

exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action. Therefore, the staff has determined that there is no reduction in the ability of the system to perform its safety function, nor significant environmental impacts, as a result of storing the additional fuel assembly configurations.

Alternative to the Proposed Action

Since there is no significant environment impact associated with the proposed action, alternatives with equal or greater environmental impact are not evaluated. The alternative to the proposed action would be to deny approval of the exemption. Denial of the exemption request will have the same environmental impact, but would result in a potential dose increase to workers involved in cask loading activities.

Agencies and Persons Consulted

On November 4, 2002, Mr. Jim Muckerheide, Nuclear Engineer, Nuclear Safety of the Massachusetts Emergency Management Agency was contacted about the proposed action and had no comments.

Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting the exemption from 10 CFR 72.212(a)(2), 72.212(b)(2)(i)(A), and 10 CFR 72.214 and allowing YAEC to store additional specific fuel assembly configurations in the NAC-MPC storage system will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that an environmental impact statement for the proposed exemption is not warranted.

The request for exemption was docketed under 10 CFR Part 72, Docket 72-31. For further details with respect to this action, see the exemption request dated October 10, 2002. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/ADAMS/index.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 7th day of November, 2002.

For the Nuclear Regulatory Commission.

Stephen C. O'Connor, Sr.

Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02-28904 Filed 11-13-02; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of November 11, 18, 25, December 2, 9, 16, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of November 11, 2002

Thursday, November 14, 2002

2 p.m.—Discussion of Management Issues (Closed—Ex. 2).

Week of November 18, 2002—Tentative

Thursday, November 21, 2002

10 a.m.—Briefing on Proposed Rulemaking to Add New Section 10 CFR 50.69, "Risk-Informed Categorization and Treatment of Structures, Systems, and Components for Nuclear Power Reactors" (Public Meeting) (Contact: Eileen McKenna, (301) 415-2189, or Timothy Reed, (301) 415-1462).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

2 p.m.—Discussion of Security Issues (Closed—Ex. 1).

Week of November 25, 2002—Tentative

Tuesday, November 26, 2002

9:30 a.m.—Discussion of Security Issues (Closed—Ex. 1).

Week of December 2, 2002—Tentative

Wednesday, December 4, 2002

10 a.m.—Briefing on Decommissioning Bankruptcy Issues (Closed—Ex. 4 & 9).

Week of December 9, 2002—Tentative

There are no meetings scheduled for the Week of December 9, 2002.

Week of December 16, 2002—Tentative

Wednesday, December 18, 2002.

9:30 a.m.—Meeting with Advisory Committee on Nuclear Waste (ACNW)

(Public Meeting) (Contact: John Larkins, (301) 415-7360).

This meeting will be webcast live at the Web address—<http://www.nrc.gov>.

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: R. Michelle Schroll, (301) 415-1662.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555, ((301) 415-1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: November 7, 2002.

R. Michelle Schroll,

Acting Technical Coordinator, Office of the Secretary.

[FR Doc. 02-29064 Filed 11-12-02; 2:07 pm]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46782; File No. SR-NYSE-2002-53]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change and Amendment No. 1 Thereto on a Pilot Basis by the New York Stock Exchange, Inc. Amending NYSE Rule 431, Margin Requirements for Security Futures

November 7, 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 October 23, 2002, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On November 6, 2002, the NYSE filed an amendment to the proposed rule change.³ The Commission is publishing

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant

this notice to solicit comments on the proposed rule change, as amended, from interested persons and to grant accelerated approval of the proposed rule change, as amended, on a pilot basis for sixty days beginning on the date of this order.

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

The Exchange is proposing amendments to NYSE Rule 431 ("Margin Requirements") to establish margin requirements for security futures contracts. The proposed amendments to the Exchange's existing margin rule are intended to be consistent with the customer margin rules already adopted by the SEC and the Commodity Futures Trading Commission ("CFTC"), and those filed by other self-regulatory organizations ("SROs") regarding security futures.

