

processing cut-off time prior to the Exchange's exercise cut-off time at which they will no longer accept final exercise decisions in expiring options from options holders for which they carry accounts.]

(d) If OCC has waived the Ex-by-Ex procedure for an options class, members and member organizations must either:

(i) submit to the Exchange, a Contrary Exercise Advice, in a manner specified by the Exchange, within the time limits specified in paragraph (c) above if the holder intends to exercise the option, or

(ii) take no action and allow the option to expire without being exercised.

In cases where the Ex-by-Ex procedure has been waived, OCC rules require that members and member organizations wishing to exercise such options must submit an affirmative Exercise Notice to OCC, whether or not a Contrary Exercise Advice has been filed with the Exchange.

(e) An Exchange member organization that has accepted the responsibility to indicate final exercise decisions on behalf of another member or non-member firm shall take the necessary steps to ensure that such decisions are properly indicated to the Exchange. Such member organization may establish a processing cut-off time prior to the Exchange's exercise cut-off time at which it will no longer accept final exercise decisions in expiring options from option holders for whom it indicates final exercise decisions. Each member or member organization that indicates final exercise decisions through another broker-dealer is responsible for ensuring that final exercise decisions for all of its proprietary (including market maker) and public customer account positions are indicated in a timely manner to such broker-dealer.

[(d)] (f) Members and member organizations may make final exercise decisions after the exercise cut-off time but prior to expiration without having submitted a Contrary Exercise Advice:

(i) In order to remedy mistakes made in good faith; [,] (ii) to take appropriate action as the result of a failure to reconcile unmatched Exchange option transactions; [,] or (iii) where exceptional circumstances have restricted an option holder's ability to inform a member organization of a decision regarding exercise, or a member organization's ability to receive an option holder's decision by the cut-off time. The burden of establishing any of the above exceptions rests solely on the member or member organization seeking to rely on such exceptions.

(g) In the event the Exchange provides advance notice on or before 5:30 p.m. (NY time) on the business day immediately prior to the last business day before the expiration date indicating that a modified time for the close of trading in equity options on such last business day before expiration will occur, then the deadline to make a final decision to exercise or not exercise an expiring option shall be 1 hour 28 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. (NY time) deadline found in Rule 980(c). However, members and member organizations may deliver a Contrary Exercise Advice or Advice Cancel to the Exchange within 2 hours 28 minutes following the time announced for the close of trading in equity options on that day instead of the 6:30 p.m. (N.Y. time) deadline found in Rule 980(c) for customer accounts and non-customer accounts where such member firm employs an electronic submission procedure with time stamp for the submission of exercise instructions. For non-customer accounts, members and member organizations that do not employ an electronic procedure with time stamp for the submission of exercise instructions are required to deliver a Contrary Exercise Advice or Advice Cancel within 1 hour and 28 minutes following the time announced for the close of trading on that day instead of the 5:30 p.m. (NY time) deadline found in Rule 980(c).

(h)(1) The Exchange may establish extended cut-off times for decision to exercise or not exercise an expiring option and for the submission of Contrary Exercise Advices on a case by case basis due to unusual circumstances.

(2) The Exchange with at least one (1) business day prior advance notice, by 12 noon on such day, may establish a reduced cut-off time for the decision to exercise or not exercise an expiring option and for the submission of Contrary Exercise Advices on a case-by-case basis due to unusual circumstances; provided, however, that under no circumstances should the exercise cut-off time and the time for submission of a Contrary Exercise Advice be before the close of trading.

Commentary

.01 For purposes of this Rule 980, the terms "customer account" and "non-customer account" have the same meaning as defined in OCC By-Laws Article I(C)(25) and Article I (N)(2), respectively.

.02[.01] Each member organization shall prepare a memorandum of every

[final] exercise [decision] instruction received showing the time when such instruction was so [for which a Contrary Exercise Advice is required showing the time when such decision was made or] received. Such memoranda shall be subject to the requirements of SEC Rule 17a-4(b).

.03 In the event of an "unusual circumstance," Rule 980(h)(1) provides that the Exchange may extend the cut-off times for exercise instructions and the submission of a Contrary Exercise Advice beyond the normal time frames specified in Rule 980(c). For purposes of subparagraph (h)(1), an "unusual circumstance" includes, but is not limited to, increased market volatility; significant order imbalances; significant volume surges and/or systems capacity constraints; significant spreads between the bid and offer in underlying securities; internal system malfunctions affecting the ability to disseminate or update market quotes and/or deliver orders; or other similar occurrences. Rule 980(h)(2) specifies that the Exchange may also reduce such cut-off times for "unusual circumstances." For purposes of subparagraph (h)(2), an "unusual circumstance" includes, but is not limited to, a significant news announcement concerning the underlying security of an option contract that is scheduled to be released just after the close on the business day immediately prior to expiration.

.04 Although the deadline for all option holders to make a final decision to exercise or not exercise is 5:30 p.m. (NY time), the deadline for the submission of the Contrary Exercise Advice in the case of non-customer accounts will depend on the manner of the decision to exercise or not exercise.

(i) For electronic timestamp submissions of the exercise decision by non-customer option holders, a Contrary Exercise Advice submitted by members and member organizations must be received by the Exchange by 6:30 p.m. (NY time).

(ii) For manual submissions of the exercise decision by non-customer option holders, members and member organizations must submit a Contrary Exercise Advice at the Exchange via the Contrary Exercise Advice Box by 5:30 p.m. (NY time).

.05 Each member organization shall establish fixed procedures to insure secure time stamps in connection with their electronic systems employed for the recording of submissions to exercise or not exercise expiring options.

.06 [.02] In the event a member or member organization makes a final exercise decision after the exercise cut-off time pursuant to an exception set