

minimum price variation as set forth in Exchange Rule 952 for the quote to be inputted into the EE Device. The minimum size quote that could be inputted into the EE Device by or on behalf of a registered options trader would be 20 contracts, unless the Auto-Ex eligible size parameter for that option class is less than 20 contracts, in which case the minimum quote size would be the same as the lesser Auto-Ex eligible size parameter for that option class. Currently, the EE Device disseminates a default size for each new quote. The disseminated size may be set at a higher or lower amount or increased by the specialist to reflect additional liquidity at that quote. The default size would be set at the minimum quote size as discussed above.

There is at least one EE Device unit at every trading post and multiple units at posts where active option classes trade. The Exchange believes the number of devices currently in place on the trading floor would be sufficient to provide registered options traders with ready and easy access to a means for disseminating their quotes. However, since this is a new use for the EE Device, the Exchange will monitor the uses of the EE Device by registered options traders and activity in the option classes at each trading post and will add additional devices when necessary. The Exchange is able to install additional EE Devices at the trading posts with, preferably, a one-day notice so that they can be installed either before or after trading hours.

The specialist in a given option class may also disseminate or cause to be disseminated his own individual, price improving quote separate from the XTOPS calculated quote, provided he is physically located at the trading post at the time he inputs his quote, has only disseminated one quote per series on the same side of the market, has announced loudly and audibly to the crowd that he has improved the disseminated bid or offer, has improved the best bid or offer by an amount equal to at least the minimum price variation set forth in Rule 952, and has disseminated the minimum quote size. The specialist would not be able to use the EE Device to disseminate his individual price improving quote since he already has the means to input a quote into the Market Data System through XTOPS in the same manner used today to disseminate a customer limit order. Once the specialist has caused his individual quote to be disseminated, he will activate the "book bid or offer" indicator and the next otherwise Auto-Ex eligible trade is

routed directly to the AODB for allocation to the specialist.

The specialist would be required to use best efforts to attempt to ensure that the registered option trader responsible for disseminating the best bid or offer receives an allocation of the next incoming order for the amount he is entitled to pursuant to Exchange rules. The Exchange believes that there are a number of safeguards that would help ensure that the manual allocation of orders to the appropriate registered options trader occurs. First, both the registered options trader, the other members in the crowd and the Exchange employed systems clerk, if present, would be able to hear the registered options trader's alert to the specialist and be able to advise the specialist whose quote was entered into EE Device and disseminated. Second, the registered options trader inputting the quote would have a strong incentive to step forward and claim the contracts for which he has just bid or offered. Third, the quote entered into the EE Device may not be representative of the specialist's market in that series and as such, the specialist would have a strong incentive to determine which registered options trader's quote against which the incoming order was executed or else the specialist and other traders may be obligated.

A specialist who failed to use best efforts to attempt to ensure that the next Auto-Ex execution is appropriately allocated to the price improving registered options trader would be fined pursuant Amex Rule 590(g) of the Exchange's Minor Rule Violation Fine System. In addition to the fine assessed pursuant to the Minor Floor Violation Fine System, violations of this provision would require the payment of restitution. Restitution would be calculated by multiplying the number of contracts that should have been allocated to the price-improving registered options trader by the number of underlying shares represented by each contract, which would then be multiplied by half of the spread between the option's bid and offer at the time the order was executed. For example, the quote in XYZ options was 1.90 bid and 2.00 offered, and a registered options trader entered the 1.90 bid for 20 contracts using the EE Device. If the specialist failed to allocate the next incoming order to sell executed at the registered options trader's bid, the specialist would be obligated under the Minor Floor Violation Fine System to pay restitution in the amount of \$100 ($\$.05 \times (20 \times 100) = \100).

If more than one registered options trader and/or the specialist has

disseminated or caused to be disseminated the same price improving quote, priority would be established for the registered options traders in the order in which the quotes were announced loudly and audibly to the trading crowd. If, however, the sequence in which the disseminated quotes were made cannot be reasonably determined, priority would be afforded to the price improving registered options traders and/or specialist as a group. Exchange Rule 950(d), Commentary .06 and Exchange Rule 950(n), Commentary .03 govern allocations of contracts when more than one registered options trader and/or the specialist has disseminated the same price improving quote and time priority cannot be established.

However, pursuant to the proposed rule change, the price improving registered options traders' quote would retain priority until one of the following occurs: (i) Auto-Ex execution depleted the disseminated size; (ii) an amount equal to the minimum quote size has been allocated; (iii) the registered options trader withdraws the quote; (iv) the quote is matched or improved by the specialist's automated quotation system quote, provided specialists using an Exchange-approved proprietary automated quotation updating system have not programmed the system to immediately match or improve the price improving registered options trader's quote; (v) the quote is improved by another registered options trader; or (vi) the market is improved by an order placed on the limit order display book. With respect to subparagraph (iv) above, the Exchange will monitor the use of proprietary automated quotation updating systems through the review of complaints from members in the trading crowd as well as observations of Floor Officials and Exchange personnel to determine if the system has been programmed to immediately match or improve the price improving registered options trader's quote.

The Exchange notes that Exchange rules regarding customer priority and parity would continue to apply to the allocation of trades pursuant to the proposed rule change. Exchange Rule 111, Commentary .07 provides that a registered options trader, when establishing or increasing a position, may not retain priority over or have parity with an off-Floor order. Thus, only registered options traders closing or decreasing a position may be on parity with a customer order. As a result, the specialist when allocating executed trades pursuant to the proposed rule would continue to take into consideration the rights of customers and the obligations of a