exclude proprietary trades of qualifying security futures dealers from the margin requirements set forth in the Proposed

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Kieran P. Hennigan, Sullivan & Cromwell, to Assistant Director for Security Futures Products, Division of Market Regulation (“Division”), Commission, dated September 24, 2002, (“Amendment No. 1”). In Amendment No. 1, OneChicago replaced the Form 19b-4 originally filed on August 30, 2002 in its entirety. The changes made by Amendment No. 1 have been incorporated into this notice.

⁴ See letter from Frank Ochsenfeld, Sullivan & Cromwell, attention to T.R. Lazo, Senior Special Counsel, Division, Commission, dated September 24, 2002, (“Amendment No. 2”). In Amendment No. 2, OneChicago made a technical correction to the rule text. The changes made by Amendment No. 2 have been incorporated into this notice.

⁶ 17 CFR 240.10a-1.

⁷ *Id.*

⁸ 15 U.S.C. 78f(b)(5).

⁹ 15 U.S.C. 78s(b)(3)(A).

¹⁰ 17 CFR 240.19b-4(f)(5).

¹¹ *Id.*

¹² 17 CFR 200.30-3(a)(12).

Rule and the related regulatory requirements (the "Market Maker Exclusion").⁵ The General Margin Rules, which are contained in paragraphs (a) through (l) of the Proposed Rule, are detailed below. The Margin Offset Rule consists of paragraph (m) of the Proposed Rule and the table of offsets attached thereto as Schedule A, which describes in detail the margin offsets available with respect to particular combinations of security futures and related positions.

Below is the text of the proposed rule change. Proposed new language is italicized.

* * * * *

Customer Margin Requirements

515. General Requirements; Offsetting Positions; Exclusion for Market Makers

(a) *Scope of Rule.* This Rule 515 shall apply to positions resulting from transactions in Contracts traded on the Exchange or subject to the Rules of the Exchange to the extent that such positions are held by Clearing Members or, if applicable, Exchange Members on behalf of Customers in futures accounts (as such term is defined in Commission Regulation § 1.3(vv) and Exchange Act Regulation 15c3-3(a)), with paragraph (n) of this Rule 515 also applying to such positions held in securities accounts (as such term is defined in Commission Regulation § 1.3(ww) and Exchange Act Regulation 15c3-3(a)). As used in this Rule 515, the term "Customer" does not include (i) any exempted person (as such term is defined in Commission Regulation § 41.43(a)(9) and Exchange Act Regulation 401(a)(9)) and (ii) any Market Maker (as such term is defined in paragraph (n) below). Nothing in this Rule 515 shall alter the obligation of each Clearing Member and, if applicable, Exchange Member to comply with Applicable Law relating to customer margin for transactions in Single Stock Futures and Stock Index Futures, including without limitation Commission Regulations §§ 41.42 through 41.49 or Rules 400 through 406 under the Exchange Act, as applicable (including in each case any successor regulations or rules).

(b) *Margin System.* The Standard Portfolio Analysis of Risk (SPAN®) is the margin system adopted by the Exchange. SPAN® generated margin requirements shall constitute Exchange margin requirements. All references to margin in the Rules of the Exchange shall be to margin computed on the

basis of SPAN®. Margin systems other than SPAN® may be used to meet Exchange margin requirements if the relevant Clearing Member or, if applicable, Exchange Member can demonstrate that its margin system will result in margin requirements that are in all cases equal to or greater than the corresponding requirements determined on the basis of SPAN®.

(c) *Margin Rate.* The Exchange will set and publish the initial and maintenance margin rates to be used in determining Exchange margin requirements; provided that in no case shall the required margin for any long or short position held by a Clearing Member or, if applicable, Exchange Member on behalf of a Customer be less than 20% of the current market value of the relevant Contract (or such other rate from time to time determined by the Commission and the Securities and Exchange Commission for purposes of Commission Regulation § 41.45(b)(1) and Rule 403(b)(1) under the Exchange Act) unless a lower margin level is available for such position pursuant to paragraph (m) below.

(d) *Acceptable Margin Deposits.*

(i) Clearing Members and, if applicable, Exchange Members may accept from their Customers as margin deposits of cash, margin securities (subject to the limitations set forth in the following sentence), exempted securities, any other assets permitted under Regulation T of the Board of Governors of the Federal Reserve System (as in effect from time to time) to satisfy a margin deficiency in a securities margin account, and any combination of the foregoing, each as valued in accordance with Commission Regulation § 41.46(c) and (e) or Rule 404(c) under the Exchange Act, as applicable. Shares of a money market mutual fund that meet the requirements of Commission Regulation § 1.25 may be accepted as a margin deposit from a Customer for purposes of this Rule 515.

(ii) A Clearing Member or, if applicable, Exchange Member shall not accept as margin from any Customer securities that have been issued by such Customer or an Affiliate of such Customer unless such Clearing Member or Exchange Member files a petition with and receives permission from the Exchange for such purpose.

(iii) All assets deposited by a Customer to meet margin requirements must be and remain unencumbered by third party claims against the depositing Customer.

