



To: Members and Member Organizations

Regulatory Circular RG05-05

From: Regulatory Services Division
Legal Division

Date: January 10, 2005

Re: SEC Approval of CBOE Rule Filing re Systematizing Orders & COATS

On January 7, 2005, the SEC approved CBOE rule change, SR-CBOE-2004-77, which amends CBOE rules relating to the systematizing of orders in connection with the requirement to implement a consolidated options audit trail system ("COATS"). The following is a brief summary of the requirement to systematize orders.

General Requirement. Except as described below, beginning on **Monday, January 10, 2005**, each order, cancellation of, or change to an order in any option class transmitted to CBOE should be "systematized", in a format approved by CBOE, either before it is sent to CBOE or upon receipt on the floor of CBOE. An order is systematized if:

- (i) the order is sent electronically to CBOE; or
- (ii) the order that is sent to CBOE non-electronically (*e.g.*, telephone orders) is input electronically into CBOE's systems contemporaneously upon receipt on CBOE, and prior to representation of the order.

It is the responsibility of the member receiving a non-electronic order on the floor of the CBOE to systematize such orders. The manner of systematizing orders will be through the Floor Broker Workstation ("FBW"), BERS, or through proprietary systems approved by CBOE.

OEX, XEO, SPX & SPDRs. The requirement to systematize orders shall apply in the OEX, SPX, XEO and SPDR option classes¹ beginning on **March 28, 2005**.

Marketable Orders. With respect to non-electronic, market and marketable orders sent to CBOE, the member responsible for systematizing the order shall input into CBOE's systems at least the following eight specific items with respect to the order prior to the representation of the order: (i) the option symbol; (ii) the expiration month; (iii) the expiration year; (iv) the strike price; (v) buy or sell; (vi) call or put; (vii) the number of contracts; and (viii) the Clearing Member. Any additional information with respect to the order shall be input into CBOE's systems contemporaneously upon receipt, which may occur after the representation and execution of the order.²

¹ On January 10, 2005, CBOE submitted a rule change to the SEC, SR-CBOE-2005-04, proposing to amend Rule 6.24 to state that the requirement to systematize orders in the SPDRs option class will commence on March 28, 2005. CBOE requested accelerated approval of the rule change.

² As noted in the filing, CBOE intends to continue to evaluate whether some number of order terms less than the eight identified above would be sufficient to distinguish one order from another that a member may receive at or about the same time, and thus support eliminating the necessity to input some of these orders terms prior to representation. CBOE also will continue to evaluate whether there are more efficient means or devices to input the required order information.

Malfunction of Systems. In the event of a malfunction or disruption of CBOE's systems such that a member is unable to systematize an order, the member or member organization shall manually record the order information in written form including the time of its receipt during the time period that the malfunction or disruption occurs. After the malfunction or disruption ceases, the member shall immediately resume systematizing orders. In addition, the member shall exert best efforts to input electronically into CBOE's systems all relevant order information received during the time period when there was a malfunction or disruption of CBOE's systems as soon as possible, and in any event shall input such data electronically into CBOE's systems not later than the close of business on the day that the malfunction or disruption ceases.

Due Diligence Rule. As part of the rule change, CBOE also amended Rule 6.73 - Responsibilities of Floor Brokers to make explicit that a broker's responsibility to immediately and continuously represent market and marketable orders is subject to the requirement that each order must be systematized prior to representation.

If you have questions concerning the FBW or other devices to systematize orders, please contact Monica Wiedlin-Torres at 786-7368, Jeff Short at 786-8410, or Maureen Smith at 786-7556. If you have any questions relating to the rule filing, please contact Patrick Sexton at 786-7467. Finally, if you have any regulatory related questions about this new requirement or reports showing current systemization rates, please contact Karen Charleston at 786-7724.