

(3) *Obvious Error Procedure.* Two Floor Officials will administer the application of this Rule as follows:

A. *Notification.* If a Member on the Exchange believes that it participated in a transaction that was the result of an Obvious Error, it must notify two Floor Officials within five (5) minutes of the execution. If an Order Entry Firm representing a public customer believes an order it executed on the Exchange was the result of an Obvious Error, it must notify the Exchange within twenty (20) minutes of the execution. Absent unusual circumstances, two Floor Officials will not grant relief under this Rule unless notification is made within the prescribed time periods.

B. *Adjust or Nullify.* Two Floor Officials will determine whether the execution is subject to a trade nullification or price adjustment. If two Floor Officials determine that one of the conditions of Rule 6.87(g)(2) has been met and that the complaining party has timely documented a request for relief, then a trade will be adjusted or nullified as follows:

(1) Where each party to the transaction is a Market Maker on the Exchange, or the trade involves a limit order that may be adjusted to its limit, the Exchange will adjust the execution price of the transaction within ten (10) minutes of two Floor Officials making such determination. In such case, the adjusted price will be the last bid (offer) price, just prior to the trade, from the exchange providing the highest total contract volume in the option for the previous sixty (60) days with respect to an erroneous bid (offer) entered on the Exchange. If there is no quote for comparison purposes, then the adjusted price of an option will be determined by two Floor Officials; or

(2) Where at least one party to the transaction is not a Market Maker on the Exchange or where the trade does not involve a limit order that may be adjusted to its limit, the Exchange will nullify the transaction within ten (10) minutes of two Floor Officials making such determination.

(3) Upon taking final action, the two Floor Officials will promptly notify both parties to the trade.

#### Commentary

.01 In no case will the two Floor Officials involved in an obvious error determination include a person related to a party to the trade in question.

.02 All determinations made by the two Floor Officials under subsection (g)(2) will be rendered without prejudice as to the rights of the parties to the transaction to submit a dispute to arbitration.

.03 Nothing in this rule prevents a potentially aggrieved party from appealing the decision of two Floor Officials pursuant to Rule 11 of the Exchange rules.

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## 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 IV below. The Exchange 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

While the Exchange believes that it would be detrimental to allow market participants to adjust or nullify trades simply because they are based on poor trading decisions, it does believe that just and equitable principles of trade permit such adjustments or trade nullifications where one market participant would receive a windfall at the expense of another market participant that made an obvious error. In promulgating the basis for determining whether to adjust or nullify trades based upon obvious error, the Exchange believes that it must rely on objective standards to establish when a transaction was clearly the result of an obvious error, under what circumstances a trade will be adjusted or nullified, and to what price a trade will be adjusted if adjustment is appropriate under the circumstances.

As proposed, the affected parties to a particular transaction may determine, by mutual agreement, that an electronic trade was executed at an erroneous price and they may adjust the terms or nullify the trade as they agree. In the absence of mutual agreement by the parties, the proposed rule provides that two trading officials may nullify or adjust a trade if an affected party provides a documented request for relief within five minutes of the execution (or 20 minutes if the request is on behalf of a public customer) of the trade so long as one of following conditions is met:

- The trade resulted from a verifiable disruption or malfunction of an

Exchange execution, dissemination, or communication system that caused a quote/order to trade in excess of its disseminated size (e.g., a quote/order that is frozen, because of an Exchange system error, and repeatedly traded) in which case trades in excess of the disseminated size may be nullified; or

- The trade resulted from a verifiable disruption or malfunction of an Exchange dissemination or communication system that prevented a member from updating or canceling a quote/order for which the member is responsible where there is Exchange documentation providing that the member sought to update or cancel the quote/order; or

- The trade resulted from an erroneous print disseminated by the underlying market which is later cancelled or corrected by the underlying market where such erroneous print resulted in a trade higher or lower than the average trade in the underlying security during the time period encompassing two minutes before and after the erroneous print, by an amount at least five times greater than the average quote width for such underlying security during the time period encompassing two minutes before and after the erroneous print. For purposes of the proposed rule, the average trade in the underlying security shall be determined by adding the prices of each trade during the four minute time period referenced above (excluding the trade in question) and dividing by the number of trades during such time period (excluding the trade in question); or

- The trade resulted from an erroneous quote in the Primary Market (as defined in Rule 6.1(b)(27)) for the underlying security that has a width of at least \$1.00 and that width is at least five times greater than the average quote width for such underlying security during the time period encompassing two minutes before and after the dissemination of such quote. For purposes of the proposed rule, the average quote width shall be determined by adding the quote widths of each separate quote during the four minute time period referenced above (excluding the quote in question) and dividing by the number of quotes during such time period (excluding the quote in question); or

- The execution price of the trade is higher or lower than the mid-point of the Best Bid and Offer (among all of the exchanges other than the PCX) by an amount equal to at least the bid/ask spread provided in Rule 6.37(b)(1), or, in the event where the bid/ask spread in the underlying is greater than the bid/