(iv) Except to the extent prescribed otherwise by the Exchange, cash margin deposits shall be valued at market value and all other margin deposits shall be

valued at an amount not to exceed that set forth in Commission Regulations §§ 41.42 through 41.49 or Rules 400 through 406 under the Exchange Act, as applicable (including in each case any successor regulations or rules).

(e) *Acceptance of Orders.* Clearing Members and, if applicable, Exchange Members may accept Orders for a particular Customer account only if sufficient margin is on deposit in such account or is forthcoming within a reasonable period of time (which shall be no more than five Business Days, although the relevant Clearing Member or, if applicable, Exchange Member may deem one hour to be a reasonable period of time). For a Customer account that has been subject to calls for margin for an unreasonable period of time, Clearing Members and, if applicable, Exchange Members may only accept Orders that, when executed, will reduce the margin requirements resulting from the existing positions in such account. Clearing Members and, if applicable, Exchange Members may not accept Orders for a Customer account that would liquidate to a deficit or that has a debit balance.

(f) *Margin Calls.* Clearing Members and, if applicable, Exchange Members must call for margin from a particular Customer:

(i) when the margin equity on deposit in such Customer's account falls below the applicable maintenance margin requirement; or

(ii) subsequently, when the margin equity on deposit in such Customer's account, together with any outstanding margin calls, is less than the applicable maintenance margin requirement.

Any such call must be made within one Business Day after the occurrence of the event giving rise to such call.

Clearing Members and, if applicable, Exchange Members may call for additional margin at their discretion.

Clearing Members and, if applicable, Exchange Members shall reduce any call for margin only to the extent that margin deposits permitted under paragraph (d) above are received in the relevant account. Clearing Members and, if applicable, Exchange Members may delete any call for margin only if (i) margin deposits permitted under paragraph (d) above equal to or in excess of the deposits called are received in the relevant account or (ii) inter-day favorable market movements or the liquidation of positions result in the margin on deposit in the relevant account being equal to or greater than the applicable initial margin requirement. In the event of any such reduction or deletion, the oldest

⁵ Terms used in this filing that are defined in the Act, or the Rules thereunder, have the meanings assigned to them in the Act or Rules thereunder.

outstanding margin call shall be reduced or deleted first.

Clearing Members and, if applicable, Exchange Members, shall maintain written records of any and all margin calls issued, reduced or deleted by them.

(g) Disbursements of Excess Margin. Clearing Members and, if applicable, Exchange Members may release to Customers margin on deposit in any account only to the extent that such margin is in excess of the applicable initial margin requirement under this Rule 515 and any other applicable margin requirement.

(h) Loans to Customers. Clearing Members and, if applicable, Exchange Members may not extend loans to Customers for margin purposes unless such loans are secured within the meaning of Commission Regulation § 1.17(c)(3). The proceeds of any such loan must be treated in accordance with Commission Regulation § 1.30.

(i) Aggregation of Accounts and Positions. For purposes of determining margin requirements under this Rule 515, Clearing Members and, if applicable, Exchange Members shall aggregate accounts under identical ownership if such accounts fall within the same classifications of customer segregated, customer secured, special reserve account for the exclusive benefit of customers and non-segregated for margin purposes. Clearing Members and, if applicable, Exchange Members may compute margin requirements for identically owned concurrent long and short positions on a net basis.

(j) Omnibus Accounts. Clearing Members and, if applicable, Exchange Members shall collect margin on a gross basis for positions held in domestic and foreign omnibus accounts. For omnibus accounts, initial margin requirements shall equal the corresponding maintenance margin requirements. Clearing Members and, if applicable, Exchange Members shall obtain and maintain written instructions from domestic and foreign omnibus accounts for positions that are eligible for offsets pursuant to paragraph (m) below.

(k) Liquidation of Positions. If a Customer fails to comply with a margin

call required by Commission Regulations §§ 41.42 through 41.49 or Rules 400 through 406 under the Exchange Act, as applicable, within a reasonable period of time (which shall be no more than five Business Days, although the relevant Clearing Member or, if applicable, Exchange Member may deem one hour to be a reasonable period of time), the relevant Clearing Member or, if applicable, Exchange Member may liquidate positions in such Customer's account to ensure compliance with the applicable margin requirements.

(l) Failure to Maintain Required Margin. If a Clearing Member or, if applicable, Exchange Member fails to maintain sufficient margin for any Customer account in accordance with this Rule 515, the Exchange may direct such Clearing Member or Exchange Member to immediately liquidate all or any part of the positions in such account to eliminate the deficiency.

(m) Offsetting Positions. For purposes of Commission Regulation § 41.45(b)(2) and Rule 403(b)(2) under the Exchange Act, the initial and maintenance margin requirements for offsetting positions involving Single Stock Futures and Stock Index Futures, on the one hand, and related positions, on the other hand, are set at the levels specified in Schedule A to this Chapter 5.

(n) Exclusion for Market Makers.

(i) A Person shall be a "Market Maker" for purposes of this Rule 515, and shall be excluded from the requirements set forth in Commission Regulations §§ 41.42 through 41.49 or Rules 400 through 406 under the Exchange Act, as applicable, in accordance with Commission Regulation § 41.42(c)(2)(v) or Rule 400(c)(2)(v) under the Exchange Act with respect to all trading in security futures (as such term is defined in Section 1a(31) of the CEA) for its own account, if such Person is an Exchange Member that is registered with the Exchange as a dealer (as such term is defined in Section 3(a)(5) of the Exchange Act) in security futures.

