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Regulatory Circular RG03-48

Date: July 2, 2003

To: Members and Member Firms

From: Regulatory Division

RE: Disciplinary Action in Connection with Trading Through the National Best Bid and Offer

The Securities and Exchange Commission (SEC) ordered the implementation of intermarket linkage, commencing on January 31, 2003. The goals of linkage include limiting trade-throughs and providing NBBO protection for customer orders. In connection with linkage implementation, the SEC approved the Options Intermarket Linkage Plan, a national market system plan governing the operation of the linkage and requiring the Exchange to enact certain new rules.

*Included in the new rules is Exchange Rule 6.83 "Order Protection", which states that **"Absent reasonable justification and during normal market conditions, members should not effect Trade-Throughs."***¹

Please note that a Trade through will not be deemed to be subject to disciplinary action under the rules if the member does not have a pattern or practice of trade throughs and meets one of the following exceptions to trade through liability (further described in Rule 6.83(b) and (d)):

- The member who initiated the trade-through was unable to avoid doing so because of a systems/equipment failure or malfunction
- The member attempted to access the NBBO through Linkage but the NBBO market failed to trade or fade
- The NBBO market is non-firm with respect to the option class
- The bid/offer traded through was posted during a trading rotation at the NBBO exchange
- The transaction that caused the trade through occurred during a trading rotation at CBOE
- The transaction that caused the trade through was part of a complex trade
- The CBOE's quotes in the class are non-firm and the trade through is not a Third Participating Market Center Trade- Through²
- The member executed a Block trade inferior to the NBBO and the member promptly thereafter satisfied all aggrieved parties as required by the Linkage Plan

Please be advised that Exchange Rules prohibit members from engaging in a pattern or practice of trade throughs. Members who establish a pattern or practice of trading through better prices available on other exchanges will be subject to discipline by the Exchange's Business Conduct Committee.

Questions concerning this circular may be directed to Michael Felty at (312) 786-7504 or Trading Floor Liaison at (312) 786-4068

¹ Exchange Rule 6.80(19) defines a Trade-Through as "a transaction in an option series at a price that is inferior to the NBBO."

² A Third Participating Market Center Trade Through is a trade through effected by executing a Linkage order at a price that is inferior to the best bid/offer being disseminated by another Linkage exchange.