

**SUPPLEMENTARY INFORMATION:** On June 9, 2003, the National Science Foundation published a notice in the **Federal Register** of a permit application received. A permit was issued on July 16, 2003 to:

Peter Doran Permit No. 2004-004

**Nadene G. Kennedy,**

*Permit Officer.*

[FR Doc. 03-18753 Filed 7-22-03; 8:45 am]

**BILLING CODE 7555-01-M**

## RAILROAD RETIREMENT BOARD

### Proposed Collection; Comment Request

**SUMMARY:** In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

*Comments are invited on:* (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

*Title and purpose of information collection:* Voluntary Customer Surveys in Accordance with Executive Order 12862, OMB 3220-0192. In accordance with Executive Order 12862, the Railroad Retirement Board (RRB) conducts a number of customer surveys designed to determine the kinds and quality of services our beneficiaries, claimants, employers and members of the public want and expect, as well as their satisfaction with existing RRB services. The information collected is used by RRB management to monitor customer satisfaction by determining to what extent services are satisfactory and where and to what extent services can be improved. The surveys are limited to data collections that solicit strictly voluntary opinions, and do not collect information which is required or regulated.

The information collection, which was first approved by the Office of Management and Budget (OMB) in 1997, provides the RRB with a generic clearance authority. This generic

authority allows the RRB to submit a variety of new or revised customer survey instruments (needed to timely implement customer monitoring activities) to the OMB for expedited review and approval.

The average burden per response for customer satisfaction activities is estimated to range from 2 minutes for a Web site questionnaire to 2 hours for participation in a focus group. The RRB estimates an annual burden of 2,050 annual respondents totaling 727 hours for the generic customer survey clearance.

*Additional Information or Comments:* To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751-3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092. Written comments should be received within 60 days of this notice.

**Chuck Mierzwa,**

*Clearance Officer.*

[FR Doc. 03-18686 Filed 7-22-03; 8:45 am]

**BILLING CODE 7905-01-M**

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### *Summary of Proposal(s)*

- (1) *Collection title:* Statement of Claimant or Other Person.
- (2) *Form(s) submitted:* G-93.
- (3) *OMB Number:* 3220-0183.
- (4) *Expiration date of current OMB clearance:*
- (5) *Type of request:* Extension of a currently approved collection.
- (6) *Respondents:* Individuals or households, business or other for-profit.
- (7) *Estimated annual number of respondents:* 900.
- (8) *Total annual responses:* 900.
- (9) *Total annual reporting hours:* 225.
- (10) *Collection description:* Under Section 2 of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, pertinent information and proofs must be submitted by an applicant so that the Railroad

Retirement Board can determine his or her entitlement to benefits. The collection obtains information supplementing or changing information previously provided by an applicant.

#### *Additional Information or Comments:*

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

**Chuck Mierzwa,**

*Clearance Officer.*

[FR Doc. 03-18687 Filed 7-22-03; 8:45 am]

**BILLING CODE 7905-01-M**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48187; File No. SR-NASD-2003-106]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Amendments to Pilot Rule in IM-10100(f) and (g) of the Code of Arbitration Procedure To Require Industry Parties in Arbitration To Waive Application of Contested California Arbitrator Disclosure Standards upon the Request of Customers or Associated Persons

July 16, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on July 8, 2003, the National Association of Securities Dealers, Inc. ("NASD"), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. ("NASD Dispute Resolution") 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 NASD Dispute Resolution. NASD has designated the proposed rule change as constituting a "non-controversial" rule change pursuant to section 19(b)(3)(A) of the Act<sup>3</sup> and Rule

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

<sup>2</sup> 17 CFR 240.19b-4.

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

19b-4(f)(6) thereunder,<sup>4</sup> which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

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

NASD proposes to amend the pilot rule in IM-10100(f) and (g) of the NASD Code of Arbitration Procedure to expand and clarify the scope of the requirement that industry parties waive application of the contested California Arbitrator Disclosure Standards upon the request of customers or associated persons. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

\* \* \* \* \*

### 10000. Code of Arbitration Procedure IM-10100. Failure To Act Under Provisions of Code of Arbitration Procedure

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2110 for a member or a person associated with a member to:

(a)-(e) No change.  
(f) fail to waive the California Rules of Court, Division VI of the Appendix, entitled, "Ethics Standards for Neutral Arbitrators in Contractual Arbitration" (the "California Standards"), if all the parties in the case who are customers, or associated persons with a claim against a member firm or another associated person, have waived application of the California Standards in that case. *The written waiver by the customer or the associated person asserting the claim against a member or associated person under the Code shall constitute and operate as a waiver for all member firms or associated persons against whom the claim has been filed. This rule applies to claims brought in California against all member firms and associated persons, including terminated or otherwise inactive member firms or associated persons.* [; or

(g) fail to waive the California Standards, if all the parties in the case who are associated persons with a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute have waived

application of the California Standards in that case.] Remainder unchanged.

\* \* \* \* \*

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

In its filing with the Commission, NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD 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

##### Background

On July 1, 2002, California introduced new rules governing the arbitration process in that state. The rules were designed to address conflicts of interest in private arbitration forums that are not part of a federal regulatory system overseen on a uniform, national basis by the SEC. The California Standards conflict with NASD's current arbitrator disclosure rules. Because NASD could not both administer its arbitration program in accordance with its own rules and comply with the new California Standards at the same time, NASD initially suspended the appointment of arbitrators in cases in California, but offered parties several options for pursuing their cases.<sup>5</sup>

In September 2002, NASD proposed implementation on an accelerated basis of a six-month pilot amendment to IM-10100 that would require all parties that are member firms or associated persons to waive the California Standards if all the parties in the case who are customers, or associated persons with a statutory employment discrimination claim, have waived application of the California Standards in that case. Under such a waiver, the case would proceed in California. The Commission approved the proposed rule change for a six-month period ending March 30, 2003,<sup>6</sup> and recently extended the pilot

<sup>5</sup> These measures included providing venue changes for arbitration cases, using non-California arbitrators when appropriate, and waiving administrative fees for NASD-sponsored mediations.