(ii) Each Market Maker shall:

(A) be registered as a floor trader or a floor broker with the Commission

under Section 4f(a)(1) of the CEA or as a dealer with the Securities and Exchange Commission (or any successor agency or authority) under Section 15(b) of the Exchange Act;

(B) maintain records sufficient to prove compliance with the requirements set forth in this paragraph (n) and Commission Regulation § 41.42(c)(2)(v) or Rule 400(c)(2)(v) under the Exchange Act, as applicable; and

(C) hold itself out as being willing to buy and sell security futures for its own account on a regular or continuous basis.

A Market Maker satisfies condition (C) above if: (x) at least seventy-five percent (75%) of its gross revenue on an annual basis is derived from business activities or occupations from trading listed financial derivatives and the instruments underlying those derivatives, including security futures, stock index futures and options, stock and index options, stocks, foreign currency futures and options, foreign currencies, interest rate futures and options, fixed income instruments and commodity futures and options; or (y) except for unusual circumstances, at least fifty percent (50%) of its trading activity in Contracts on the Exchange in any calendar quarter (measured in terms of contract volume) is in the contracts to which it is assigned under a market making program adopted by the Exchange pursuant to Rule 514.⁶

(iii) Any Market Maker that fails to comply with the Rules of the Exchange, Commission Regulations §§ 41.42 through 41.49 or Rules 400 through 406 under the Exchange Act, as applicable, shall be subject to disciplinary action in accordance with Chapter 7. Appropriate sanctions in the case of any such failure shall include, without limitation, a revocation of such Market Maker's registration as a dealer in security futures pursuant to clause (i) above.

⁶OneChicago has represented that it will amend this paragraph prior to approval of the proposed rule change to specify the types of records security futures intermediaries will be required to maintain to demonstrate compliance with the Market Maker Exclusion.

SCHEDULE A TO CHAPTER 5.—MARGIN LEVELS FOR OFFSETTING POSITIONS

<i>Description of offset</i>	<i>Security underlying the security future</i>	<i>Initial margin requirement</i>	<i>Maintenance margin requirement</i>
1. Long security future (or basket of security futures representing each component of a narrow-based securities index ⁷) and long put option ⁸ on the same underlying security (or index).	Individual stock or narrow-based security index.	20% of the current market value of the long security future, plus play for the long put in full.	The lower of: (1) 10% of the aggregate exercise price ⁹ of the put plus the aggregate put out-of-the-money ¹⁰ amount, if any; or (2) 20% of the current market value of the long security future.
2. Short security future (or basket of security futures representing each component of a narrow-based securities index) and short put option on the same underlying security (or index).	Individual stock or narrow-based security index.	20% of the current market value of the short security future, plus the aggregate put in-the-money, if any. Proceeds from the put sale may be applied.	20% of the current market value of the short security future, plus the aggregate put in-the-money, if any. ¹¹
3. Long security future and short position 20% in the same security (or securities basket) underlying the security future.	Individual stock or narrow-based security index.	The initial margin required under Regulation T for the short stock or stocks.	5% of the current market value as defined in Regulation T of the stock or stocks underlying the security future.
4. Long security future basket of long security futures representing each component of a narrow-based securities index) and short call option on the same underlying security (or index).	Individual stock or narrow-based security index.	20% of the current market value of the long security future, plus the aggregate call in-the-money amount, if any. Proceeds from the call sale may be applied.	20% of the current market value of the long security future, plus the aggregate call in-the-money amount, if any.
5. Long a basket of narrow-based security futures that together tracks a broad-based index and short a broad-based security index call option contract on the same index.	Narrow-based security index.	20% of the current market value of the long basket of narrow-based security futures, plus the aggregate call in-the-money amount, if any. Proceeds from the call sale may be applied.	20% of the current market value of the long basket of narrow-based security futures, plus aggregate call in-the-money amount, if any.
6. Short a basket of narrow-based security futures that together tracks a broad-based security index and short a broad-based security index put option contract on the same index.	Narrow-based security index.	20% of the current market value of the short basket of narrow-based security futures, plus the aggregate put in-the-money amount, if any. Proceeds from the put sale may be applied.	20% of the current market value of the short basket of narrow-based security futures, plus aggregate put in-the-money amount, if any.
7. Long a basket of narrow-based security futures that together tracks a broad-based security index and long a broad-based security index put option contract on the same index.	Narrow-based security index.	20% of the current market value of the long basket of narrow-based security futures, plus pay the long put in full.	The lower of: (1) 10% of the aggregate exercise price of the put, plus the aggregate put out-of-the-money amount, if any; or (2) 20% of the current market value of the long basket of security futures.
8. Long a basket of narrow-based security futures that together tracks a broad-based security index and long a broad-based security index call option contract on the same index.	Narrow-based security index.	20% of the current market value of the short basket of narrow-based security futures, plus pay the long call in full.	The lower of: (1) 10% of the aggregate exercise price of the call, plus the aggregate call out-of-the-money amount, if any; or (2) 20% of the current market value of the short basket of security futures.
9. Long security future and short security future on the same underlying security (or index).	Individual stock or narrow-based security index.	The greater of: 5% of the current market value of the long security future; or (2) 5% of the current market value of the short security future.	The greater of: 5% of the current market value of the long security future; or (2) 5% of the current market value of the short security future.
10. Long security future, long put option and short call option. The long security future, long put and short call must be on the same underlying security and the put and call must have the same exercise price. (Conversion).	Individual stock or narrow-based security index.	20% of the current market value of the long security futures, plus the aggregate call in-the-money amount, if any, plus pay for the put in full. Proceeds from the put sale may be applied.	10% of the aggregate exercise price, plus the aggregate call in-the-money amount, if any.

