

requirements, noted above, the Commission believes that Nasdaq has adequately addressed the potential problems that could arise from the hybrid nature of the Common Stock.

The Commission notes that Nasdaq will distribute a circular to its members that provides guidance regarding members' compliance responsibilities and requirements, including heightened suitability recommendations, when handling transactions in callable puttable common stock, and that highlights the special risks and characteristics associated with the Common Stock. Specifically, among other things, the circular will inform members that customer confirmations involving the New Dreyer's Common Stock should identify the security as a callable and puttable instrument and that a customer may contact the member for more information concerning the security. Nasdaq represents that the circular will also indicate that, given the put and call features of the Common Stock, Nasdaq will suggest that transactions in the Common Stock be recommended only to investors whose accounts have been approved for options trading. Nasdaq further represents that, if a customer has not been approved for options trading, or does not wish to open an options account, the member should ascertain whether the Common Stock is suitable for the customer pursuant to NASD Rule 2310 and IM-2310-2. The Commission believes that the distribution of the circular should help to ensure that only customers with an understanding of the risks attendant to the trading of the New Dreyer's Common Stock and who are able to bear the financial risks associated with transactions in the Common Stock will acquire and trade the Common Stock.

In addition, Nasdaq represents that the circular will identify the following specific risks associated with the Common Stock.<sup>14</sup> The circular will note that members should inform customers that the price at which the New Dreyer's Common Stock will trade may be influenced, prior to the expiration of the two put periods, by the existence of the put right. The circular will also note that the final rate of return on the Common Stock may be less than the market price of the Common Stock, and that after the expiration of the two put

and is able to bear the financial risk of, the transaction.

<sup>14</sup> Telephone conversation between John Nachmann, Senior Attorney, Office of General Counsel, Nasdaq, and Florence Harmon, Senior Special Counsel, and Sapna C. Patel, Attorney, Division of Market Regulation, Commission, on February 11, 2003.

periods, the market price of the Common Stock may decline significantly. Furthermore, customers should be aware that after the expiration of the call period on July 1, 2007, the New Dreyer's Common Stock will be converted into New Dreyer's class B common stock, and that Nestle will no longer be held to certain controlling interest and sale restrictions, as discussed above. The Commission believes that to some extent the financial risk is minimized by the NASD's listing standards in NASD Rule 4420(f), which provide that only issuers satisfying substantial asset and equity requirements may issue these types of hybrid securities, and that the issuers of securities to be listed on Nasdaq or the NYSE or be an affiliate of a company listed on Nasdaq or the NYSE. In addition, the NASD's hybrid listing standards further require that the Common Stock have at least \$4 million in market value.

Furthermore, the Commission notes that Nasdaq represents that NASD's surveillance procedures for the Common Stock will be the same as its current surveillance procedures for equity securities, and that Nasdaq represents that such surveillance procedures are adequate for this product.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that granting accelerated approval of the proposal will facilitate the trading of New Dreyer's Common Stock. Accordingly, the Commission believes that there is good cause, consistent with Sections 15A(b)(6) and 19(b)(2) of the Act,<sup>15</sup> to approve the proposal on an accelerated basis.

The Commission is approving Nasdaq's proposed listing standards for the New Dreyer's Common Stock. The Commission specifically notes that, notwithstanding approval of the listing standards for the Common Stock, other similarly structured products will require review by the Commission prior to being traded on Nasdaq.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR-NASD-2003-16) is approved on an accelerated basis.

<sup>15</sup> 15 U.S.C. 78o-3(b)(6) and 78s(b)(2).

<sup>16</sup> 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 03-3946 Filed 2-18-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-47356; File No. SR-OC-2003-01]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by OneChicago, LLC Relating to Initial Listing Standards of Single Stock Futures

February 12, 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 January 23, 2003, OneChicago, LLC ("OneChicago" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule changes described in items I, II, and III below, which items have been prepared by OneChicago. On January 27, 2003, OneChicago filed Amendment No. 1 to the proposed rule change.<sup>3</sup> On February 5, 2003, OneChicago filed Amendment No. 2 to the proposed rule change.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

OneChicago also has filed the proposed rule change with the Commodity Futures Trading Commission ("CFTC"). OneChicago filed a written certification with the CFTC under section 5c(c) of the

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

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

<sup>3</sup> See letter dated January 24, 2003, from Madge M. Hamilton, Deputy General Counsel, OneChicago, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission ("Amendment No. 1"). In Amendment No. 1, the Exchange corrected technical errors in the proposed rule text and added proposed rule text that was inadvertently omitted in its initial filing.