The proposed amendments would: (1) Permit customer margining of security futures contracts, and establish initial and maintenance margin levels for security futures contracts; (2) allow initial and maintenance margin levels for offsetting positions involving security futures contracts to be lower than would be required if margined separately; (3) allow for a Market Maker exclusion for proprietary trades of a Security Futures Dealer ("SFD") and allow for "good faith" margin treatment for the accounts of approved options specialists, market makers, and other specialists; (4) provide definitions relative to security futures for the application of this rule; (5) provide that security futures contracts transacted in a futures account shall not be subject to any provisions of NYSE Rule 431; (6) provide that money market mutual funds, as defined in Rule 2a-7⁴ under the Investment Company Act of 1940 (the "ICA"),⁵ may be used to satisfy margin requirements for security futures contracts provided that certain conditions are met; (7) require that security futures contracts transacted in a securities account be subject to all other provisions of NYSE Rule 431, in particular NYSE Rule 431(f)(8)(B) ("Day Trading"); and (8) permit members and member organizations for which the Exchange is the Designated Examining Authority ("DEA") to participate in the trading of security futures contracts

when trading commences. Below is the text of the proposed rule change. Proposed new language is *italicized*; proposed deletions are in brackets.

* * * * *

Rule 431 ("Margin Requirements")

Rule 431. (a) For purposes of this Rule, the following terms shall have the meanings specified below:

(1) The term "current market value" means the total cost or net proceeds of a security on the day it was purchased or sold or at any other time the preceding business day's closing price as shown by any regularly published reporting or quotation service, *except for security futures contracts (see Section (f)(10)(C)(ii))*. If there is no closing price, a member organization may use a reasonable estimate of the market value of the security as of the close of business on the preceding business day.

Rule 431 (a)(2) through (a)(3) unchanged.

(4) The term "equity" means the customer's ownership interest in the account, computed by adding the current market value of all securities "long" and the amount of any credit balance and subtracting the current market value of all securities "short" and the amount of any debit balance. *Any variation settlement received or paid on a security futures contract shall be considered a credit or debit to the account for purposes of equity.*

(5) The term "exempted security" or "exempted securities" has the meaning as in section 3(a)(12) of the Securities Exchange Act of 1934 (*the "Exchange Act" or "SEA"*).

(6) The term "margin" means the amount of equity to be maintained on a security position held or carried in an account.

(7) The term "person" has the meaning as in section 3(a)(9) of the [Securities Exchange Act of 1934] *Exchange Act*.

(8) The term "basket" shall mean a group of stocks that the Exchange or any national securities exchange designates as eligible for execution in a single trade through its trading facilities and that consists of stocks whose inclusion and relative representation in the group are determined by the inclusion and relative representation of their current market prices in a widely-disseminated stock index reflecting the stock market as a whole.

Initial Margin

(b) For the purpose of effecting new securities transactions and commitments, the customer shall be required to deposit margin in cash and/

or securities in the account which shall be at least the greater of:

(1) The amount specified in Regulation T of the Board of Governors of the Federal Reserve System *or Rules 400 through 406 of the Exchange Act or Rules 41.42 through 41.48 of The Commodity Exchange Act ("CEA")*, or

(2) The amount specified in section (c) of this Rule, or

(3) Such greater amount as the Exchange may from time to time require for specific securities, or

(4) Equity of at least \$2,000 except that cash need not be deposited in excess of the cost of any security purchased (this equity and cost of purchase provision shall not apply to "when distributed" securities in a cash account). The minimum equity requirement for a "pattern day trader" is \$25,000 pursuant to paragraph (f)(8)(B)(iv)(1) of this Rule.

Withdrawals of cash or securities may be made from any account which has a debit balance, "short" position or commitments, provided it is in compliance with Regulation T of the Board of Governors of the Federal Reserve System *and Rules 400 through 406 of the Exchange Act and Rules 41.42 through 41.48 of the CEA* and after such withdrawal the equity in the account is at least the greater of \$2,000 (\$25,000 in the case of "pattern day traders") or an amount sufficient to meet the maintenance margin requirements of this Rule.

Maintenance Margin

(c) The margin which must be maintained in all accounts of customers, except for cash accounts subject to Regulation T unless a transaction in a cash account is subject to other provisions of this rule, shall be as follows:

(1) 25% of the current market value of all securities *except for security futures contracts*, "long" in the account; plus

(2) \$2.50 per share or 100% of the current market value, whichever amount is greater, of each stock "short" in the account selling at less than \$5.00 per share; plus

(3) \$5.00 per share or 30% of the current market value, whichever amount is greater, of each stock "short" in the account selling at \$5.00 per share or above; plus

(4) 5% of the principal amount or 30% of the current market value, whichever amount is greater, of each bond "short" in the account.

