

and dividing by the number of quotes during such time period (excluding the quote in question).⁹

vi. *Trades Below Intrinsic Value.* An obvious pricing error will be deemed to occur when the transaction price of an equity option is more than \$0.10 below the intrinsic value of the same option (an option that trades at its intrinsic value is sometimes said to trade at "parity").¹⁰ Proposed CBOE Rule 6.25(a)(6) shall not apply to transactions occurring during the last two minutes of the trading day (which is typically 3:00:01 p.m. (CT) to 3:02 p.m. (CT) on days with regular trading hours).

b. *Review Procedures: Proposed CBOE Rule 6.25(b).* Proposed CBOE Rule 6.25(b) delineates objective standards regarding the review of transactions believed to have been executed in error. Pursuant to this rule, a member that believes it participated in a transaction that may be adjusted or nullified must notify any Trading Official promptly but not later than fifteen (15) minutes after the execution in question. For transactions occurring after 2:45 p.m. (CST), notification must be provided promptly but not later than fifteen (15) minutes after the close of trading of that security on CBOE on the same trading day. Absent unusual circumstances, Trading Officials shall not grant relief under the proposed Rule unless notification is made within the prescribed time periods.¹¹

Once a party to a transaction has applied to a Trading Official for review, the transaction shall be reviewed and a determination rendered, unless both parties to the transaction agree to withdraw the application for review prior to the time a decision is rendered. Absent unusual circumstances (e.g., a

large number of disputed transactions arising out of the same incident), Trading Officials must render a determination within sixty (60) minutes of receiving notification.¹² Trading Officials shall promptly provide verbal notification of a determination to the members involved in the disputed transaction and to the control room.

c. *Price Adjustments: Proposed CBOE Rule 6.25(c).* Unless otherwise specified in proposed CBOE Rule 6.25(a)(1)–(6), transactions will be adjusted provided the adjusted price does not violate the customer's limit price. Otherwise, the transaction will be nullified. With respect to proposed CBOE Rule 6.25(a)(1)–(5), the price to which a transaction shall be adjusted shall be the National Best Bid (Offer) immediately following the erroneous transaction with respect to a sell (buy) order entered on the Exchange. For ROS transactions, the price to which a transaction shall be adjusted shall be based on the first non-erroneous quote after the erroneous transaction on CBOE. With respect to proposed CBOE Rule 6.25(a)(6), the transaction shall be adjusted to a price that is \$0.10 under parity.

d. *Appeal of Floor Officials' Decision: Proposed CBOE Rule 6.25(d).* Proposed CBOE Rule 6.25(d) provides objective standards regarding the appeal of an adverse decision. A member affected by a determination made under this rule may appeal to the Appeals Committee, in accordance with Chapter XIX of the Exchange's rules.¹³ Notwithstanding any provision in CBOE Rule 19.2 to the contrary, a request for review must be made in writing (in a form and manner prescribed by the Exchange) no later than the close of trading on the next trade date after the member receives verbal notification of such determination by Trading Officials.

e. *Negotiated Trade Nullification: Proposed CBOE Rule 6.25(e).* Proposed CBOE Rule 6.25(e) clarifies that a trade may be nullified if the parties to the trade agree to the nullification. When all parties to a trade have agreed to a trade nullification one party must promptly disseminate cancellation information in OPRA format.

f. *Applicability.* The Exchange represents that proposed CBOE Rule 6.25 will operate floorwide in both equity and index option products. The Exchange proposes to amend CBOE Rule 6.2A, *Rapid Opening System*, to indicate that ROS transactions that are

executed at clearly erroneous prices will now be adjusted in accordance with proposed CBOE Rule 6.25. New Interpretation .01 to proposed CBOE Rule 6.25 consists of language previously contained in CBOE Rule 6.2A(a)(iii). Accordingly, the CBOE believes that the relocation of this rule language from CBOE Rule 6.2A to proposed CBOE Rule 6.25 raises no new or novel issues.

With the adoption of proposed CBOE Rule 6.25, the Exchange will withdraw the effectiveness of Regulatory Circular RG00–169.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act¹⁴ in general, and furthers the objectives of Section 6(b)(5)¹⁵ in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The CBOE believes that the proposed rule change, as amended, will provide objective standards to use in correcting executions made as a result of an obvious error and procedures by which Trading Officials' decisions may be appealed.

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

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

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

The Exchange did not solicit or receive written comments on the proposed rule change.

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

⁹ Telephone conversation between Steve Youhn, Senior Attorney, CBOE and Susie Cho, Special Counsel, Division, Commission on September 16, 2003.

¹⁰ For purposes of the proposed rule, the intrinsic value of an equity call option equals the value of the underlying stock (measured from the bid or offer as described below) minus the strike price, and the intrinsic value of an equity put option equals the strike price minus the value of the underlying stock (measured from the bid or offer as described below), provided that in no case is the intrinsic value of an option less than zero. In the case of purchasing call options and selling put options, intrinsic value is measured by reference to the bid in the underlying security, and in the case of purchasing put options and selling call options, intrinsic value is measured by reference to the offer in the underlying security.

¹¹ In the absence of unusual circumstances, Trading Officials (either on their own motion or upon request of a member) must initiate action pursuant to paragraph (a)(3) above within sixty (60) minutes of the occurrence of the verifiable disruption or malfunction. When Trading Officials take action pursuant to paragraph (a)(3), the members involved in the transaction(s) shall receive verbal notification as soon as is practicable.

¹² If the transaction(s) in question occurred after 2:30 p.m., Trading Officials shall have until 9:30 a.m. the following morning to render a determination.

¹³ For purposes of this Rule, a member must be aggrieved as described in CBOE Rule 19.1.

¹⁴ 15 U.S.C. 78f(b).

¹⁵ 15 U.S.C. 78f(b)(5).