

CBOE Rule 6.13(b)(i)(C)(ii).<sup>5</sup> Customers and broker-dealers (as described in CBOE Rule 6.13(b)(i)(C)(i)) will not be subject to the rule and as such will continue to be eligible to receive unlimited automatic executions.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6 of the Act<sup>6</sup> in general and furthers the objectives of section 6(b)(5)<sup>7</sup> in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

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

CBOE does not believe that the proposed rule change will impose any

<sup>5</sup> In SR-CBOE-2004-15, the Exchange proposed modifications to the definitions contained in this paragraph. On May 13, 2004, the Commission published the rule filing in the **Federal Register**. See Exchange Act Release No. 49659 (May 6, 2004), 69 FR 26627. If approved, the new rule language will be as appears below. Nothing in the instant proposed rule change proposes to change either of those definitional subparagraphs. Rather, the instant proposal merely clarifies that both of those categories (*i.e.*, options exchange market makers and stock exchange specialists) will be subject to the 15-second restriction.

(ii) (A) Options Exchange Market Makers: The appropriate FPC may also determine, on a class-by-class basis, to allow orders for the accounts of market makers or specialists on an options exchange (collectively "options market makers") who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to Section 7(c)(2) of the Securities Exchange Act of 1934 to be eligible for automatic execution. The appropriate FPC may establish the maximum order size eligibility for such options market maker orders at a level lower than the maximum order size eligibility available to non-broker-dealer public customers and non-market maker or non-specialist broker-dealers. Pronouncements pursuant to this provision regarding options market maker access shall be made by the appropriate FPC and announced via Regulatory Circular.

(B) Stock Exchange Specialists: The appropriate FPC may determine, on a class-by-class basis, to allow orders for the account of a stock exchange specialist, with respect to a security in which it acts as a specialist, to be eligible for automatic execution in the overlying option class. The appropriate FPC may establish the maximum order size eligibility for such specialist orders at a level lower than the maximum order size eligibility available to options exchange market makers. Stock exchange specialists, with respect to orders in securities in which they do not act as specialist, will be treated as broker-dealers that are not market makers or specialists on an options exchange and will be eligible to submit orders for automatic execution in accordance with subparagraph (i) above.

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(5).

burden on competition not necessary or appropriate in furtherance of the purpose of the Act.

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

CBOE neither solicited nor received 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 self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include SR-CBOE-2004-33 on the subject line.

#### *Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

All submissions should refer to SR-CBOE-2004-33. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to SR-CBOE-2004-33 and should be submitted on or before July 6, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>8</sup>

**Jill M. Peterson,**

*Assistant Secretary.*

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### **OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

#### **Trade Policy Staff Committee; Invitation for Non-Governmental Organizations, Corporate Sponsors and Private Foundations to Volunteer Trade Capacity Building Assistance in Support of FTA Negotiations With Certain Andean Countries**

**AGENCIES:** Office of the United States Trade Representative, United States Agency for International Development.

**ACTION:** Request for submissions to volunteer trade capacity building assistance.

**SUMMARY:** The United States seeks to attract additional resource partners that can legitimately contribute to the trade capacity building efforts in support of the U.S. free trade agreement (FTA) negotiations with certain Andean countries. The Trade Policy Staff Committee (TPSC) gives notice that, on behalf of the U.S. Government, the Office of the United States Trade Representative and the United States Agency for International Development seek to expand the circle of resource partners to non-governmental organizations (NGOs), corporate sponsors and private foundations that are prepared to provide wholly self-funded assistance to conduct trade

<sup>8</sup> 17 CFR 200.30-3(a)(12).

capacity building efforts in support of the FTA process with Colombia, Peru, Ecuador, and Bolivia (the Andean countries), subject to: (1) The priorities set by the Andean countries in their trade capacity building strategies; (2) the coordination efforts of the U.S. interagency trade capacity working group to, *inter alia*, promote transparency; and (3) consistency with U.S. Government policy. Interested parties should present a brief description of their potential contribution. This Request for Submission does not constitute a request for proposals/applications for funding from the United States Trade Representative, the United States Agency for International Development, or any other agency or department of the U.S. Government (USG). Any requests in the future for proposals or applications will be advertised on FedBizOpps or FedGrants, as appropriate. If any assistance opportunities or procurement needs are identified as part of this process, such needs will be met by the appropriate USG agency in accordance with its internal acquisition and assistance procedures.

