

For the Nuclear Regulatory Commission.

Samson S. Lee,

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OFFICE OF PERSONNEL MANAGEMENT

January 2004 Pay Adjustments

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The President adjusted the rates of basic pay and locality payments for certain categories of Federal employees effective in January 2004. This notice documents those pay adjustments for the public record.

FOR FURTHER INFORMATION CONTACT:

Carey Johnson, Center for Pay and Performance Policy, Division for Strategic Human Resources Policy, Office of Personnel Management; (202) 606-2858; FAX (202) 606-0824; or e-mail to pay-performance-policy@opm.gov.

SUPPLEMENTARY INFORMATION: On December 30, 2003, the President signed Executive Order 13322 (69 FR 231, January 2, 2004), which implemented a 2.0 percent overall average increase above the 2003 rates. Executive Order 13322 provided an across-the-board increase of 1.5 percent in the rates of basic pay for the statutory pay systems and an overall average increase in the General Schedule (GS) locality rates equal to approximately 0.5 percent of the GS payroll. On March 3, 2004, the President signed Executive Order 13332 (69 FR 10889, March 8, 2004), which amended Executive order 13322 to provide a retroactive pay increase averaging 4.1 percent above the 2003 rates (in lieu of the 2.0 percent overall average increase originally implemented). The President made these adjustments consistent with the Consolidated Appropriations Act, 2004 (Public Law 108-199, January 23, 2004). Schedule 1 of Executive Order 13332 provides the rates for the 2004 General Schedule and reflects a 2.7 percent across-the-board increase. Executive Order 13332 also includes the percentage amounts of the 2004 locality payments. (See Section 5 and Schedule 9 of Executive Order 13332.)

The publication of this notice satisfies the requirement in section 5(b) of Executive order 13332 that the Office of

Personnel Management (OPM) publish appropriate notice of the 2004 locality payments in the **Federal Register**.

GS employees receive locality payments under 5 U.S.C. 5304. Locality payments apply in the 48 contiguous States and the District of Columbia. In 2004, locality payments ranging from 10.90 percent to 24.21 percent apply to GS employees in 32 locality pay areas. These 2004 locality pay percentages, which replaced the locality pay percentages that were applicable in 2003, became effective on the first day of the first applicable pay period beginning on or after January 1, 2004. An employee's locality-adjusted annual rate of pay is computed by increasing his or her scheduled annual rate of basic pay (as defined in 5 U.S.C. 5302(8) and 5 CFR 531.602) by the applicable locality pay percentage. (See 5 CFR 531.604 and 531.605.)

Executive Order 13332 establishes the new Executive Schedule, which incorporates the 2.2 percent increase (rounded to the nearest \$100) required under 5 U.S.C. 5318. By law, Executive Schedule officials are not authorized to receive locality pay.

Section 1125 of the National Defense Authorization Act for Fiscal year 2004 (Public Law 108-136, November 24, 2003) established a new performance-based pay system for the Senior Executive Service (SES). The new law replaces the former six-level SES pay system with a single open-range pay system with only the minimum and maximum rates of pay set by law. The minimum rate of basic pay may not be less than the minimum rate payable under 5 U.S.C. 5376 for senior-level positions (\$104,927 in 2004), and the maximum rate of basic pay may not exceed the rate for level III of the Executive Schedule (\$145,600 in 2004). The maximum rate of the SES rate range will increase to level II of the Executive Schedule (\$158,100 in 2004) in those agencies that are certified under 5 U.S.C. 5307(d) as having executive performance appraisal systems that make meaningful distinctions based on relative performance. Additional information on the SES pay system is available on the Internet at <http://www.opm.gov/oca/compmemo/2004/2004-03.asp>.

The Executive order adjusted the rates of basic pay for administrative law judges (ALJs) by 2.2 percent (rounded to the nearest \$100). The maximum rate of basic pay for ALJs is set by law at the rate for level IV of the Executive Schedule, which is now \$136,900. (See 5 U.S.C. 5372.)

The rates of basic pay for Board of Contract Appeals (BCA) members are

calculated as a percentage of the rate for level IV of the Executive Schedule. (See 5 U.S.C. 5372a.) Therefore, BCA rates of basic pay were increased by approximately 2.2 percent. Also, the maximum rate of basic pay for senior-level (SL) and scientific or professional (ST) positions was increased by approximately 2.2 percent (to \$136,900) because it is tied to the rate for level IV of the Executive Schedule. The minimum rate of basic pay for SL/ST positions is equal to 120 percent of the minimum rate of basic pay for GS-15 and thus was increased by 2.7 percent (to \$104,927). (See 5 U.S.C. 5376.)