(5) *The minimum maintenance margin levels for security futures contracts, long and short, shall be 20% of the current market value of such contract. (See*

Director, Division of Market Regulation, Commission, dated November 5, 2002 ("Amendment No. 1"). Amendment No. 1 replaced the original rule filing in its entirety. Amendment No. 1 also proposed that the changes be for a sixty-day pilot, and requested accelerated approval of the proposed rule change.

⁴ 17 CFR 270.2a-7.

⁵ 15 U.S.C. 80a et seq.

paragraph (f) of this Rule for other provisions pertaining to security futures contracts.)

Rule 431 (d) through (e)(5) unchanged.

(e)(6)(A) Broker/Dealer Accounts.—A member organization may carry the proprietary account of another broker/dealer, which is registered with the Securities and Exchange Commission, upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T of the Board of Governors of the Federal Reserve System and Rules 400 through 406 under the Exchange Act and Rules 41.42 through 41.48 under the CEA are adhered to and the account is not carried in a deficit equity condition. The amount of any deficiency between the equity maintained in the account and the haircut requirements pursuant to SEA Rule 15c3–1 (Net Capital) shall be deducted in computing the Net Capital of the member organization under the Exchange's Capital Requirements. However, when computing Net Capital deductions for transactions in securities covered by paragraphs (e)(2)(F) and (e)(2)(G) of this Rule, the respective requirements of those paragraphs may be used, rather than the haircut requirements of SEA Rule 15c3–1.

Rule 431(e)(6)(B) unchanged.

(e)(7) Nonpurpose Credit—In a nonsecurities credit account, a member organization may extend and maintain nonpurpose credit to or for any customer without collateral or on any collateral whatever, provided:

(A) The account is recorded separately and confined to the transactions and relations specifically authorized by Regulation T of the Board of Governors of the Federal Reserve System;

(B) The account is not used in any way for the purpose of evading or circumventing any regulation of the Exchange or of the Board of Governors of the Federal Reserve System and Rules 400 through 406 under the Exchange Act and Rules 41.42 through 41.48 under the CEA; and

(C) The amount of any deficiency between the equity in the account and the margin required by the other provisions of this Rule shall be deducted by computing the Net Capital of the member organization under the Exchange's Capital Requirements.

(The term “nonpurpose credit” means an extension of credit other than “purpose credit,” as defined in Section 220.2 of Regulation T of the Board of Governors of the Federal Reserve System.)

Rule 431(e)(8) through (f)(9) unchanged.

(f) (10) Customer Margin Rules Relating to Security Futures.

(A) Applicability. No member or member organization may effect a transaction involving, or carry an account containing, a security futures contract with or for a customer in a margin account, without obtaining proper and adequate margin as set forth in this section.

(B) Amount of customer margin.

(i) General Rule. As set forth in sections (b) and (c) of this Rule, the minimum initial and maintenance margin levels for each security futures contract, long and short, shall be twenty (20) percent of the current market value of such contract.

(ii) Excluded from the rules' requirements are arrangements between a member or member organization and a customer with respect to the customer's financing of proprietary positions in security futures, based on the member's or member organization's good faith determination that the customer is an “Exempted Person”, as defined in Rule 401(a)(9) under the Exchange Act, and Rule 41.43(a)(9) of the CEA, except for the proprietary account of a broker-dealer carried by a member organization pursuant to Section (e)(6)(A) of this Rule. Once a registered broker or dealer, or member of a national securities exchange ceases to qualify as an exempted person, it shall notify the member or member organization of this fact before establishing any new security futures positions. Any new security futures positions will be subject to the provisions of this part.

(iii) Permissible Offsets.—Notwithstanding the minimum margin levels specified in paragraph (f)(10)(B)(i) of this Rule, customers with offset positions involving security futures and related positions may have initial or maintenance margin levels (pursuant to the offset table below) that are lower than the levels specified in paragraph (f)(10)(B)(i) of this Rule.

	Description of offset	Security underlying the security future	Initial margin requirement	Maintenance margin requirement
1	Long security future (or basket of security futures representing each component of a narrow-based securities index) and long put 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 pay for 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 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 amount, 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 amount, if any.
3	Long security future and Short 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 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 (or basket of 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.