SCHEDULE A TO CHAPTER 5.—MARGIN LEVELS FOR OFFSETTING POSITIONS—Continued

<i>Description of offset</i>	<i>Security underlying the security future</i>	<i>Initial margin requirement</i>	<i>Maintenance margin requirement</i>
11. Long security future, long put option and short call option. The long security future, long put and short call must be on the same underlying security and the put exercise price must be below the call exercise price. (Collar).	Individual stock or narrow-based security index.	20% of the current market value of the long security futures, plus the aggregate call in-the-money amount, if any, plus pay for the put in full. Proceeds from the call sale may be applied.	The lower of: (1) 10% of the aggregate exercise price of the put plus the aggregate call out-of-the-money amount, if any; or (2) 20% of the aggregate exercise price of the call, plus the aggregate call in-the-money amount, if any.
12. Short security future and long position in the same security (or securities basket) underlying the security future.	Individual stock or narrow-based security index.	The initial margin required under Regulation T for the long stock or stocks.	5% of the current market value, as defined in Regulation T, of the long stock or stocks.
13. Short security future and long position in a security immediately convertible into the same security underlying the security future, without restriction, including the payment of money.	Individual stock or narrow-based security index.	The initial margin required under Regulation T for the long security.	10% of the current market value, as defined in Regulation T, of the long security.
14. Short security future (or basket of security futures representing each component of a narrow-based securities index) and long call option or warrant on the same underlying security (or index).	Individual stock or narrow-based security index.	20% of the current market value of the short security future, plus pay for the call in full.	The lower of: (1) 10% of the aggregate exercise price of the call, plus the aggregate call out-of-the-money amount, if any; or (2) 20% of the current market value of the short security future.
15. Short security future, Short put option and long call option. The short security future, short put and long call must be on the same underlying security and the put and call must have the same exercise price. (Reverse Conversion).	Individual stock or narrow-based security index.	20% of the current market value of the short security futures, plus the aggregate call in-the-money amount, if any, plus pay for the call in full. Proceeds from the put sale may be applied.	10% of the aggregate exercise price, plus the aggregate put in-the-money amount, if any.
16. Long (short) a basket of security futures, each based on a narrow-based security index that together tracks the broad-based index and short (long) a broad-based index future.	Narrow-based security index.	5% of the current market value for the long (short) basket of security futures.	5% of the current market value of the long (short) basket of security futures.
17. Long (short) a basket of security futures that together tracks a broad-based and short (long) a narrow-based index future.	Individual stock or narrow-based security index.	The greater of: (1) 5% of the current market value of the long security future(s); or (2) 5% of the current market value of the short security future(s).	The greater of: (1) 5% of the current market value of the long security future(s); or (2) 5% of the current market value of the short security future(s).
18. Long (short) a security future and short (long) an identical security future traded on a different market. ¹²	Individual stock or narrow-based security index.	The greater of: (1) 3% of the current market value of the long security future(s); or (2) 3% of the current market value of the short security future(s).	The greater of: (1) 3% of the current market value of the long security future(s); or (2) 3% of the current market value of the short security future(s).

* * * * *

⁷ Baskets of securities or security futures contracts must replicate the securities that comprise the index, and in the same proportion.

⁸ Generally, for the purposes of these rules, unless otherwise specified, stock index warrants shall be treated as if they were index options.

⁹ "Aggregate exercise price," with respect to an option or warrant based on an underlying security, means the exercise price of an option or warrant contract multiplied by the numbers of units of the underlying security covered by the option contract or warrant. "Aggregate exercise price" with respect to an index option, means the exercise price multiplied by the index multiplier. See, e.g., Amex Rules 900 and 900C; CBOE Rule 12.3; and NASD Rule 2522.

¹⁰ "Out-of-the-money" amounts shall be determined as follows:

(1) for stock call options and warrants, any excess of the aggregate exercise price of the option or warrant over its current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System);

(2) for stock put options or warrants, any excess of the current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System) of the option or warrant over its aggregate exercise price;

(3) for stock index call options and warrants, any excess of the aggregate exercise price of the option or warrant over the product of the current index value and the applicable index multiplier; and

(4) for stock index put options and warrants, any excess of the product of the current index value and the applicable index multiplier over the aggregate exercise price of the option or warrant. (See, e.g., NYSE Rule 431 (Exchange Act Release No. 42011 (October 14, 1999)), 64 FR 57172 (October 22, 1999) (order approving SR-NYSE-99-03)); Amex Rule 462 (Exchange Act Release No. 43582 (November 17, 2000)), 65 FR 71151 (November 29, 2000) (order approving SR-Amex-99-27)); CBOE Rule 12.3 (Exchange Act Release No. 41658 (July 27, 1999)), 64 FR 42736 (August 5, 1999) (order approving SR-CBOE-97-67)); or NASD Rule 2520 (Exchange Act Release No. 43581 (November 17, 2000)), 65 FR 70854 (November 28, 2000) (order approving SR-NASD-00-15)).