On December 17, 2003, the President's Pay Agent extended the 2004 locality-based comparability payments to certain categories of non-GS employees. The Governmentwide categories include employees in SL/ST positions, ALJs, and BCA members. The maximum locality rate of pay for these employees is the rate for level III of the Executive Schedule (\$145,600 in 2004).

OPM published "Salary Tables for 2004," (OPM Doc. 124-48-6) in May 2004. This publication provides complete salary tables incorporating the 2004 pay adjustments, information on general pay administration matters, locality pay area definitions, Internal Revenue Service withholding tables, and other related information. The rates of pay shown in this publication are the official rates of pay for affected employees and are hereby incorporated as part of this notice. You may purchase copies of "Salary Tables for 2004" from the Government Printing Office (GPO) by calling (202) 512-1800 (outside the DC area: 1-866-512-1800) or FAX (202) 512-2250. You may order copies directly from GPO on the Internet at <http://bookstore.gpo.gov>. In addition, you can find pay tables on OPM's Internet Web site at <http://www.opm.gov/oca/payrates/index.asp>.

Office of Personnel Management.

Kay Coles James,

Director.

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SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request
Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549-0004.

Extension:

Rule 604; SEC File No. 270–221; OMB Control No. 3235–0232
 Rule 605; SEC File No. 270–221; OMB Control No. 3235–0232
 Form 1–E; SEC File No. 270–221; OMB Control No. 3235–0232

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the “Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for extension of the previously approved collections of information discussed below.

• **Rule 604—Filing of Notification on Form 1–E**

Rule 604 of Regulation E [17 CFR 230.604] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (“Securities Act”) requires a small business investment company (“SBIC”) or a business development company (“BDC”) claiming an exemption from registering its securities under the Securities Act to file a notification with the Commission on Form 1–E.

• **Rule 605—Filing and Use of the Offering Circular**

Rule 605 of Regulation E [17 CFR 230.605] under the Securities Act requires an SBIC or BDC claiming an exemption from registering its securities under the Securities Act to file an offering circular with the Commission that must also be provided to persons to whom an offer is made.

Form 1–E—Notification Under Regulation E

Form 1–E is the form that an SBIC or BDC uses to notify the Commission that it is claiming an exemption under Regulation E from registering its securities under the Securities Act. Form 1–E requires an issuer to provide the names and addresses of the issuer, its affiliates, directors, officers, and counsel; a description of events which would make the exemption unavailable; the jurisdiction in which the issuer intends to offer its securities; information about unregistered securities issued or sold by the issuer within one year before filing the notification on Form 1–E; information as to whether the issuer is presently offering or contemplating offering any other securities; and exhibits, including copies of the offering circular and any underwriting contracts.

The Commission uses the information provided in the notification on Form 1–E and the offering circular to determine whether an offering qualifies for the exemption under Regulation E. It is estimated that approximately ten issuers file a total of approximately fifteen

notifications on Form 1–E with the Commission annually, together with offering circulars. The Commission estimates that the total burden hours for preparing these notifications would be 1,500 hours in the aggregate. Estimates of the burden hours are made solely for the purposes of the PRA, and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

SBICs or BDCs wishing to claim an exemption under Regulation E from registering securities under the Securities Act are required to file a notification on Form 1–E and offering circular. The information provided on Form 1–E and in the offering circular will not be kept confidential. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or email to: David_Rostker@omb.eop.gov; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: May 5, 2004.

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 04–10845 Filed 5–12–04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49659; File No. SR–CBOE–2004–15]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to Automatic Executions for Underlying Specialists

May 6, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) ¹ and Rule 19b–4 thereunder,² notice is hereby given that on March 2,

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

2004, the Chicago Board Options Exchange, Inc. (“CBOE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On April 28, 2004, the CBOE filed an amendment to the proposed rule change.³ The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend CBOE Rule 6.13 relating to access to the automatic execution feature of its Hybrid System. The text of the proposed rule change appears below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Rule 6.13: CBOE Hybrid System’s Automatic Execution Feature

(a) No change.

(b) Automatic Execution.

(i) Eligibility: Orders eligible for automatic execution through the CBOE Hybrid System may be automatically executed in accordance with the provisions of this Rule. This section governs automatic executions and split-price automatic executions. The automatic execution and allocation of orders or quotes submitted by market participants shall be governed by Rules 6.45A(c) and (d).

(A)–(B) No change.

(C) Access:

(i) Non-broker-dealer public customers and broker-dealers that are not market makers or Specialists on an *options* exchange 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 are eligible for automatic execution. The eligible order size for these classifications must be the same.

(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

³ See letter from Steve Youhn, Counsel, CBOE, to Deborah Flynn, Assistant Director, Division of Market Regulation (“Division”) Commission, dated April 27, 2004 (“Amendment No. 1”). Amendment No. 1 clarifies the access to the Exchange’s automated execution system for stock exchange specialists’ orders in options classes overlying stocks in which they are not specialists.