



Via Electronic Mail

November 21, 2013

Ms. Melissa Jurgens
Secretary
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20581

Re: Amendments to OCX Rule 421 – Limitation of Liability; No Warranties

Dear Ms. Jurgens:

Pursuant to section 5c(c)(1) of the Commodity Exchange Act, as amended (the “Act”), and § 40.6(a) of the regulations promulgated by the Commodity Futures Trading Commission (“CFTC” or the “Commission”) under the Act, OneChicago, LLC (“OneChicago,” “OCX,” or the “Exchange”) hereby submits the following amendments to Rule 421 of the OCX Rulebook. The purposes of this rule filing are to (1) harmonize the subsections of Rule 421(a), and (2) remove the yearly cap on discretionary payments made by OCX pursuant to Rule 421(e) in the case of negligence of Exchange personnel; decrease the daily and monthly limits on such payments; grant OCX authority to make discretionary payments to aggrieved parties for causes other than the negligence of Exchange personnel; and provide that payments made by OCX pursuant to the rule shall not serve as an admission of negligence or fault. The effective date of the amended OCX Rulebook incorporating the below changes is December 9, 2013.

Rule 421(a)(ii)

Rule 421(a) limits the liability of the Exchange and its directors, officers, employees, and others for losses, damages, costs, or expenses arising from the items described in subparagraphs (i) and (ii) of Rule 421(a). Rule 421(a)(i) lists generally the causes of loss the Exchange disclaims liability for, and specifically references the OneChicago System. Rule 421(a)(ii) further expands those disclaimed causes with respect to not only the OneChicago System, but also to any exchange service, including those provided by third parties. In describing the scope of the disclaimed causes, subparagraph (a)(i) of Rule 421 includes the phrase “or any other cause . . . in connection with the furnishing, performance, operation, maintenance, use of or inability to use all or any part of any of the OneChicago System, or any Exchange services, equipment or facilities used to support such system and services.” The phrase “any other cause” in subparagraph (a)(i) serves to broaden the disclaimer of liability to causes not expressly enumerated in that subparagraph.

Subparagraph (a)(ii) of Rule 421 similarly lists the causes of loss for which the Exchange disclaims liability. The items in subparagraph (a)(ii) are almost identical except in that they relate to not only to the OneChicago System, but also to any issues arising in relation to any Exchange service or facility caused by any third party, including independent software vendors and network providers. OneChicago is amending this subparagraph to reflect the language of subparagraph (a)(i) by including the phrase “any other cause” in listing the disclaimed causes of liability in that subparagraph. OneChicago believes this amendment harmonizes the two subparagraphs of Rule 421(a), and also utilizes the same language as similar rules enacted by other Designated Contract Markets (“DCMs”).

Rule 421(e)

Rule 421(e) grants the Exchange discretion to assume responsibility for direct, out-of-pocket loss to any person if the negligence of Exchange personnel causes such loss. However, Rule 421(e) goes on to limit these discretionary payments to “\$100,000 for all losses from all causes suffered on a single day; \$200,000 for all losses suffered from all causes in a single calendar month; and \$1,000,000 for all losses from all causes suffered in a single calendar year.” Further, if “the aggregate amount of any claims pursuant [to] this paragraph (e) at any time exceeds any of the Dollar limitations set forth in the immediately preceding sentence, the total amount then available shall be allocated such claims *pro rata*, based upon the respective amounts of such claims.”

OneChicago is proposing to make four changes to subparagraph (e) of Rule 421. First, OneChicago plans to remove the yearly cap on discretionary payments made pursuant to the rule. Also, OneChicago plans to decrease the amounts of the daily and monthly limits on discretionary payments. Third, OneChicago is proposing to expand the scope of causes for which it may make a discretionary payment to an aggrieved party beyond simply for negligence of Exchange personnel. Finally, OneChicago will amend Rule 421(e) to provide that payments made by OCX pursuant to the rule shall not serve as an admission of negligence or fault.

Although some other DCMs limit discretionary payments on a yearly basis, OneChicago finds the approach unworkable and may potentially result in harm to aggrieved parties. In order to determine whether the yearly cap has been reached, payments must either be withheld until the end of the year or clawed back from that year’s payees. This is true anytime in which monthly discretionary payments are set at amounts that are greater than one twelfth of the yearly cap. For example, if the yearly cap were set at \$2,400,000 with monthly payments capped at \$200,000, this issue would not arise because even if the maximum amount of discretionary payments were made every month, the yearly threshold would not be crossed and no withholding or “claw-backs” would be necessary.

However, OneChicago’s Rulebook sets monthly payments at amounts greater than one twelfth of the yearly cap, and then calls for pro rata allocation if the yearly cap is reached. In the event that the yearly cap is reached, the OCX Rulebook, as currently drafted, would require that the Exchange decrease previous payments by clawing back amounts previously paid, or withholding such payments until the end of the year. To avoid this result, and ensure that discretionary

payments by OCX are made in a timely fashion, OneChicago is proposing to remove the yearly limit on payments.

Second, OneChicago is proposing to decrease the amounts of the daily and monthly limits on discretionary payments. We have determined that the amounts currently in place are not appropriate for the level of participation in OCX's markets.

Third, OCX is proposing to expand the scope of causes for which it may make a discretionary payment to an aggrieved party. As currently drafted, Rule 421(e) limits such payments to losses due to negligence of Exchange personnel. OCX recognizes the possibility that a party might suffer loss due to causes not involving negligence of Exchange personnel. Therefore, OCX is amending subparagraph (e) to account for such causes.

Finally, OneChicago is proposing to amend OCX Rule 421(e) to add that payments made pursuant to that rule shall not serve as an admission of negligence or fault.