¹¹ "In-the-money" amounts must be determined as follows:

(1) for stock call options and warrants, any excess of the current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System) of the option or warrant over its aggregate exercise price;

(2) for stock put options or warrants, any excess of the aggregate exercise price of the option or warrant over its current market value (as determined in accordance with Regulation T of the Board of Governors of the Federal Reserve System);

(3) for stock index call options and warrants, any excess of the products of the current index value and the applicable index multiplier over the aggregate exercise price of the option or warrant; and

(4) for stock index put options and warrants, any excess of the aggregate exercise price of the option or warrant over the product of the current index value and the applicable index multiplier.

¹² Two security futures will be considered "identical" for this purpose if they are issued by the same clearing agency or cleared and guaranteed by the same derivatives clearing organization, have identical contract specifications, and would offset each other at the clearing level.

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

In its filing with the Commission, OneChicago 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. OneChicago 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

(a) *General Margin Rules.* The General Margin Rules are designed to complement the customer margin rules set forth in Rules 400 through 406 under the Act (the "Exchange Act Rules").¹³ The Exchange Act Rules contain detailed requirements with respect to the margin to be collected from customers in connection with security futures and related positions held by security futures intermediaries on behalf of such customers. While the General Margin Rules are based on the standardized margin procedures developed by the U.S. futures exchanges' Joint Audit Committee and similar rules in effect for other contract markets¹⁴ designated under the Commodity Exchange Act, as amended (the "Commodity Exchange Act"), those precedents have been modified in certain respects to conform to the requirements of the Exchange Act Rules. The following paragraphs contain a brief explanation of each paragraph of the General Margin Rules:

Paragraph (a) of the Proposed Rule defines the scope of application of the Proposed Rule in two important respects. First, it provides that the Proposed Rule only applies to transactions in contracts traded on or subject to the rules of OneChicago. To

the extent that security futures intermediaries engage in security futures transactions on or through other exchanges as well, they will need to comply with the respective margin requirements established by such other exchanges. Second, paragraph (a) clarifies that the requirements set forth in the Proposed Rule generally only apply to security futures intermediaries that carry security futures products in futures accounts (with the exception of paragraph (n), which also applies to positions held in securities accounts). As provided in Rule 402(a) under the Act,¹⁵ security futures intermediaries that carry security futures in securities accounts are subject to the Exchange Act Rules, Regulation T of the Board of Governors of the Federal Reserve System,¹⁶ and the margin requirements of the self-regulatory organizations of which they are a member. In addition, paragraph (a) tracks the exemption for "exempted persons" pursuant to Rule 401(a)(9) under the Act.¹⁷

Paragraph (b) of the Proposed Rule adopts the Standard Portfolio Analysis of Risk (SPAN®) as the margining system for OneChicago. Developed by the Chicago Mercantile Exchange Inc. in 1988, SPAN® has become the futures industry standard for margining. SPAN® evaluates the risk of the futures and options portfolio in each account and assesses a margin requirement based on such risk by establishing reasonable movements in futures prices over a one day period. Security futures intermediaries entering into transactions on OneChicago can receive risk arrays based on SPAN® to calculate margins for each of their accounts, so that they can calculate minimum margin requirements for such accounts on a daily basis.

Paragraph (c) of the Proposed Rule sets the required margin level for each long or short position in a security future at 20 percent of the current market value of such security future, as required by Rule 403(b) under the Act.¹⁸ The only exception from this general requirement contemplated by the Proposed Rule is the Margin Offset Rule,

which is described in greater detail under (b) below.

Paragraph (d) of the Proposed Rule specifies the types of margin that a security futures intermediary may accept from a customer. Consistent with Rule 404(b) under the Act,¹⁹ acceptable types of margin are limited to deposits of cash, margin securities (subject to specified restrictions), exempted securities, any other assets permitted under Regulation T²⁰ of the Board of Governors of the Federal Reserve System to satisfy a margin deficiency in a securities margin account, and any combination of the foregoing. Paragraph (d) of the Proposed Rule further provides that the different types of eligible margin are to be valued in accordance with the applicable principles set forth in Rule 404 under the Act.²¹

Paragraph (e) of the Proposed Rule provides that security futures intermediaries may accept orders for a particular account only if (i) sufficient margin is on deposit in such account or is forthcoming within a reasonable time, or (ii) in the event that the conditions set forth in (i) are not satisfied, such orders reduce the margin requirements resulting from the existing positions in such account. This provision is designed to prevent account holders from exacerbating any already existing margin deficiency by entering into further transactions.