<sup>6</sup> See Securities Exchange Act Release No. 46562 (September 26, 2002), 67 FR 62085 (October 3, 2002).

rule for an additional six-month period.<sup>7</sup> The pilot rule will expire on September 30, 2003.

#### Description of Proposed Rule Change

The proposed rule change would amend the pilot rule in several respects. First, it would extend the rule to apply to all claims by an associated person against a member firm or another associated person, as well as to all customer claims. Currently, the pilot rule only applies to customer claims and to statutory discrimination claims brought by an associated person against a member firm. As a result, cases involving other claims by associated persons against member firms or other associated persons ("industry respondents") cannot proceed if the industry respondents do not agree to waive the California Standards. To permit these cases to move forward, the proposed rule change would expand the current pilot rule to require that if an associated person with a claim against an industry respondent waives the application of the California Standards, all other industry respondents must also waive the application of the California Standards in that case. This change is consistent with New York Stock Exchange Rule 600(g), and would permit claims by associated persons against industry respondents in California to go forward.

The proposed rule change would also provide that, if a customer, or an associated person with a claim against an industry respondent, agrees to waive the application of the California Standards, and an industry respondent has not signed and returned a waiver form, the industry respondent will be deemed to have waived the application of the standards in that case. Currently, NASD requires member firms and associated persons covered by the rule to sign and return the waiver agreement. NASD staff often must call industry respondents to remind them to send in their waiver forms. When execution of the agreement by the respondent member or associated person is mandatory under the rule, this requirement adds an unnecessary administrative step to the arbitration process. Therefore, NASD is proposing to amend the pilot rule to provide, as NYSE Rule 600(g) currently does, that a written waiver by a customer or an associated person who is asserting a claim against a member or associated person under the Code will constitute a waiver for all member firms or

<sup>4</sup> 17 CFR 240.19b-4. In its filing, NASD requested that the Commission waive the rule's requirements of a five-day pre-filing notice and a 30-day operative delay.

<sup>7</sup> See Securities Exchange Act Release No. 47631 (April 3, 2002) 68 FR 17713 (April 10, 2003).

associated persons against whom the claim has been filed.<sup>8</sup>

Finally, NASD is proposing to amend the pilot rule to clarify that it applies to respondents who are terminated members and associated persons.<sup>9</sup> As of June 5, 2003, there were 33 cases in which all customers and active industry parties had signed waivers, but the terminated members or associated persons had not signed. Another 51 pending cases involved both active and terminated industry parties that had not yet signed waivers; these cases could not proceed even if the active industry parties were deemed to have waived, unless the rule covered terminated parties. The proposed rule change will eliminate any confusion regarding the scope of the rule and will facilitate the administration of cases against such parties in California while the rule is in effect.

## 2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change as amended is consistent with the provisions of section 15A(b) of the Exchange Act,<sup>10</sup> in general, and furthers the objectives of section 15A(b)(6),<sup>11</sup> in particular, which requires, among other things, that the NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will allow customers and associated persons with claims against a member firm or another associated person to exercise their contractual rights to proceed in arbitration in California, notwithstanding the confusion caused by the disputed California Standards.

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

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

Written comments were neither solicited nor received.

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

NASD has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest. A proposed rule change filed under Rule 19b-4(f)(6) normally requires that a self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change. However, Rule 19b-4(f)(6)(iii) permits the Commission to designate a shorter time. NASD seeks to have the five-business-day pre-filing requirement waived with respect to the proposed rule change. The Commission has determined to waive the five-business-day pre-filing requirement with respect to this proposal. Therefore, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup>

Pursuant to Rule 19b-4(f)(6)(iii) under the Act,<sup>14</sup> the proposal may not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. NASD has requested that the Commission waive the 30-day operative delay so that the proposed rule change will become immediately effective upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest to waive the 30-day period and to designate that the proposed rule change has become operative as of July 14, 2003.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary

or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-2003-106 and should be submitted by August 13, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>15</sup>

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 03-18653 Filed 7-22-03; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-48191; File No. SR-OC-2003-06]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by OneChicago, LLC Relating to MicroSector Futures

July 17, 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 June 20, 2003, OneChicago, LLC ("OneChicago") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change described in Items I and II below, which Items have been prepared

<sup>8</sup> The NASD amended this paragraph as it was originally filed to delete a phrase it inadvertently included. Telephone call between Laura Gansler, Counsel, NASD Dispute Resolution, and Andrew Shipe, Special Counsel, Division of Market Regulation, Commission, dated July 14, 2003.

<sup>9</sup> An associated person or member firm's obligation to arbitrate under the NASD Code of Arbitration Procedure survives resignation or termination from membership. See *O'Neel v. NASD*, 667 F. 2d 804 (9th Cir. 1982); *Muh v. Newburger, Loeb & Co., Inc.*, 540 F.2d 970 (9th Cir. 1976).

<sup>10</sup> 15 U.S.C. 78o-3(b).

<sup>11</sup> 15 U.S.C. 78o-3(b)(6).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 17 CFR 240.19b-4(f)(6)(iii).

<sup>15</sup> 17 CFR 200.30-3(a)(12).

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

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