	Description of offset	Security underlying the security future	Initial margin requirement	Maintenance margin requirement
5	Long a basket of narrow-based security futures that together tracks a broad based index <i>and</i> 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 the 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 <i>and</i> 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 the 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 <i>and</i> 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 for 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	Short a basket of narrow-based security futures that together tracks a broad-based security index <i>and</i> 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 for 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 <i>and</i> short security future on the same underlying security (or index).	Individual stock or narrow-based security index.	The greater of: (1) 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 <i>and</i> 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 future, 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.	10% of the aggregate exercise price, plus the aggregate call in-the-money amount, if any.
11	Long security future, long put option <i>and</i> 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 future, plus the aggregate call in-the-money amount, if any, plus pay for the put in full. Proceeds from call sale may be applied.	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 aggregate exercise price of the call, plus the aggregate call in-the-money amount, if any.
12	Short security future <i>and</i> 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 security or securities.	5% of the current market value, as defined in Regulation T, of the long stock or stocks.
13	Short security future <i>and</i> 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 or securities.	10% of the current market value, as defined in Regulation T, of the long stock or stocks.
14	Short security future (or basket of security futures representing each component of a narrow-based securities index) <i>and</i> 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 future, plus the aggregate put in-the-money amount, if any, plus pay for the call in full. Proceeds from 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 security future <i>and</i> short (long) an identical ⁶ security future traded on a different market.	Individual stock and 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).

	Description of offset	Security underlying the security future	Initial margin requirement	Maintenance margin requirement
17	Long (short) a basket of security futures that together tracks a narrow-based index and short (long) a narrow based index future.	Individual stock and 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).

(C) *Definitions.* For the purposes of section (f)(10) of this Rule and the offset table noted above, with respect to the term “security futures contracts,” the following terms shall have the meanings specified below:

(i) The term “security futures contract” means a “security future” as defined in Section 3(a)(55) of the Exchange Act.

(ii) The term “current market value” has the same meaning as it is as defined in Rule 401(4) under the Exchange Act and Rule 41.43(a)(4) of the CEA.

(iii) The term “underlying security” means, in the case of physically settled security futures contracts, the security that is delivered upon expiration of the contract, and, in the case of cash settled security futures contracts, the security or securities index the price or level of which determines the final settlement price for the security futures contract upon its expiration.

(iv) The term “underlying basket” means, in the case of a securities index, a group of security futures contracts where the underlying securities as defined in paragraph (iii) above include each of the component securities of the applicable index and which meets the following conditions: (1) The quantity of each underlying security is proportional to its representation in the index, (2) the total market value of the underlying securities is equal to the aggregate value of the applicable index, (3) the basket cannot be used to offset more than the number of contracts or warrants represented by its total market value, and (4) the security futures contracts shall be unavailable to support any other contract or warrant transaction in the account.

(v) The term “underlying stock basket” means a group of securities which includes each of the component securities of the applicable index and which meets the following conditions: (1) The quantity of each stock in the basket is proportional to its representation in the index, (2) the total

market value of the basket is equal to the underlying index value of the index options or warrants to be covered (3) the securities in the basket cannot be used to cover more than the number of index options or warrants represented by that value, and (4) the securities in the basket shall be unavailable to support any other option or warrant transaction in the account.

(vi) The term “variation settlement” has the same meaning as it is defined in Rule 401(a) of the Exchange Act and Rule 41.43(a)(32) of the CEA.

(D) *Security Futures Dealers’ Accounts.* Notwithstanding the other provisions of this section (f)(10), a member organization may carry and clear the market maker permitted offset positions (as defined below) of one or more security futures dealers in an account which is limited to bonafide market maker transactions, upon a “Good Faith” margin basis which is satisfactory to the concerned parties, provided the “Good Faith” margin requirement is not less than the Net Capital haircut deduction of the member organization carrying the transaction pursuant to Rule 325. In lieu of collecting the “Good Faith” margin requirement, a carrying member organization may elect to deduct in computing its Net Capital the amount of any deficiency between the equity maintained in the account and the “Good Faith” margin required.