<sup>4</sup> See letter dated February 3, 2003, from Madge M. Hamilton, Deputy General Counsel, OneChicago, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission ("Amendment No. 2"). In Amendment No. 2, the Exchange amended section II.A.2 of the proposal to specify that the proposed rule change was consistent with section 6(b)(5) of the Act. In addition the Exchange amended section II.C of the proposal to state that the Exchange has not received any comments on the proposal.

Commodity Exchange Act<sup>5</sup> on January 23, 2003.

### I. Self-Regulatory Organization's Description of the Proposed Rule Change

OneChicago proposes to amend its initial listing standards for a security futures product based on a single security ("single stock future") relating to the pricing of the underlying security.

The text of the proposed rule change appears below. New text is in *italics*. Deleted text is in brackets.

#### Eligibility and Maintenance Criteria for Security Futures Products

I. Initial listing standards for a security futures product based on a single security.

A. For a security futures product that is physically settled to be eligible for initial listing, the security underlying the futures contract must meet each of the following requirements:

(i)—(vii) No Change

(viii) *If the underlying security is a "covered security" as defined under section 18(b)(1)(A) of the Securities Act of 1933, the market price per share of the underlying security has been at least \$3.00 for the previous five consecutive business days preceding the date on which the Exchange submits a certificate to The Options Clearing Corporation for listing and trading. For purposes of this provision, the market price of such underlying security is measured by the closing price reported in the primary market in which the underlying security is traded. Requirement (viii) as Applied to Restructure Securities: Look-Back Test: In determining whether a Restructure Security that is issued or distributed to the shareholders of an Original Equity Security (but not a Restructure Security that is issued pursuant to a public offering or rights distribution) satisfies this requirement, OneChicago may "look back" to the market price history of the Original Equity Security prior to the ex-date of the Restructuring Transaction if the following Look-Back Test is satisfied:*

(a) *The Restructure Security has an aggregate market value of at least \$500 million;*

(b) *The aggregate market value of the Restructure Security equals or exceeds the Relevant Percentage (defined below) of the aggregate market value of the Original Equity Security;*

(c) *The aggregate book value of the assets attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and*

*the Relevant Percentage of the aggregate book value of the assets attributed to the business represented by the Original Equity Security; or*

(d) *The revenues attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and the Relevant Percentage of the revenues attributed to the business represented by the Original Equity Security.*

*For purposes of determining whether the Look-Back Test is satisfied, the term "Relevant Percentage" means: (i) 25%, when the applicable measure determined with respect to the Original Equity Security or the business it represents includes the business represented by the Restructure Security; and (ii) 33 $\frac{1}{3}$ %, when the applicable measure determined with respect to the Original Equity Security or the business it represents excludes the business represented by the Restructure Security.*

*In calculating comparative aggregate market values, OneChicago will use the Restructure Security's closing price on its primary market on the last business day prior to the Selection Date, or the Restructure Security's opening price on its primary market on the Selection Date, and will use the corresponding closing or opening price of the related Original Equity Security.*

*Furthermore, in calculating comparative asset values and revenues, OneChicago will use the issuer's (i) latest annual financial statements or (ii) most recently available interim financial statements (so long as such interim financial statements cover a period of not less than three months), whichever are more recent. Those financial statements may be audited or unaudited and may be pro forma.*

*Restructure Securities Issued in Public Offering or Rights Distribution: In determining whether a Restructure Security that is distributed pursuant to a public offering or a rights distribution satisfies requirement (viii), OneChicago may look back to the market price history of the Original Equity Security if: (i) The foregoing Look-Back Test is satisfied; (ii) the Restructure Security trades "regular way" on an Exchange or automatic quotation system for at least five trading days immediately preceding the Selection Date; and (iii) at the close of trading on each trading day on which the Restructure Security trades "regular way" prior to the Selection Date, as well as at the opening of trading on Selection Date, the market price of the Restructure Security was at least \$3.00.*