Paragraph (f) of the Proposed Rule establishes the general principle that a security futures intermediary must call for initial or maintenance margin equity whenever the minimum margin requirements determined in accordance with paragraph (c) of the Proposed Rule (taking into account any relief available under the Margin Offset Rule) is not satisfied. Any such margin call must be made within one business day after the occurrence of the event giving rise to the call. Paragraph (f) also clarifies that security futures intermediaries may call for margin in excess of OneChicago's minimum requirements. Finally, paragraph (f) provides that a margin call may only be reduced or deleted if and to the extent that (i) qualifying margin deposits are received or (ii) inter-day

¹³ 17 CFR 242.400–242.406.

¹⁴ Specifically, OneChicago modeled the General Margin Rules after Rule 930 of the Chicago Mercantile Exchange, Inc.

¹⁵ 17 CFR 242.402(a).

¹⁶ 12 CFR 220 *et seq.*

¹⁷ 17 CFR 242.401(a)(9).

¹⁸ 17 CFR 242.403(b).

¹⁹ 17 CFR 242.404(b).

²⁰ 12 CFR 220 *et seq.*

²¹ 17 CFR 242.404.

favorable market movements or the liquidation of positions have offset the previously existing margin deficiency. In each case, the oldest margin call outstanding at any time is to be reduced or deleted first. These provisions address necessary technical aspects of customer margining and are consistent with similar provisions contained in the precedents referred to above.

Paragraph (g) of the Proposed Rule limits the ability of customers to obtain disbursements of excess margin to any amounts in excess of the applicable initial margin requirement under the Proposed Rule and any other applicable margin requirement. This limitation is consistent with Rule 405(a) under the Act.²²

Paragraph (h) of the Proposed Rule prohibits security futures intermediaries from extending loans to Customers for margin purposes unless such loans are secured within the meaning of Commission Regulation 1.17(c)(3).²³ This prohibition corresponds to similar restrictions currently in effect on other contract markets.

Paragraph (i) of the Proposed Rule provides that accounts under identical ownership are to be aggregated for purposes of determining the applicable margining requirements on a net basis if such accounts fall within the same general classification (customer segregated, customer secured, special reserve account for the exclusive benefit of customers and non-segregated). This aggregation approach is consistent with universal practice in the futures industry and reflects the fact that several accounts under identical ownership may become subject to liquidation of positions in the event of a failure to satisfy margin calls with respect to any one of such accounts.

Paragraph (j) of the Proposed Rule establishes particular rules for omnibus accounts of security futures intermediaries, namely that (i) margin for positions held in such accounts is to be collected on a gross basis, (ii) initial and maintenance margin requirements are identical and (iii) security futures intermediaries are to obtain and maintain written instructions from such accounts with respect to positions which are eligible for offsets pursuant to the Margin Offset Rule.

Paragraph (k) of the Proposed Rule enables a security futures intermediary to liquidate positions in the account of any customer that fails to comply with a required margin call within a reasonable period of time. This provision complements the

requirements set forth in Rule 406(a) and (b) under the Act.²⁴

Paragraph (l) of the Proposed Rule authorizes OneChicago to direct any security futures intermediaries that fail to maintain margin requirements for any account in accordance with the Proposed Rule, to immediately liquidate any or all of the positions in such account to eliminate the resulting deficit. This provision is designed to ensure compliance by security futures intermediaries with their obligations under paragraph (k) and is an important function of OneChicago's oversight over such intermediaries.

The Exchange Act Rules and related provisions of the Act (such as, among others, sections 6(g)(4)(B)(ii)²⁵ and 6(h)(3)(L)²⁶ of the Act) are premised on each self-regulatory organization adopting margin requirements that are functionally equivalent to those contained in the General Margin Rules. Accordingly, the General Margin Rules represent a corollary of, and are designed to give effect to, the Exchange Act Rules and related provisions of the Exchange Act. As discussed in the preceding paragraphs, the General Margin Rules as proposed comply with the applicable requirements set forth in the Exchange Act Rules. OneChicago therefore believes that the General Margin Rules are consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OneChicago.

(b) *Margin Offset Rule.* Security futures intermediaries entering into transactions on OneChicago will be subject, among other things, to Rule 403(b)(1) under the Act,²⁷ which provides that the margin for each long or short position in a security future will generally be 20 percent of the current market value of such security future. As discussed above, this requirement is reflected in paragraph (c) of the General Margin Rules. Pursuant to Rule 403(b)(2) under the Act,²⁸ however, a self-regulatory authority may set the required initial or maintenance margin level for offsetting positions involving security futures and related positions at a level lower than the level that would apply if such positions were margined separately based on the aforementioned 20 percent requirement, provided the rules establishing such lower margin levels meet the criteria set forth in section 7(c)(2)(B) of the Act.²⁹

That Section requires, in relevant part, that:

“(I) The margin requirements for a security futures product be consistent with the margin requirements for comparable option contracts traded on any exchange registered pursuant to section 6(a) of (the Exchange Act); and

(II) Initial and maintenance margin levels for a security futures product not be lower than the lowest level of margin, exclusive of premium, required for any comparable option contract traded on any exchange registered pursuant to section 6(a) of (the Exchange Act), other than an option on a security future.”³⁰

OneChicago is proposing the Margin Offset Rule pursuant to, and in reliance on, Rule 403(b)(2) under the Act.³¹ Without the margin relief afforded by the Margin Offset Rule, security futures intermediaries would be required to collect margin from their customers equal to 20 percent of the current market value of the security futures held on behalf of such customers, irrespective of whether such security futures positions are hedged or unhedged. With respect to option contracts traded on securities exchanges, the Commission has recognized that it is “appropriate for the SROs to recognize the hedged nature of certain combined options strategies and prescribe margin requirements that better reflect the risk of those strategies.”³² OneChicago believes that the same considerations apply in connection with the determination of margin levels for offsetting positions involving security futures and related positions. If margin offsets were not available with respect to security futures, the customer margin requirements applicable to such instruments would effectively be inconsistent with, and more onerous than, the margin requirements for comparable option contracts traded on securities exchanges. This would be contrary to the statutory objectives reflected in section 7(c)(2)(B) of the Act.