For the purpose of this paragraph (f)(10)(D), the term “security futures dealer” means a security futures dealer as defined in Rule 400 (c)(2)(v) of the Exchange Act and Rule 41.42(c)(2)(v) of the CEA.

For purposes of this paragraph (f)(10)(D), a permitted offset position means in the case of a security futures contract in which a security futures dealer makes a market, a position in the underlying asset or other related assets, or positions in options overlying the asset or other related assets.

Accordingly, a security futures dealer may establish a long or short position in the assets underlying the security futures contracts in which the security futures dealer makes a market, and may purchase or write options overlying those assets, if the account holds the following permitted offset positions:

(i) A long position in the security futures contract or underlying asset offset by a short option position which is “in or at the money”;

(ii) A short position in the security futures contract or underlying asset offset by a long option position which is “in or at the money”;

(iii) A position in the underlying asset resulting from the assignment of a market-maker short option position or making delivery in respect of a short security futures contract;

(iv) A position in the underlying asset resulting from the assignment of a market-maker long option position or taking delivery in respect of a long security futures contract;

(v) A net long position in a security futures contract in which a security futures dealer makes a market or the underlying asset;

(vi) A net short position in a security future contract in which a security futures dealer makes a market or the underlying asset; or

(vii) An offset position as defined in SEC Rule 15c3-1, including its appendices, or any applicable SEC staff interpretation or no-action position.

(E) *Approved Options Specialists’ or Market Makers’ Accounts.*

Notwithstanding the other provisions of (f)(10) and (f)(2)(j), a member organization may carry and clear the market maker permitted offset positions (as defined below) of one or more approved options specialists or market makers in an account which is limited to bonafide approved options specialist or market maker transactions, upon a “Good Faith” margin basis which is satisfactory to the concerned parties, provided the “Good Faith” margin requirement is not less than the Net Capital haircut deduction of the member organization carrying the transaction pursuant to Rule 325. In lieu of collecting the “Good Faith” margin requirement, a carrying member organization may elect to deduct in computing its Net Capital the amount of any deficiency between the equity maintained in the account and the “Good Faith” margin required. For the purpose of this paragraph (f)(10)(E), the term “approved options specialist or market maker” means a specialist, market maker, or registered trader in

⁶Two security futures contracts will be considered “identical” for this purpose if they are issued by the same clearing agency or cleared and contracts guaranteed by the same derivatives clearing organization, have identical specifications, and would offset each other at the clearing level.

options as referenced in paragraph (f)(2)(j) of this Rule, who is deemed a specialist for all purposes under the Exchange Act and who is registered pursuant to the rules of a national securities exchange.

For purposes of this paragraph (f)(10)(E), a permitted offset position means a position in the underlying asset or other related assets. Accordingly, a specialist or market maker may establish a long or short position in the assets underlying the options in which the specialist or market maker makes a market, or a security futures contract thereon, if the account holds the following permitted offset positions:

(i) A long position in the underlying instrument or security futures contract offset by a short option position which is "in or at the money";

(ii) A short position in the underlying instrument or security futures contracts offset by a long option position which is "in or at the money";

(iii) A stock position resulting from the assignment of a market maker short option position or delivery in respect of a short security futures contract;

(iv) A stock position resulting from the exercise of a market maker long option position or taking delivery in respect of a long security futures contract;

(v) A net long position in a security (other than an option) in which a market maker makes a market;

(vi) A net short position in a security (other than an option) in which the market maker makes a market; or

(vii) An offset position as defined in SEC Rule 15c3-1, including the appendices, or any applicable SEC staff interpretation or no-action position.

For purposes of paragraphs (f)(10)(D) and (E), the term "in or at the money" means the current market price of the underlying security is not more than the two standard exercise intervals below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; the term "in the money" means the current market price of the underlying asset or index is not below (with respect to a call option) or above (with respect to a put option) the exercise price of the option; and the term "overlying option" means a put option purchased or a call option written against a long position in an underlying asset; or a call option purchased or a put option written against a short position in an underlying asset.

Securities, including options and security futures contracts, in such accounts shall be valued conservatively in the light of current market prices and the amount which might be realized

upon liquidation. Substantial additional margin must be required or excess Net Capital maintained in all cases where the securities carried: (i) Are subject to unusually rapid or violent changes in value including volatility in the expiration months of options or security futures products, (ii) do not have an active market, or (iii) in one or more or all accounts, including proprietary accounts combined, are such that they cannot be liquidated promptly or represent undue concentration of risk in view of the carrying member or member organization's Net Capital and its overall exposure to material loss.