*Limitation on Use of Look-Back Test: Except in the case of a Restructure Security that is distributed pursuant to a public offering or rights distribution,*

*OneChicago will not rely upon the market price history of an Original Equity Security for any trading day unless it also relies upon the trading volume history for that trading day. In addition, once OneChicago commences to rely upon a Restructure Security's trading volume and market price history for any trading day, OneChicago will not rely upon the trading volume and market price history of the related Original Equity Security for any trading day thereafter.*

(ix) *If the underlying security is not a "covered security" as defined under section 18(b)(1)(A) of the Securities Act of 1933, [I]t must have had a market price per security of at least \$7.50, as measured by the lowest closing price reported in any market in which it has traded, for the majority of business days during the three calendar months preceding the date of selection.*

*Requirement [(viii)] (ix) as Applied to Restructure Securities: Look-Back Test: In determining whether a Restructure Security that is issued or distributed to the shareholders of an Original Equity Security (but not a Restructure Security that is issued pursuant to a public offering or rights distribution) satisfies this requirement, OneChicago may "look back" to the market price history of the Original Equity Security prior to the ex-date of the Restructuring Transaction if the following Look-Back Test is satisfied:*

(a) *The Restructure Security has an aggregate market value of at least \$500 million;*

(b) *The aggregate market value of the Restructure Security equals or exceeds the Relevant Percentage (defined below) of the aggregate market value of the Original Equity Security;*

(c) *The aggregate book value of the assets attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and the Relevant Percentage of the aggregate book value of the assets attributed to the business represented by the Original Equity Security; or*

(d) *The revenues attributed to the business represented by the Restructure Security equals or exceeds both \$50 million and the Relevant Percentage of the revenues attributed to the business represented by the Original Equity Security.*

*For purposes of determining whether the Look-Back Test is satisfied, the term "Relevant Percentage" means: (i) 25%, when the applicable measure determined with respect to the Original Equity Security or the business it represents includes the business represented by the Restructure Security;*

<sup>5</sup> 7 U.S.C. 7a-2(c).

and (ii) 33⅓%, when the applicable measure determined with respect to the Original Equity Security or the business it represents excludes the business represented by the Restructure Security.

In calculating comparative aggregate market values, OneChicago will use the Restructure Security's closing price on its primary market on the last business day prior to the Selection Date, or the Restructure Security's opening price on its primary market on the Selection Date, and will use the corresponding closing or opening price of the related Original Equity Security.

Furthermore, in calculating comparative asset values and revenues, OneChicago will use the issuer's (i) latest annual financial statements or (ii) most recently available interim financial statements (so long as such interim financial statements cover a period of not less than three months), whichever are more recent. Those financial statements may be audited or unaudited and may be pro forma.

**Restructure Securities Issued in Public Offering or Rights Distribution:** In determining whether a Restructure Security that is distributed pursuant to a public offering or a rights distribution satisfies requirement [(viii)](ix), OneChicago may look back to the market price history of the Original Equity Security if: (i) The foregoing Look-Back Test is satisfied; (ii) the Restructure Security trades "regular way" on an Exchange or automatic quotation system for at least five trading days immediately preceding the Selection Date; and (iii) at the close of trading on each trading day on which the Restructure Security trades "regular way" prior to the Selection Date, as well as at the opening of trading on Selection Date, the market price of the Restructure Security was at least \$7.50.

**Limitation on Use of Look-Back Test:** Except in the case of a Restructure Security that is distributed pursuant to a public offering or rights distribution, OneChicago will not rely upon the market price history of an Original Equity Security for any trading day unless it also relies upon the trading volume history for that trading day. In addition, once OneChicago commences to rely upon a Restructure Security's trading volume and market price history for any trading day, OneChicago will not rely upon the trading volume and market price history of the related Original Equity Security for any trading day thereafter.

