

exception. If the member is relying on clause (ii) or clause (iv) as the basis of an exception, it shall promptly file a copy of the memorandum with the Exchange.

.04 Clearing Members must follow the procedures of the OCC when exercising expiring non-cash settled equity option contracts. Members must also follow the procedures set forth below with respect to the exercising of non-cash settled equity option contracts that would otherwise not be exercised, or the non-exercising of option contracts that otherwise would be exercised by operation of the OCC Rule 805.

(a) For all such contracts exercised or not exercised, a "contrary exercise advice" must be delivered by the member in such form or manner prescribed by the Exchange to a place designated by the Exchange no later than 2:30 p.m. (PT) on the business day immediately prior to the expiration date;

(b) Subsequent to the delivery of a "contrary exercise advice," should the Market Maker, Floor Broker, customer or firm determine to act other than as reflected on the original advice form, the Member must also deliver an "advice cancel" in such form or manner prescribed by the Exchange to a place designated by the Exchange no later than 2:30 p.m. (PT) on the business day immediately prior to the expiration date;

(c) The preparation, time stamping or submission of a "contrary exercise advice" prior to the purchase of the contracts to be exercised or not exercised shall be deemed a violation of this Rule.

(d) All of the foregoing provisions of this Commentary .04 are in full force and effect whether or not the OCC waives the exercise-by-exception provisions of its Rule 805; in the event of such waiver, the procedures of this Commentary shall be followed as if such provisions of OCC Rule 805 were in full force and effect; and OCC rules may require the submission of an affirmative exercise notice even in circumstances where a contrary exercise advice is not required; and

(e) The failure of any Member to follow the provisions in this Commentary .04 may be referred to the Ethics and Business Conduct Committee and result in the assessment of a fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Committee.

.05 Members and member organizations shall properly communicate final exercise decisions to

the Exchange in respect of positions for which they are responsible. Member organizations 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 for customers.

.06 Submitting or preparing an exercise instruction after the exercise cut-off time in any expiring option on the basis of material information released after the cut-off time is actively inconsistent with just and equitable principals of trade.]

.01 For purposes of this Rule 6.24, the terms "customer account" and "non-customer account" have the same meaning as defined in OCC By-Laws Article I(C)(28) and Article I (N)(2), respectively.

.02 Each Member Organization shall prepare a memorandum of every exercise instruction received showing the time when such instruction was received. Such memoranda shall be subject to the requirements of SEC Rule 17a-4(b).

.03 In the event of an "unusual circumstance," Rule 6.24(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 6.24(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 6.24(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 2:30 p.m. (PST), 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 3:30 p.m. (PST).

(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 2:30 p.m. (PST).

.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 In the event a Member or Member Organization receives and submits a final exercise decision after the exercise cut-off time pursuant to an exception set forth in clauses (i), (ii) or (iii) of paragraph (f) of Rule 6.24, the Member or Member Organization shall maintain a memorandum setting forth the circumstances regarding such exception and shall file a copy of the memorandum with the Exchange's Market Surveillance Department no later than 9 a.m. on the first business day following the respective expiration.

.07 The filing of a Contrary Exercise Advice required by this rule does not serve to substitute as the effective notice to OCC for the exercise or non-exercise of expiring options.

.08 The failure of any Member to follow the provisions in this Rule may be referred to the Ethics and Business Conduct Committee and result in the assessment of a fine, which may include but is not limited to disgorgement of potential economic gain obtained or loss avoided by the subject exercise, as determined by the Committee.

.09 Submitting or preparing an exercise instruction after the exercise cut-off time in any expiring option on the basis of material information released after the cut-off time is actively inconsistent with just and equitable principals of trade.

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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 PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change, as amended. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B and C below, of the most significant aspects of such statements.