(F) *Approved Specialists' Accounts—* others. Notwithstanding the other provisions of (f)(10) and (f)(2)(j), a member organization may carry the account of an "approved specialist," which account is limited to bonafide specialist transactions including hedge transactions with security futures contracts upon a margin basis which is satisfactory to both parties. The amount of any deficiency between the equity in the account and haircut requirements pursuant to SEA Rule 15c3-1 (Net Capital) shall be deducted in computing the Net Capital of the member organization under the Exchange's Capital Requirements.

For purposes of this paragraph F (10)(F) the term "approved specialist" means a specialist who is deemed a specialist for all purposes under the Exchange Act and who is registered pursuant to the rules of a national securities exchange.

.70 *Money market mutual funds, as defined under Rule 2a-7 of the Investment Company Act of 1940, can be used for satisfying margin requirements under this subsection (f)(10), provided that the requirements of Rule 404(b) of the Exchange Act and Rule 46(b)(2) under the CEA are satisfied.*

.80 *Day-trading of security futures is subject to the minimum requirements of this Rule. If deemed a pattern day-trader, the customer must maintain equity of \$25,000. The 20% requirement, for security futures contracts, should be calculated based on the greater of the initial or closing transaction and any amount exceeding NYSE excess must be collected. The creation of a customer call subjects the account to all the restrictions contained in Rule 431(f)(8)(B).*

.90 *The use of the "time and tick" method is based on the member's or member organization's ability to substantiate the validity of the system used. Lacking this ability dictates the use of the aggregate method.*

.100 *Security futures contracts transacted or held in a futures account shall not be subject to any provision of this Rule.*

* * * * *

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

In its filing with the Commission, the Exchange 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 III below and is 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

Background

The CFTC and SEC have adopted customer margin requirements for the trading of futures on narrow-based indices and single stocks (collectively referred to as "security futures contracts" or "SFCs") ("SEC/CFTC Margin Regulations")⁷ pursuant to authority delegated to them by the Federal Reserve Board ("FRB") under Section 7(c)(2)(B) of Act.⁸ As noted in the adopting release,⁹ Section 7(c)(2) of the Act provides that the customer margin requirements for SFCs must satisfy four requirements: (1) They must preserve the financial integrity of markets trading security futures contracts; (2) they must prevent systemic risk; (3) they must (a) be consistent with the margin requirements for comparable options traded on an exchange registered pursuant to Section 6(a) of the Act,¹⁰ and (b) provide for initial and maintenance margin that are not lower than the lowest level of margin, exclusive of premium, required for comparable exchange traded options; and (4) they must be and remain consistent with the margin requirements established by the FRB under Regulation T.¹¹ The regulations on customer margin for security futures became effective on September 13, 2002. The Exchange believes that the proposed amendments discussed below

⁷ 17 CFR 240.400 through 406; 17 CFR 41.41 through 41.48.

⁸ 15 U.S.C. 78g(c)(2)(B).

⁹ See Securities Exchange Act Release No. 46292 (August 1, 2002), 67 FR 53146 (August 14, 2002).

¹⁰ 15 U.S.C. 78f.

¹¹ 12 CFR 220.

conform NYSE margin rules to these new requirements.

Proposed Amendments

NYSE Rule 431 prescribes specific margin requirements for members and member organizations of the Exchange, which must be maintained in all accounts of their customers, based on the type of securities products held in such accounts.

The Exchange proposes to amend NYSE Rule 431(b) and (c) to provide that the amount of initial and maintenance margin required for long and short SFCs held in a securities account must be 20% of the current market value of such SFC. The Exchange believes that this amendment would essentially make margin requirements for SFCs consistent with the margin requirements for comparable exchange-traded options contracts, which are premium plus 20% of the underlying securities.

In addition, the Exchange proposes to amend NYSE Rule 431(e)(6)(A) ("Broker/Dealer Accounts") to permit introducing broker-dealers trading SFCs to deduct from their proprietary accounts any deficiency between the equity in the account and the haircut requirements pursuant to Rule 15c3-1 of the Exchange Act ("Net Capital Rule")¹² in computing the net capital of the member or member organization, in lieu of collecting margin.