At the core of the Margin Offset Rule will be the table of offsets attached to the Proposed Rule as Schedule A, which describes in detail the margin offsets available with respect to particular combinations of security futures and related positions. Such Schedule A is

³⁰ *Id.*

³¹ 17 CFR 242.403(b)(2).

³² See Securities Exchange Act Release Nos. 41658 (July 27, 1999), 64 FR 42736 (August 5, 1999) (order approving SR-CBOE-97-67 amending CBOE Rule 12.3); 42011 (October 14, 1999), 64 FR 57172 (October 22, 1999) (order approving SR-NYSE-99-03 amending NYSE Rule 431); 43581 (November 17, 2000), 65 FR 70854 (November 28, 2000) (order approving SR-NASD-2000-15 amending NASD Rule 2520); and 43582 (November 17, 2000), 65 FR 71151 (November 29, 2000) (order approving SR-Amex-99-27 amending Amex Rule 462).

²⁴ 17 CFR 242.406(a) and (b).

²⁵ 15 U.S.C. 78f(g)(4)(B)(ii).

²⁶ 15 U.S.C. 78f(h)(3)(L).

²⁷ 17 CFR 242.403(b)(1).

²⁸ 17 CFR 242.403(b)(2).

²⁹ 15 U.S.C. 78(c)(2)(b).

²² 17 CFR 242.405(a).

²³ 17 CFR 1.17(c)(3).

substantively identical to the table of offsets included in the Commission's release on Customer Margin Rules Relating to Security Futures (the "Customer Margin Release").³³ While the table differs in certain specified respects from similar tables in effect for exchange-traded options, the Commission acknowledged in the Customer Margin Release that these limited differences are warranted by different characteristics of the instruments to which they relate. For the reasons set forth above, OneChicago believes that the Margin Offset Rule is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OneChicago.

(c) *Market Maker Exclusion.* Rule 400(c)(2)(v) under the Act³⁴ permits a national securities exchange to adopt rules containing specified requirements for security futures dealers, on the basis of which the financial relations between security futures intermediaries, on the one hand, and qualifying security futures dealers, on the other hand, are excluded from the margin requirements contained in the Exchange Act Rules. Any rules so adopted by an exchange must meet the criteria set forth in section 7(c)(2)(B) of the Act, which is reproduced in relevant part under (b) above.

OneChicago is proposing the Market Maker Exclusion pursuant to, and in reliance on, Rule 400(c)(2)(v) under the Act.³⁵ OneChicago intends to select certain of its members to serve as lead market makers in accordance with Item VI. of its Policies and Procedures as in effect on the date hereof. From time to time, OneChicago may adopt other programs pursuant to Rule 514 of its Rulebook under which members may be designated as market makers with respect to one or more security futures products in order to provide liquidity and orderliness in the relevant market or markets. A significant number of those members will likely be floor traders or floor brokers registered with the Commodity Futures Trading Commission under section 4f(a)(1) of the Commodity Exchange Act, as amended, or dealers registered with the Commission under section 15(b) of the Act.³⁶ As such, they will not qualify as exempted persons within the meaning of Rule 401(a)(9) under the Act.³⁷ Without the Market Maker Exclusion,

they arguably would have to be treated as customers for purposes of determining margin requirements, even with respect to their proprietary market making activities. This would be different from the treatment of security futures dealers on securities exchanges under section 7(c)(3) of the Act,³⁸ and, therefore, would be contrary to the statutory objectives reflected in section 7(c)(2)(B) of the Act.³⁹

The Market Maker Exclusion as proposed reflects all of the criteria and limitations set forth in Rule 400(c)(2)(v) under the Exchange Act.⁴⁰ Specifically, as contemplated by the Customer Margin Release, the Market Maker Exclusion specifies the circumstances under which a Market Maker will be considered to "hold itself out as being willing to buy and sell security futures for its own account on a regular or continuous basis."⁴¹ Under the Market Maker Exclusion, a Market Maker satisfies this condition if either (i) at least seventy-five percent (75%) of its gross revenue on an annual basis is derived from business activities or occupations from trading listed financial derivatives and the instruments underlying those derivatives, including security futures, stock index futures and options, stock and index options, stocks, foreign currency futures and options, foreign currencies, interest rate futures and options, fixed income instruments and commodity futures and options or (ii) except for unusual circumstances, at least fifty percent (50%) of its trading activity on OneChicago in any calendar quarter is in classes of security futures products to which it is assigned under a market making program adopted by OneChicago pursuant to Rule 514 of its Rulebook.