[(ix)] (x) If the underlying security is an ADR:

(a) OneChicago must have in place an effective surveillance sharing agreement with the primary exchange in the home

country where the stock underlying the ADR is traded;

(b) The combined trading volume of the ADR and other related ADRs and securities in the U.S. ADR market, or in markets with which OneChicago has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least 50% of the combined worldwide trading volume in the ADR, the security underlying the ADR, other classes of common stock related to the underlying security, and ADRs overlying such other stock over the three-month period preceding the dates of selection of the ADR for futures trading ("Selection Date");

(c)(1) The combined trading volume of the ADR and other related ADRs and securities in the U.S. ADR market, and in markets with which OneChicago has in place an effective surveillance sharing agreement, represents (on a share equivalent basis) at least 20% of the combined worldwide trading volume in the ADR and in other related ADRs and securities over the three-month period preceding the Selection Date;

(2) The average daily trading volume for the ADR in the U.S. markets over the three-month period preceding the Selection Date is at least 100,000 receipts; and

(3) The daily trading volume for the ADR is at least 60,000 receipts in the U.S. markets on a majority of the trading days for the three-month period preceding the Selection Date; or

(d) The Securities and Exchange Commission and Commodity Futures Trading Commission have otherwise authorized the listing.

[(x)] (xi) OneChicago will not list for trading any security futures product where the underlying security is a Restructure Security that is not yet issued and outstanding, regardless of whether the Restructure Security is trading on a "when issued" basis or on another basis that is contingent upon the issuance or distribution of securities.

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

A. [Absent exceptional circumstances,] 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) It must be registered under section 12 of the Exchange Act.

(ii) There must be at least 6,300,000 shares or receipts evidencing the underlying security outstanding that are owned by persons other than those who are required to report their security holdings pursuant to section 16(a) of the Exchange Act.

(iii) There must be at least 1,600 securityholders.

(iv) It must have had an average daily trading volume (across all markets in which the underlying security is traded) of least 82,000 shares or receipts evidencing the underlying security in each of the preceding 12 months. Requirement (iv) as Applied to Restructure Securities:

If a Restructure Security is approved for a security futures product trading under the initial listing standards in section I, the average daily trading volume history of the Original Equity Security (as defined in section I) prior to the commencement of trading in the Restructure Security (as defined in section I), including "when-issued" trading, may be taken into account in determining whether this requirement is satisfied.

(v) It must have had a market price per security of at least \$5.00, as measured by the highest closing price reported in any market in which it has traded, for a majority of business days during the preceding six calendar months; provided, however, that OneChicago may waive this requirement and open for trading a security futures product with a new delivery month, if:

(a) The aggregate market value of the underlying security equals or exceeds \$50 million;

(b) Customer open interest (reflected on a two-sided basis) equals or exceeds 4,000 contracts for all delivery months;

(c) Its average daily trading volume (in all markets in which the underlying security is traded) has been at least 109,000 shares or receipts evidencing the underlying security in each of the preceding 12 months; and

(d) The market price per share or receipt of the underlying security closed at \$3.00 or above on a majority of the business days during the preceding six calendar months, as measured by the highest closing price for the underlying security reported in any market in which the underlying security traded, and the market price per share or receipt of the underlying security is at least

\$3.00 at the time such additional series are authorized for trading. During the next consecutive six calendar month period, to satisfy this paragraph, the market price per share or receipt of the underlying security must be at least \$4.00.

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) If the underlying security is an ADR and was initially deemed appropriate for security futures product trading under paragraph [(viii)(b)] (x)(b) or [(viii)(c)] (x)(c) in section I, OneChicago will not open for trading security futures products having additional delivery months on the ADR unless:

(a) The percentage of worldwide trading volume in the ADR and other related securities that takes place in the U.S. and in markets with which OneChicago has in place an effective surveillance sharing agreement for any consecutive three-month period is: (1) At least 30%, without regard to the average daily trading volume in the ADR; or (2) at least 15% when the average U.S. daily trading volume in the ADR for the previous three months is at least 70,000 receipts;

(b) OneChicago has in place an effective surveillance sharing agreement with the primary exchange in the home country where the security underlying the ADR is traded; or

(c) The Securities and Exchange Commission and Commodity Futures Trading Commission have otherwise authorized the listing.

B—D No Change.