The Exchange is proposing a new provision, NYSE Rule 431(f)(10) ("Customer Margin Rules Relating to Security Futures") to provide that SFCs transacted in a securities account will be subject to all other provisions of NYSE Rule 431, including NYSE Rule 431(f)(8)(B) ("Day Trading"). Excluded from the Exchange's margin requirements are arrangements between a member or member organization and a borrower, whereby the borrower is defined as an "Exempted Person," under Rule 401(a)(9) of the Act,¹³ and Rule 41.43(a)(9)¹⁴ of the Commodity Exchange Act. Further, SFCs transacted in a futures account would not be subject to NYSE Rule 431.

NYSE Rule 431(f)(10)(B)(4) ("Permissible Offsets") is also a new provision that permits margin requirements to be lower than the 20% general requirement, and recognizes the hedged nature of certain offsetting positions involving SFCs and related positions. Margin levels for offsetting positions involving SFCs and related positions would thus be lower than

would be required if those positions were margined separately. Further, the Exchange believes that the proposed amendment makes the Exchange's rule consistent with the table of offsets included in the recently adopted SEC/CFTC margin regulations noted above.

Proposed NYSE Rule 431(f)(10)(C) is a new provision that would provide certain definitions applicable specifically to SFCs, including, among other things, the definitions of "security futures contract," "current market value," and "underlying security."

Proposed NYSE Rule 431(f)(10)(D) ("Security Futures Dealers" Accounts"), NYSE Rule 431(f)(10)(E) ("Approved Options Specialists" or Market Makers' Accounts") and NYSE Rule 431(f)(10)(F) ("Approved Specialists" Accounts-others") are new rule provisions. As proposed, the new provisions would permit "good faith" margin treatment for specified hedged offset positions carried in the accounts noted above. However, unlike the amendments proposed by other SROs on SFCs,¹⁵ the Exchange believes that its proposal will permit member organizations to accord offset treatment in accounts carried for such specialists, market makers and security futures dealers only when their activity is limited to bona fide specialist or market making transactions. According to the Exchange, the limitations imposed are consistent with its belief that market makers bear the primary responsibility and obligation to maintain fair and orderly markets, and provide liquidity to the marketplace. Were a revenue or other test substituted for the affirmative obligation standard proposed, the Exchange believes that entities other than qualified market makers would be permitted to act as market makers. The Exchange believes that this was not the intent of the Commission or CFTC when adopting margin regulations for security futures.

Proposed .70 of NYSE Rule 431(f)(10) is a new provision that will permit money market mutual funds as defined in Rule 2a-7 under the ICA to be used for satisfying margin requirements for security futures contracts, provided that the requirements of Rule 404(b) under the Act,¹⁶ and Rule 41.46(b)(2) under the CEA¹⁷ are satisfied. Presently, money market mutual funds may be used as collateral to satisfy margin requirements under Regulation T in a securities margin account. The proposed amendments to NYSE Rule 431 permit

the use of such funds as collateral for SFCs as is required by the new SEC/CFTC Margin Regulations described above.

Except as otherwise intended, the Exchange believes that these proposed amendments are consistent with other SRO rule amendments recently filed with the SEC for approval.

2. Statutory Basis

The statutory basis for the proposed rule change is section 6(b)(5) of the Act,¹⁸ which requires, among other things, that the rules of the Exchange are 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 regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to perfect the mechanism of a free and open market and 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 impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. 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 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

¹⁵ See e.g., Securities Exchange Act Release No. 46555 (September 26, 2002), 67 FR 61707 (October 1, 2002) (SR-OC-2002-01).

¹⁶ 17 CFR 240.404(b).

¹⁷ 17 CFR 41.46(b)(2).

¹² 17 CFR 240.15c3-1.

¹³ 17 CFR 240.401(a)(9).

¹⁴ 17 CFR 41.43(a)(9).

¹⁸ 15 U.S.C. 78f(b)(5).

