

SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-76920; File No. SR-OC-2015-03)

January 15, 2016

Self-Regulatory Organizations; OneChicago, LLC; Notice of Filing of Proposed Rule Change Relating to the Summary Imposition of Fines

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (the “Act”)<sup>1</sup>, notice is hereby given that on December 30, 2015, OneChicago, LLC (“OneChicago,” “OCX,” or the “Exchange”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. OneChicago has also filed this rule change with the Commodity Futures Trading Commission (“CFTC”). OneChicago filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (“CEA”) on December 29, 2015.

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

OneChicago is proposing to amend OCX Rule 717 (Summary Imposition of Fines) and concurrently issue Notice to Members (“NTM”) 2015-48. OCX Rule 717 lays out OneChicago’s summary fine procedure. Specifically, OCX Rule 717 lists the violations for which the Exchange may impose summary fines, as well as the process the Exchange must follow to impose such fines. OneChicago proposes to amend Rule 717 to add several rule violations to the list of items for which the Exchange may impose summary fines. In addition to adding several rule violations for which the Exchange may impose summary fines, OCX is also proposing to add a summary fine schedule for each rule violation. The summary fine schedule informs market

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

participants of the fines for each rule violation based on the number of offenses within a rolling twelve month period. OCX developed this summary fine schedule with input from the CFTC staff, and many of the summary fines are in line with summary fines for similar violations at other security futures exchanges.<sup>2</sup> OneChicago is also making minor technical changes to OCX Rule 717 to support the foregoing amendments to the rule.

OneChicago is concurrently issuing NTM 2015-48. The NTM informs market participants that OneChicago is amending OCX Rule 717. Additionally, the NTM lists the violations for which summary fines may be imposed. Then, in order to provide market participants with more clarity regarding the rule violations, guidance is provided regarding what activity or omission the Exchange would consider to constitute a violation of the listed rules.

Finally, OneChicago is also amending OCX Rule 705 (Review of Investigative Reports). OCX Rule 705 describes the process by which the OneChicago Chief Regulatory Officer (“CRO”) will review investigation reports conducted by the Compliance Department. OneChicago proposes to amend OCX Rule 705 to allow the CRO to authorize the summary imposition of fines as a result of an investigation.

The text of the proposed rule change is attached as Exhibit 4 to the filing submitted by the Exchange but is not attached to the published notice of the filing.

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

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<sup>2</sup> See, e.g., CFE Rule 714(f).

Item IV below. The self-regulatory organization 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

OCX Rule 717 (Summary Imposition of Fines)

OCX Rule 717 lays out the Exchange's summary fine authority. Currently, the Rule describes that the Chief Regulatory Officer may summarily impose a fine against a Member for failing (i) to make timely payments of original or variation margin, options premiums, fees, cost, charges or fines to the Exchange or the Clearinghouse; (ii) to make timely and accurate submissions to the Exchange of notices, reports or other information required by the Rules of the Exchange; and (iii) to keep any books and records required by the Rules of the Exchange.

Additionally, in its current form, the Rule describes what requirements the Exchange must follow when issuing a summary fine pursuant to Rule 717. The Exchange must provide notice of any summary fine imposed, and the notice must contain the violations of the Rules of the Exchange for which the fine was imposed, the violation date, and the amount of the fine. Furthermore, the Rule describes the requirements for the Member or Access Person to pay the fine or to appeal the fine pursuant to OCX Rule 716. Finally, Rule 717 then sets the maximum fine for each violation at \$5,000, and explains that the summary imposition of fines does not preclude the Exchange from bringing any other action against the fined market participant.

OneChicago is now proposing to make certain amendments to this Rule 717. Namely, OCX is proposing to add to Rule 717 a list of items for which summary fines may be imposed. The items added generally relate to violations of reporting, audit trail, recordkeeping, and other

Exchange Rules. The list of items which OneChicago proposes to add to Rule 717 and their associated proposed summary fines as described below:

- Failure to make timely payments of fees, costs, or charges to the Exchange or Clearinghouse. The proposed summary fines for this rule violation are a warning letter for the first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and \$5,000 for all subsequent offenses within a rolling twelve month period.
- Failure to make timely and accurate submissions to the Exchange of notices, reports or other information required by the Rules of the Exchange. The proposed summary fines for this rule violation are a warning letter for the first offense, \$2,500 fine for the second offense, \$5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses, within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because failure to submit timely and accurate reports to the Exchange impairs the Exchange's ability to carry out its self-regulatory obligations.
- Failure to maintain front-end audit trail information for all electronic orders entered into the OneChicago System, including order modifications and cancellations. The proposed summary fines for this rule violation are a warning letter for the first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.
- Failure to keep any books and records required by the Rules of the Exchange. The proposed summary fines for this rule violation are a warning letter for the

first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.