III. No Change.

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 amend its Eligibility and Maintenance Criteria for Security Futures Products ("Listing Standards") pertaining to the price requirement of an underlying security for the initial listing of a single stock future. OneChicago's current initial Listing Standards for single stock futures require, among other things, that the market price of the underlying security, as measured by the lowest closing price reported in any market, be at least \$7.50 for the majority of business days during the three calendar months preceding the selection. Provided all other initial Listing Standards requirements are met, the proposed rule change would permit a single stock future to be listed on a "covered security" as defined under section 18(b)(1)(A) for the Securities Act of 1933 ("Securities Act")<sup>6</sup> that has a market price of at least \$3.00 for the five consecutive business days prior to the date on which OneChicago submits a certificate to The Options Clearing Corporation ("OCC") for listing and trading the future contract.<sup>7</sup> The market price of the underlying security would be measured by the closing price reported in the primary market in which the underlying security is traded. The proposed rule change also amends the initial Listing Standards to require that an underlying security that is not a "covered security" meet OneChicago's current price requirement that it have a market price of \$7.50 for the majority of the trading days for the three calendar months preceding selection.

OneChicago states that the proposed rule change would permit OneChicago to list single stock futures that would be beneficial to investors for hedging and speculative purposes, while still providing adequate protection for

investors. Under current market conditions, some securities meet all of the requirements in the initial Listing Standards for securities underlying a single stock future, except for the market price requirement of \$7.50. OneChicago believes that if those securities are "covered securities" and they meet the other requirements in the initial Listing Standards, it is appropriate to require the underlying security to have a market price of \$3.00 or above for the five business days preceding the notification to OCC. A "covered security" as used in the proposed rule change would be a security that is listed or authorized for listing on NYSE, Amex, or Nasdaq. As the Chicago Board Options Exchange, Inc. ("CBOE") noted in its proposed rule change requesting a similar amendment, "this particular criteria [no longer] serves to accomplish its presumed intended purpose, *i.e.*, to prevent the proliferation of option classes on overlying securities that lack liquidity needed to maintain fair and orderly markets."<sup>8</sup>

OneChicago states that its initial Listing Standard requirements, as well as the listing requirements of the NYSE, Amex and Nasdaq, would provide adequate investor protection. Under OneChicago's initial Listing Standards, a "covered security" would still be required to have: a minimum of 7,000,000 shares owned by public investors;<sup>9</sup> a minimum of 2,000 securityholders;<sup>10</sup> and an average daily trading volume ("ADTV") of at least 109,000 shares in each of the preceding 12 months<sup>11</sup> in order for OneChicago to list a single stock future on the security. In addition to the initial Listing Standard requirements, OneChicago will monitor and adhere to its maintenance standards for single stock futures.

<sup>8</sup> See Securities Exchange Act Release No. 46957 (December 6, 2002), 67 FR 77106 (December 16, 2002) (publishing SR-CBOE-2002-62 for public comment).

<sup>9</sup> OneChicago's Listing Standard I.A.iv.

<sup>10</sup> OneChicago's Listing Standard I.A.v.

<sup>11</sup> OneChicago's Listing Standard I.A.vi. OneChicago notes that the comparable option listing standards requires a trading volume of at least 2,400,000 shares in the preceding 12 months. The Division of Market Regulation's Staff Legal Bulletin No. 15, which provided guidance to exchanges developing listing standards for security futures, states that a minimum monthly trading volume of 2,400,000 million shares is comparable to an average daily trading volume of 109,000 shares for the preceding 12 months. See Division of Market Regulation: Staff Legal Bulletin No. 15, Listing Standards for Trading Securities Futures Products (September 5, 2001), n. 6. The 109,000 figure was arrived at by dividing 2.4 million by 22, which is the typical number of trading days in a calendar month.

<sup>6</sup> Section 18(b)(1)(A) of the Securities Act provides that, "[a] security is a covered security if such security is—listed, or authorized for listing, on the New York Stock Exchange ["NYSE"], or the American Stock Exchange ["Amex"], or listed, or authorized for listing, on the National Market System of the Nasdaq Stock Market ["Nasdaq"] (or any successor to such entities). \* \* \* 15 U.S.C. 77r(b)(1)(A). The term "covered security" would not include those securities defined under section 19(b)(1)(B) of the Securities Act. 15 U.S.C. 77r(b)(1)(B).

<sup>7</sup> The proposed rule change amends OneChicago's Listing Standard I.A.viii and renumbers the subsequent initial listing standards requirements for single stock futures. The proposed rule change also makes a conforming amendment to Listing Standard II.A.vi. In addition, the proposed rule change deletes, "Absent exceptional circumstances" in OneChicago's Listing Standard II.A.