* * *

OneChicago submits this filing pursuant to Commission regulation § 40.6(a). The purpose and effect of the foregoing rule amendments is to (1) harmonize the subsections of Rule 421(a), and (2) remove the yearly cap on discretionary payments made by OCX pursuant to Rule 421(e) in the case of negligence of Exchange personnel; decrease the daily and monthly limits on such payments; grant OCX authority to make discretionary payments to aggrieved parties for causes other than the negligence of Exchange personnel; and provide that payments made by OCX pursuant to the rule shall not serve as an admission of negligence or fault. Comments on the amendments have not been solicited and none have been received. OneChicago is not aware of any substantive opposing views to these amendments.

OneChicago has reviewed the core principles applicable to designated contract markets, and has concluded that the proposed amendments to the OCX Rulebook that are described above may have some bearing upon the following core principle(s):

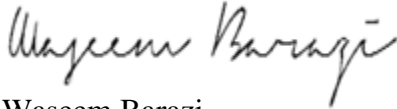
Core Principle 7: Core Principle 7 requires DCMs to make available information concerning the terms and conditions of the contracts of the DCM and the rules, regulations, and mechanisms for executing transactions on the market. This filing complies with Core Principle 7 because its purpose is to clarify its limitation of liability rule, as well as to set appropriate discretionary damages payment levels and remove impediments to the timely disbursement of such payments to aggrieved parties.

OneChicago certifies that the amendments described above comply with the Act, including the core principles, and the Commission's regulations promulgated thereunder. OneChicago further certifies that a copy of this submission has been posted on the OneChicago website located at http://www.onechicago.com/?page_id=8917.

The effective date of the amended OCX Rulebook is December 9, 2013.

If you have any questions or comments related to this filing, please feel free to contact me by telephone at (312) 424-8524 or through e-mail at wbarazi@onechicago.com.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Waseem Barazi". The signature is written in a cursive style with a horizontal line at the end.

Waseem Barazi
Chief Regulatory Officer

EXHIBIT A

Limitation of Liability

421. Limitation of Liability; No Warranties

(a) EXCEPT AS PROVIDED BELOW, NONE OF THE EXCHANGE, ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS, LICENSORS, VENDORS, OWNERS, CLEARING MEMBERS AND EXCHANGE MEMBERS SHALL BE LIABLE TO ANY PERSON FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES (INCLUDING LOSS OF PROFITS, LOSS OF USE, AND DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES), ARISING FROM:

(i) ANY FAILURE, MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION, TERMINATION, OR ANY OTHER CAUSE, IN CONNECTION WITH THE FURNISHING, PERFORMANCE, OPERATION, MAINTENANCE, USE OF OR INABILITY TO USE ALL OR ANY PART OF ANY OF THE ONECHICAGO SYSTEM, OR ANY EXCHANGE SERVICES, EQUIPMENT OR FACILITIES USED TO SUPPORT SUCH SYSTEM AND SERVICES;

(ii) WITHOUT LIMITING THE GENERALITY OF CLAUSE (i) ABOVE, ANY FAILURE OR MALFUNCTION, FAULT IN DELIVERY, DELAY, OMISSION, SUSPENSION, INACCURACY, INTERRUPTION OR TERMINATION, OR ANY OTHER CAUSE, OF THE ONECHICAGO SYSTEM, ANY EXCHANGE SERVICE OR FACILITY CAUSED BY ANY THIRD PARTY, INCLUDING INDEPENDENT SOFTWARE VENDORS AND NETWORK PROVIDERS;

* * *

(e) NOTWITHSTANDING ANYTHING IN PARAGRAPHS (a), (b), (c) OR (d) ABOVE TO THE CONTRARY, IF THE NEGLIGENCE OF EXCHANGE PERSONNEL, OR ANY OTHER CAUSE, AS DETERMINED IN THE SOLE JUDGMENT OF THE EXCHANGE, CAUSES A DIRECT, OUT-OF-POCKET LOSS TO ANY PERSON, THE EXCHANGE MAY, IN ITS SOLE DISCRETION, ASSUME RESPONSIBILITY FOR SUCH DIRECT LOSS, BUT ITS RESULTING OBLIGATIONS SHALL NOT EXCEED, WITH RESPECT TO ALL PERSONS SUFFERING SUCH LOSSES IN THE AGGREGATE: ~~\$25,000~~100,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED ON A SINGLE DAY; AND ~~\$50,000~~200,000 FOR ALL LOSSES SUFFERED FROM ALL CAUSES IN A SINGLE

~~CALENDAR MONTH; AND \$1,000,000 FOR ALL LOSSES FROM ALL CAUSES SUFFERED IN A SINGLE CALENDAR YEAR.~~ IF THE AGGREGATE AMOUNT OF ANY CLAIMS PURSUANT THIS PARAGRAPH (e) AT ANY TIME EXCEEDS ANY OF THE DOLLAR LIMITATIONS SET FORTH IN THE IMMEDIATELY PRECEDING SENTENCE, THE TOTAL AMOUNT THEN AVAILABLE SHALL BE ALLOCATED TO SUCH CLAIMS *PRO RATA*, BASED UPON THE RESPECTIVE AMOUNTS OF SUCH CLAIMS. ANY DISPUTED CLAIM PURSUANT TO THIS PARAGRAPH (e) SHALL BE ARBITRATED IN ACCORDANCE WITH THE RULES INCORPORATED BY REFERENCE INTO RULE 801. AN ASSUMPTION OF RESPONSIBILITY FOR DIRECT LOSS BY THE EXCHANGE MADE PURSUANT TO THIS PARAGRAPH (e) SHALL NOT SERVE AS AN ADMISSION OF NEGLIGENCE OR FAULT OF THE EXCHANGE.