- Failure to comply with order form preparation and recordkeeping requirements relating to orders which cannot be immediately entered into the OneChicago System. The proposed summary fines for this rule violation are a warning letter for the first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.
- Failure to comply with exposure requirements related to pre-execution discussions. The proposed summary fines for this rule violation are a warning letter for the first offense, \$10,000 fine for the second offense, and a \$15,000 fine for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because pre-arranged trading in violation of an exchange's pre-execution discussion policy presents the potential for fraudulent or manipulative behavior on an exchange.
- Failure to comply with Exchange of Future for Physical transaction reporting requirements. The proposed summary fines for this rule violation are a warning letter for the first offense, \$7,500 fine for the second offense, \$15,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because EFPs are bilateral

transactions, the price of which remains unknown to the marketplace until the trade is reported by the parties to the transaction.

- Failure to identify correct account designation in order entry into the OneChicago System. The proposed summary fines for this rule violation are a warning letter for the first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.
- Failure to comply with order marking requirement for Exchange of Future for Physical transactions or block trades. The proposed summary fines for this rule violation are a warning letter for the first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.
- Failure to comply with block trade reporting requirements. The proposed summary fines for this rule violation are a warning letter for the first offense, \$7,500 fine for the second offense, \$15,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because block trades are bilateral transactions, the price of which remains unknown to the marketplace until the trade is reported by the parties to the transaction.
- Failure to comply with the prohibition on netting down concurrent long and short positions during the last five days of trading. The proposed summary fines for this rule violation are a warning letter for the first offense, \$2,500 fine for the

second offense, \$5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because netting down concurrent long and short positions during expiry week may cause a change in open interest in a particular product with no commensurate trading activity.

- Failure to identify correct account type in order entry into the OneChicago System. The proposed summary fines for this rule violation are a warning letter for the first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.
- Failure to timely correct an error in the handling of an order via transfer. The proposed summary fines for this rule violation are a warning letter for the first offense, \$1,000 fine for the second offense, \$2,500 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period.
- Failure to comply with reporting requirements for reportable positions. The proposed summary fines for this rule violation are a warning letter for the first offense, \$2,500 fine for the second offense, \$5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because failure to report large trader positions impairs the Exchange's ability to carry out its self-regulatory obligations.

- Failure to submit ownership and control reports. The proposed summary fines for this rule violation are a warning letter for the first offense, \$2,500 fine for the second offense, \$5,000 fine for the third offense, and the commencement of disciplinary proceedings for all subsequent offenses within a rolling twelve month period. The proposed summary fines for this rule violation are elevated because failure to report ownership and control reports impairs the Exchange's ability to carry out its self-regulatory obligations.

Additionally, Rule 717 is being amended to increase the maximum summary fine from \$5,000 to \$15,000. This change is being made to accommodate OCX's proposed summary fine schedule, which contains varying levels of fines ranging from \$1,000 to \$15,000. The level of fines for each rule violation generally depend upon the severity of the rule violation and the potential harm to customers, other market participants, or the marketplace itself.

In addition to the above, OCX is proposing to make several other changes to OCX Rule 717. First, OCX is proposing to add that the CRO may consider the severity of a rule violation in determining whether to impose a summary fine for that violation. OCX is making this change to grant the Exchange flexibility in addressing rule violations based on the severity of the violation. As is more fully explained in OCX Rule 705, the CRO reserves the right to determine whether an investigation should be closed with no further action, by issuing a warning letter, by imposing summary fines, or by commencing disciplinary proceedings.