In addition to investor protections provided by the Listing Standards requirements, the design of the proposed rule change provides safeguards against price manipulation and provides a reliability test for stability in reasonable time period for qualifying the price of the underlying security. The proposed rule change requires that the "covered security" have a price on the primary market above \$3.00 for five days prior to notifying OCC of OneChicago's intent to list and trade the single stock future. This provision is designed to prevent the manipulation of the price of the "covered security" immediately prior to the listing of a single stock future. First, the price of a "covered security" must be above \$3.00 for five business days, which makes it more difficult for someone to enter the underlying market to manipulate the price. In addition, the price of the "covered security" must be on the primary market, *i.e.*, NYSE, Amex or Nasdaq, which would be more liquid and thus more difficult to manipulate. In determining to list any single stock futures, OneChicago must ensure that its own systems, including price dissemination system, have the capacity to handle the potential increased capacity requirements.

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>12</sup> The Commission has approved a similar rule change for the CBOE.<sup>13</sup> Since CBOE has a comparable Listing Standard, OneChicago believes that the proposed rule change meets the requirement of section 6(h)(3)(C) of the Act.<sup>14</sup>

## 2. Statutory Basis

The proposed rule change is consistent with section 6(b)(5) of the Act<sup>15</sup> in that it promotes competition, is designed to prevent fraudulent and manipulative acts and practices, and is designed to protect investors and the public interest. The proposed rule change would promote competition and is designed to protect investors and the public interest by providing products that could be used by investors for hedging and speculative purposes, while at the same time providing investor protection through the design of the proposed rule change and the

Listing Standard requirements that would be applicable.

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

OneChicago believes that the proposed rule change will not unduly burden competition. In fact, OneChicago believes the proposed rule change would promote competition by permitting OneChicago to list a broader array of single stock futures, without jeopardizing investor protection.

### *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 no comments on the proposed rule change 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 January 23, 2003, except that the technical changes made in Amendment Nos. 1 and 2 have become effective on January 24, 2003, and February 4, 2003, respectively. 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>16</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. 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-2003-01 and should be submitted by March 12, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03-3942 Filed 2-18-03; 8:45 am]

BILLING CODE 8010-01-U

## DEPARTMENT OF STATE

### Bureau of Nonproliferation

[Public Notice 4280]

### Imposition of Chemical and Biological Weapons Proliferation Sanctions Against Foreign Persons, Including a Ban on U.S. Government Procurement

**AGENCY:** Bureau of Nonproliferation, Department of State.

**ACTION:** Notice.

**SUMMARY:** The United States Government has determined that two foreign persons have engaged in chemical/biological weapons proliferation activities that require the imposition of sanctions pursuant to the Arms Export Control Act and the Export Administration Act of 1979 (the authority of which was most recently continued by Executive Order 13222 of August 17, 2001).

**EFFECTIVE DATE:** February 4, 2003.

**FOR FURTHER INFORMATION CONTACT:** On general issues: Vann H. Van Diepen, Director, Office of Chemical, Biological, and Missile Nonproliferation, Bureau of Nonproliferation, Department of State (202-647-1142). On U.S. Government procurement ban issues: Gladys Gines, Office of the Procurement Executive, Department of State (703-516-1691).

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 81(a) of the Arms Export Control Act (22 U.S.C. 2798(a)) and Section 11C(a) of the Export Administration Act of 1979 (50 U.S.C. app. 2410C(a)) as continued by Executive Order 13222 of August 17, 2001 (hereinafter referred to as the "Export Administration Act"), Executive Order 12851 of June 11, 1993, and State Department Delegation of Authority No. 145 of February 4, 1980, as amended, the Under Secretary of State for Arms Control and International Security Affairs has determined that the

<sup>12</sup> 15 U.S.C. 78f(h)(3)(C).

<sup>13</sup> Securities Exchange Act Release No. 47190 (January 15, 2003), 68 FR 3072 (January 22, 2003) (approving SR-CBOE-2002-62).

<sup>14</sup> 15 U.S.C. 17f(h)(3)(C).

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

<sup>16</sup> 15 U.S.C. 78s(b)(1).

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