These alternative standards proposed by OneChicago generally follow examples given in the Customer Margin Release. With respect to the standard described in (i) above, the Customer Margin Release provides that the rules of the self-regulatory organization may "require that a large majority of [the Market Maker's] revenue is derived from business activities or occupations from trading listed financial-based derivatives."⁴² Given the composition of the pool of exchange members from which OneChicago will select Market Makers, the standard proposed by OneChicago clarifies that such

members' trading activities related to the cash instruments underlying listed financial derivatives are taken into account in determining gross revenue. The standard described in (ii) above corresponds to similar requirements for market makers on several U.S. options markets.⁴³ Based on the foregoing, OneChicago believes that the Market Maker Exclusion is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to OneChicago.

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

OneChicago does not believe that the Proposed Rule will have an impact on competition because, as described under 3 above, (i) the General Margin Rules are based on the standardized margin procedures developed by the U.S. futures exchanges' Joint Audit Committee and similar rules in effect for other contract markets, (ii) the Margin Offset Rule will be consistent with similar rules in effect for option contracts traded on exchanges registered pursuant to section 6(a) of the Act⁴⁴ and (iii) the Market Maker Exclusion ensures that qualifying security futures dealers on OneChicago are subject to margin requirements that are comparable to those traditionally applicable to security futures dealers on securities exchanges. In addition, it can be expected that other self-regulatory organizations that will list security futures products will adopt rules that are substantially similar to the Proposed Rule.

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

Comments on the Proposed Rule have not been solicited.

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, as amended; or

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

³³ Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).

³⁴ 17 CFR 242.400(c)(2)(v).

³⁵ 17 CFR 242.400(c)(2)(v).

³⁶ 15 U.S.C. 78o.

³⁷ 17 CFR 242.401(a)(9).

³⁸ 15 U.S.C. 78g(c)(3).

³⁹ 15 U.S.C. 78g(c)(2)(B).

⁴⁰ 17 CFR 242.400(c)(2)(v).

⁴¹ Cf. 17 CFR 242.400(c)(2)(v)(B)(3).

⁴² See Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).

⁴³ See note 91 in the Customer Margin Release and the several options exchange rules referenced therein.

⁴⁴ 15 U.S.C. 78f.

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, as amended, 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 offices of the Exchange. All submissions should refer to File No. SR-OC-2002-01 and should be submitted by October 22, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority:⁴⁵

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 02-24906 Filed 9-30-02; 8:45 am]

BILLING CODE 8010-01-P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3444]

State of Georgia

Seminole County and the contiguous counties of Decatur, Early and Miller in the State of Georgia; Gadsden and Jackson Counties in the State of Florida; and Houston County in the State of Alabama constitute a disaster area due to damages caused by severe storms, flooding, and wind damage caused by Tropical Storm Hanna on September 15, 2002. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 25, 2002 and for economic injury until the close of business on June 25, 2003 at the address listed below or other locally announced locations:

Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	6.625
Homeowners without credit available elsewhere	3.312
Businesses with credit available elsewhere	7.000
Businesses and non-profit organizations without credit available elsewhere	3.500
Others (including non-profit organizations) with credit available elsewhere	6.375
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	3.500

The number assigned to this disaster for physical damage is 344411 for Georgia; 344511 for Florida; and 344611 for Alabama. The number assigned to this disaster for economic injury is 9R6000 for Georgia; 9R6100 for Florida; and 9R6200 for Alabama.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 25, 2002.

Hector V. Barreto,
Administrator.

[FR Doc. 02-24854 Filed 9-30-02; 8:45 am]

BILLING CODE 8025-01-P

SMALL BUSINESS ADMINISTRATION

Information Quality Guidelines

AGENCY: Small Business Administration.

ACTION: Notice of availability of final guidelines.

FOR FURTHER INFORMATION CONTACT: Data Administrator, Office of the Chief Information Officer, (202) 205-6289.

SUPPLEMENTARY INFORMATION: Pursuant to the Office of Management and Budget "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," effective January 3, 2002 ("OMB Guidelines"), SBA has issued its own information quality guidelines and established an administrative mechanism for affected persons to seek and obtain correction of information maintained and disseminated by SBA that does not comply with the OMB Guidelines or SBA Guidelines. SBA's final guidelines are available to the public on SBA's Web site at <http://www.sba.gov/aboutsba/ifoqualityguidelines.pdf>, or by calling SBA Data Administrator at (202) 205-6289, or writing to the Office of the Chief Information Officer, Data Administrator, U.S. Small Business

Administration, 409 Third Street, SW., Suite 4000, Washington, DC 20416.

Authority: Section 515(a) of the Treasury and General Government Appropriations Act for FY 2001, Public Law 106-554; Office of Management and Budget "Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies," effective January 3, 2002, 67 FR 8452 (Feb. 22, 2002).

Dated: September 25, 2002.

Lawrence E. Barrett,

Chief Information Officer.

[FR Doc. 02-24920 Filed 9-30-02; 8:45 am]

BILLING CODE 8025-01-P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection packages that may be included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10235, 725 17th St., NW., Washington, DC 20503, Fax: 202-395-6974.

(SSA), Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1338 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-965-6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from

⁴⁵ 17 CFR 200.30-3(a)(12).