Rule 717 is also being amended to clarify that OCX may impose summary fines against a Clearing Member, Exchange Member, or Access Person. Finally, OCX is proposing to remove certain items from OCX Rule 717(a)(i). Currently, that subparagraph allows the CRO to impose summary fines for a failure to make timely payments of original or variation margin, options

premiums, fees, costs, charges or fines. OCX is proposing to remove original or variation margin and options premiums from this list of items because they are not relevant to OCX. OCX is also removing fines from this list because summary fines would not be an effective deterrent for a market participant that has failed to make timely payment of fines already imposed by the Exchange.

#### NTM 2015-48

In addition to amending Rule 717, OCX is proposing to concurrently issue NTM 2015-48, which provides notice to OneChicago's market participants of the planned amendments to Rule 717, and provides guidance regarding several of the violations included in the summary fine schedule. The NTM provides guidance by explaining what may constitute a rule violation that may be subject to the imposition of summary fines.

#### OCX Rule 705 (Review of Investigative Reports)

OCX Rule 705 describes the process by which the CRO reviews the Compliance Department's investigative reports in order to determine whether a reasonable basis exists to believe that a violation within the Exchange's jurisdiction has occurred or is about to occur. The Rule then lays out various dispositions the CRO may authorize, including the commencement of disciplinary proceedings, the informal disposition of the investigation, or the closing of the investigation with no further action. OneChicago now proposes to add the summary imposition of fines to the list of dispositions which the CRO may authorize as a result of an investigation.

By way of background, OCX Rule 717 itself does not limit the summary imposition of fines to the conclusion of an investigation. The CRO may authorize summary fines in the absence of an investigation report if a Rule violation is detected. OCX is now clarifying in Rule 705 that the summary imposition of fines is one of the several dispositions the CRO may

authorize upon the Compliance Department's completion of an investigation.

## 2. Statutory Basis

OneChicago believes that the proposed rule change is consistent with Section 6(b) of the Act,<sup>3</sup> in general, and furthers the objectives of Section 6(b)(5)<sup>4</sup> and 6(b)(7)<sup>5</sup> in particular in that it is designed:

- to prevent fraudulent and manipulative acts and practices,
- to promote just and equitable principles of trade,
- to foster cooperation and coordination with persons engaged in facilitating transactions in securities,
- 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, and
- to provide a fair procedure for the disciplining of market participants.

The Exchange believes that the proposed rule change will strengthen its ability to carry out its responsibilities as a self-regulatory organization. Summary fines provide an efficient and effective way for a self-regulatory organization to penalize rule violations without requiring the commencement of disciplinary proceedings. The broad authority to impose summary fines allows the Exchange to discipline its market participants, and provides a deterrent from futures violations.

Furthermore, the Exchange believes that the proposed summary fine schedule is fair and reasonable in light of each rule violation. OCX has structured its proposed summary fine

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

<sup>4</sup> 15 U.S.C. 78f(b)(5).

<sup>5</sup> 15 U.S.C. 78f(b)(7).

schedule such that routine or clerical violations warrant lower summary fines, whereas more serious violations, such as the failure to comply with the Exchange's pre-execution discussion policy, warrant higher summary fines.

Finally, the Exchange believes that the proposed rule change and associated NTM are equitable and not unfairly discriminatory because they would apply equally to all market participants that are subject to the applicable requirements of each Rule.

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

OneChicago does not believe that the rule change and associated NTM will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the rule change and associated NTM enhances OneChicago's ability to deter and discipline certain rule violations.

OneChicago further notes that the proposed summary fine schedule is consistent with fine schedules established by other domestic futures exchanges. The proposed summary fine schedule distinguishes the severity of rule violations by imposing varying levels of fines for different violations. Specifically, those violations that are generally perceived as more clerical in nature are subject to lower summary fines than those violations that may involve harm to the marketplace.

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

No written comments were solicited or received with respect to the proposed rule change.

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

The proposed rule change and NTM will become operative on January 14, 2016.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule

change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.<sup>6</sup>

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

##### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OC-2015-03 on the subject line.

##### Paper comments:

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-OC-2015-03. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). 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 website viewing and printing in the Commission's Public Reference Room, 100 F

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

Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OC-2015-03, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>7</sup>

Robert W. Errett  
Deputy Secretary

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<sup>7</sup> 17 CFR 200.30-3(a)(73).