**DATES:** Initial expressions of interest should be forwarded by June 30, 2004. However, expressions of interest are welcome throughout the period of the Andean FTA negotiations.

**ADDRESSES:** *Submissions by electronic mail:* FR0426@ustr.gov (written comments). *Submissions by facsimile:* Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at 202/395-6143. The public is strongly encouraged to submit documents electronically rather than by facsimile. (See requirements for submissions below).

**FOR FURTHER INFORMATION CONTACT:** For procedural questions, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395-3475. Substantive questions should be addressed to Karen Taylor, Director for Trade Capacity Building, Office of the USTR, telephone (202) 395-2839.

**SUPPLEMENTARY INFORMATION:** On May 18, 2004, the United States launched FTA negotiations with Colombia, Peru, and Ecuador, and hopes to include Bolivia at a later stage.

The United States seeks to attract additional resource partners that can legitimately contribute to the trade capacity building efforts in support of the FTA. The United States seeks resource partners that are prepared to provide wholly self-funded (cash or in-kind) assistance for the trade capacity building support that they propose to

deliver in the context of these trade initiatives. Interested parties should present a brief description of their potential contribution.

Negotiating groups include the following topics: market access, investment, services, government procurement, intellectual property, labor, environment, sanitary and phytosanitary measures, and institutional issues such as dispute settlement. A non-negotiating cooperative group on trade capacity building (ATCB Working Group) will be formed. The TCB Working Group seeks to address, to the extent possible, the needs of the countries in preparing for negotiations, implementation of the agreement and transition to free trade (*i.e.*, rural diversification and small and medium sized enterprises). The USG is currently assisting countries in completing trade capacity building strategies to guide the work of the TCB Working Group. Once completed, these strategies are intended to identify, define and prioritize each country's needs.

There are two parts to TCB Working Group meetings. The first involves a meeting of exclusively government officials from the United States and Andean countries. The second part involves government officials from the United States and the Andean countries and representatives from resource partners outside the governments, such as international financial institutions, NGOs, corporate sponsors and private foundations. Resource partners that volunteer to participate based on their ability to self-fund technical assistance or self-fund other trade capacity building services in response to the needs identified by the Andean countries in the FTA process may be invited to join the TCB Working Group. Resource partners that are selected to join the TCB Working Group will be welcome to attend the TCB Working Group meetings that are not restricted to government officials and are open to other resource partners. Requests for contract or grant funding from the USG will not be permitted during TCB Working Group meetings.

**Submitting Comments:** To ensure prompt and full consideration of responses, the TPSC strongly recommends that interested persons make submissions by electronic mail to the following e-mail address: FR0426@ustr.gov. Persons making submissions by e-mail should use the following subject line: AAndean TCB Assistance." Documents should be submitted as either WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted in

spreadsheet form is acceptable in either the Quattro Pro or Excel format. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters "BC-", and the file name of the public version should begin with the character "P-". The "P-" or "BC-" should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked "BUSINESS CONFIDENTIAL" at the top of each page, including any cover letter or cover page, and must be accompanied by a non-confidential summary of the confidential information. All public documents and non-confidential summaries shall be available for public inspection in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street, NW., Washington, DC 20508. An appointment to review the file may be made by calling (202) 395-6186. The USTR Reading Room is generally open to the public from 10 a.m.—12 noon and 1 p.m.—4 p.m., Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Additional information may be reported in websites or other public announcements related to Andean trade capacity building activities.

General information concerning USTR may be obtained by accessing its Internet server (<http://www.ustr.gov>). General information concerning USAID may be obtained by accessing its Internet server (<http://www.usaid.gov>).

**Carmen Suro-Bredie,**

*Chairman, Trade Policy Staff Committee.*

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