

OPTIONS EXCHANGE			
Regulatory Information Circular			
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**Subject: Priority Customer Orders and Professional Orders**

*\*The SEC has approved a SR-ISE-2006-26, which adopts two new order types as detailed below. The Exchange will not implement the new order types before July 1, 2009, to give members sufficient time to assess whether the adoption of the new order types will require them to make any changes to their systems and/or compliance procedures, and to implement any such changes.*

This Regulatory Circular describes compliance obligations of Electronic Access Members with respect to representing orders as agent on the Exchange. The Exchange has adopted two new categories for agency orders as follows:

- A “Priority Customer Order” is defined under Rule 100(a)(37A) as a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s).
- A “Professional Order” means an order that is for the account of a person or entity that is not a Priority Customer.

These new definitions are used with respect to execution priority in Rules 713 (Priority of Quotes and Orders), 716 (Block Trades) and 723 (Price Improvement Mechanism for Crossing Transactions). They are also used in the ISE fee schedule. The terms “Public Customer Order,” which refers to an order for the account of a person or entity that is not a broker or dealer in securities, and “Non-Customer Order,” which refers to an order for the account of a person or entity that is a broker or dealer in securities, continue to be used with respect to other Exchange Rules, such as the Linkage-related rules.

In order to properly represent orders entered on the Exchange according to the new definitions, Electronic Access Members are required to indicate whether Public Customer Orders are “Priority Customer Orders” or “Professional Orders.” To comply with this requirement, Electronic Access Members are required to review their customers’ activity on at least a quarterly basis to determine whether orders that are not for the account of a broker or dealer should be represented as Priority Customer Orders or Professional Orders. Orders for any customer that had an average of more than 390 orders per day during any month of a calendar quarter must be represented as Professional Orders for the next calendar quarter.

- Members are required to conduct a quarterly review and make any appropriate changes to the way in which they are representing orders within five days after the end of each calendar quarter.
- While Members are only required to review their accounts on a quarterly basis, if during a quarter the Exchange identifies a customer for which orders are being represented as Priority Customer Orders but that has averaged more than 390 orders per day during a month, the Exchange will notify the Member and the Member will be required to change the manner in which it is representing the customer's orders within five days.