



Regulatory Circular RG05-52

Date: May 20, 2005

To: Members

From: Department of Financial and Sales Practice Compliance

Re: Characterization of Pass-Through of CBOE Sales Value Fee to Customers

CBOE assesses a Sales Value Fee to each member for sales of securities on CBOE with respect to which CBOE is obligated to pay a fee to the Securities and Exchange Commission ("SEC") under Section 31 of the Securities Exchange Act of 1934, as amended.

The Sales Value Fee is not a new fee. The CBOE Fee Schedule was recently amended to change the title of the Fee and to include additional description of the Fee and its assessment.

The sales transactions to which the Sales Value Fee applies are sales of options (other than options on a security index), sales of non-option securities, and sales of securities resulting from the exercise of physical-delivery options traded on CBOE. CBOE's Fee Schedule describes how the Sales Value Fee is calculated and collected by CBOE.

The SEC recently amended its rules relating to Section 31 fees. In the Adopting Release for these rule amendments (Securities Exchange Act Release No. 34-49928), the SEC observed that, in practice, self-regulatory organizations ("SROs") obtain funds to meet their Section 31 obligations by imposing charges on their members, who in turn pass these charges to their customers. With regard to the pass-through of these fees to customers, the SEC stated that Section 31 places no obligation on customers and that it is misleading to suggest through the labeling of these pass-through fees that a customer incurs an obligation to the SEC under Section 31. In addition, more recently, the SEC requested that each SRO prohibit its members from characterizing these pass-through charges as a "Section 31 fee" or "SEC fee" to the extent the SRO has not already done so.

Accordingly, CBOE is implementing the following requirement. Effective July 1, 2005, CBOE members are prohibited from characterizing the pass-through of the CBOE Sales Value Fee to their customers as a "Section 31 fee", "SEC fee", or other label that implies an SEC rule or requirement that these funds be collected from broker-dealers or customers.

Any billing questions may be addressed to Ermer Love in the Accounting Department at (312) 786-7032. Any other questions regarding this circular may be addressed to Lawrence Bresnahan in the Department of Financial and Sales Practice Compliance at (312) 786-7713.