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 above-mentioned self-regulatory organization. All submissions should refer to File No. SR-NYSE-2002-53 and should be submitted by December 5, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The NYSE has asked the Commission to approve the proposed rule change and Amendment No. 1 thereto prior to the thirtieth day after the date of publication of notice of the filing to accommodate the timetable for the trading of security futures.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.¹⁹ In particular, the Commission believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act,²⁰ which requires, among other things, to promote just and equitable principles of trade and, in general, to protect investors and the public interest.²¹ In addition, the Commission believes that the proposed rule change is consistent with section 7(c)(2)(B) of the Act,²² which provides, among other things, that the margin requirements for security futures must preserve the financial integrity of markets trading security futures, prevent systemic risk, be consistent with the margin requirements for comparable exchange-traded options, and provides that the margin levels for security futures may be no lower than the lowest level of margin, exclusive of premium, required for any comparable exchange-traded option.

The Commission believes that the rule change is generally consistent with the customer margin rules for security futures adopted by the Commission and the CFTC. In particular, the Commission notes that, consistent with Rule 403 under the Act, NYSE's proposed rule provides for a minimum margin level of 20% of current market value for all positions in security futures carried in a securities account. The Commission believes that 20% is the minimum margin level necessary to satisfy the

requirements of section 7(c)(2)(B) of the Act. Rule 403 under the Act²³ also provides that a national securities exchange may set margin levels lower than 20% of the current market value of the security future for an offsetting position involving security futures and related positions, provided that an exchange's margin levels for offsetting positions meet the criteria set forth in section 7(c)(2)(B) of the Act. The offsets proposed by NYSE are consistent with the strategy-based offsets permitted for comparable offset positions involving exchange-traded options and therefore consistent with section 7(c)(2)(B) of the Act.

The Commission also believes that the treatment proposed by NYSE for security futures dealers under Rule 431 is consistent with the Act, and Rule 400(c)(2)(v) thereunder.²⁴ Specifically, the rule would permit NYSE member organizations to accord "good faith" margin treatment to specified offsetting positions involving security futures, carried in a securities account for a security futures dealer, consistent with the customer margin rules for security futures adopted by the Commission and the CFTC.

Finally, the Commission believes it is consistent with the Act for the NYSE to exclude from its margin requirements positions in SFCs carried in a futures account. The Commission believes that by choosing to exclude such positions from the scope of Rule 431, the NYSE's proposal will make compliance by members with the regulatory requirements of several SROs easier.

The Commission finds good cause for approving the proposed rule change, as amended, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposed rule change should enable NYSE members to trade security futures in securities accounts from the outset of security futures trading.²⁵ In addition, the Commission believes that granting accelerated approval to the proposed rule change and Amendment No. 1 thereto should clarify NYSE members' obligations under NYSE Rule 431 with respect to their trading in security futures. The Commission notes that the NYSE has filed the proposed rule change as a temporary pilot to give members of the public an opportunity to comment on the substance of the proposed rule

change before it requests permanent approval.

Accordingly, the Commission finds good cause, consistent with section 19(b)(2) of the Act,²⁶ to approve the proposed rule change, as amended, prior to the thirtieth day after publication of the notice of filing on a pilot basis for sixty days beginning on the date of this order.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,²⁷ that the proposed rule change, as amended (File No. SR-NYSE-2002-53), be approved until January 6, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.²⁸

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02-28897 Filed 11-13-02; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-46787; File No. SR-OC-2002-01]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1 and 2 Thereto, and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 3 Thereto, by OneChicago, LLC Relating to Customer Margin Requirements for Security Futures

November 7, 2002.

On August 30, 2002, OneChicago, LLC ("OneChicago" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change relating to customer margin requirements for security futures. 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 proposed rule change was

²⁶ 15 U.S.C. 78f(b)(5); 15 U.S.C. 78s(b)(2).

²⁷ 15 U.S.C. 78s(b)(2).

²⁸ 17 CFR 200.30-3(a)(12).

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").

⁴ See letter from Frank Ochsenfeld, Sullivan & Cromwell, attention to T.R. Lazo, Senior Special

Continued

¹⁹ 15 U.S.C. 78s(b)(2).

²⁰ 15 U.S.C. 78f(b)(5).

²¹ In approving the proposed rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²² 15 U.S.C. 78g(c)(2)(B).

²³ 17 CFR 240.403(b)(2).

²⁴ 17 CFR 200.400(c)(2)(v).

²⁵ The Commission understands that trading in security futures is scheduled to begin on November 8, 2002.