

this may result in the adjustment of trades executed pursuant to ROS. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.

.02 *Trading Officials: The term "Trading Officials" means two Exchange members designated as Floor Officials and one member of the Exchange's trading floor liaison (TFL) staff.*

\* \* \* \* \*

#### Rule 6.2A Rapid Opening System

(a)(i)–(ii) No change

(iii) [In cases where ROS opens a particular class based on an erroneous opening print disseminated by the underlying market, which is later corrected by that underlying market, two Floor Officials may adjust the trades to reflect the accurate market. Floor Officials may also allow for the execution of trades (and assign those trades to participating ROS market-makers) that were not executed on the opening but that should have been executed had ROS opened the series at the accurate price. The Exchange will endeavor to notify its members as soon as practicable after the correction of an erroneous print and will indicate that this may result in the adjustment of trades executed pursuant to ROS. The only trades that will be adjusted are those that were executed on the opening or those that should have executed on the opening. All adjustments will be made during the day when the correction of the erroneous print occurred.]

(b)–(d) No change

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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

The Exchange proposes to adopt new CBOE Rule 6.25 to allow it to either adjust or nullify a transaction the terms of which are obviously in error. The proposed rule contains objective standards for determining when an electronic transaction constitutes an obvious error, under what circumstances a trade may be adjusted or nullified, the price to which such transaction would be adjusted, and the procedures for appealing an adverse decision.

a. *Trades Subject to Review: Proposed CBOE Rule 6.25(a).* Proposed CBOE Rule 6.25(a) specifies the transactions that may be adjusted or nullified. The price to which transactions are adjusted shall be as specified in proposed CBOE Rule 6.25(c).

i. *Obvious Price Error.* Trading Officials<sup>6</sup> may nullify or adjust transactions in which there is an obvious pricing error, which will be deemed to have occurred when the execution price of a transaction is higher or lower than the fair market value of the series by the following amount: (a) The greater of \$0.10 or 10% for options trading under \$2.50; (b) 10% for options trading at or above \$2.50 and under \$5; or (c) \$0.50 for options trading at \$5 or higher. For series trading with bid-ask differentials that are greater than the widths established in Rule 8.7(b)(iv), the prescribed error amount shall be double the requirements listed above.<sup>7</sup>

For purposes of the proposed Rule only, the fair market value of an option is the midpoint of the national best bid and national best offer for the series (across all exchanges trading the option). In multiply-listed issues, if there are no quotes for comparison purposes, fair market value shall be determined by Trading Officials. For singly-listed issues and transactions occurring as part of the Rapid or Hybrid Opening System<sup>8</sup> ("ROS or HOSS

trades"), fair market value shall be the first quote after the transaction(s) in question that do not reflect the erroneous transaction(s).

ii. *Obvious Quantity Error.* An obvious error in the quantity term will be deemed to occur when the transaction size exceeds the responsible broker or dealer's average disseminated size over the previous four hours by a factor of five (5) times. The transaction size will be adjusted to the responsible broker or dealer's average disseminated size over the previous four hours (which may include a portion of the previous business day). For example, if the DPM for class XYZ has been disseminating a size of 100 in a particular class for the preceding four hours and then inadvertently disseminates a size of 1,000 contracts, which is subsequently executed against, the quantity term of that transaction may be adjusted to 100 contracts.

iii. *Verifiable Disruptions or Malfunctions of Exchange Systems.* Trading officials may nullify or adjust transactions resulting from a verifiable disruption or malfunction in the use or operation of any automated Exchange quotation, dissemination, execution, or communication system.

iv. *Erroneous Print in Underlying.* Trading Officials may adjust or nullify a trade resulting from an erroneous print disseminated by the underlying market that is later cancelled or corrected by that underlying market. In order to be adjusted or nullified, however, the trade must be the result of an erroneous print that is higher or lower than the average trade in the underlying security during a two-minute period 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 same period.

v. *Erroneous Quote in Underlying.* Trading Officials may adjust or nullify a trade resulting from an erroneous quote in the underlying security. An erroneous quote occurs when the underlying security has a width of at least \$1.00 and has a width at least five times greater than the average quote width for such underlying security on the primary market 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)

<sup>6</sup> The term "Trading Officials" means two Exchange members designated as Floor Officials and one member of the Exchange's trading floor liaison (TFL) staff.

<sup>7</sup> The amounts would be: (a) the greater of \$0.20 or 20% for options trading under \$2.50; (b) 20% for options trading at or above \$2.50 and under \$5; or (c) \$1.00 for options trading at \$5 or higher.

<sup>8</sup> The CBOE inadvertently omitted mention of HOSS from the rule text of proposed CBOE Rule 6.25(a)(1)(i). The CBOE has committed to submitting an amendment reflecting the changes relating to HOSS discussed herein, prior to permanent approval of the proposed rule change, as amended. Telephone conversation between Steve

Youhn, Senior Attorney, CBOE and Susie Cho, Special Counsel, Division, Commission on September 26, 2003.