



Regulatory Circular RG07-99

Date: September 24, 2007

To: All Members, Member Organizations and Floor Personnel

From: Member and Regulatory Services Division

Re: Recordkeeping Obligations regarding Memoranda for Purchases or Sales

The Exchange's Member and Regulatory Services Division is issuing this Regulatory Circular to remind members of their recordkeeping obligations for handwritten order records.

In general, Rules 17a-3 and 17a-4 of the Securities Exchange Act of 1934, as amended (the "Act") establish the minimum requirements for records that brokers and dealers must prepare and periods during which such records must be maintained. In addition, CBOE Rule 15.1 requires that each member shall make, keep current, and preserve such books and records as the Exchange may prescribe and as may be prescribed under the Exchange Act of 1934. Floor Brokers and firms are reminded that SEC Rules 17a-3 and 17a-4 together require, among other things, that members shall retain for three years, (two years in an accessible place) all memoranda of each brokerage order, cancellation order, execution report, and any other instruction given or received for the purchase or sale of securities, whether executed or unexecuted. In accordance with these rules, members must maintain a copy of every handwritten order instruction given or received, regardless of whether such instruction results in an order which is later systematized for purposes of fulfilling CBOE consolidated options audit trail system ("COATS") requirements. In addition, Rules 17a-3 and 17a-4 require that certain other books and records be retained for a longer period of time.

Members should review their policies and procedures to ensure that such policies and procedures adequately address recordkeeping retention requirements pursuant to CBOE and SEC rules. A member's failure to maintain and preserve such records may result in formal disciplinary action by the Exchange's Business Conduct Committee.

Example 1: A floor broker or clerk receives a telephone call at an order booth with instructions to buy 10 XYZ Oct 30 calls at 1.20 and records these instructions on a piece of paper. The floor broker or clerk's firm must retain a copy of these handwritten instructions, regardless of whether such order is later systematized for purposes of fulfilling COATS requirements.

Example 2: A floor broker executes an order (in whole or part) in open outcry and records the terms of that execution on a separate document from the order ticket. The floor broker must retain a copy of the original order and any re-written execution terms recorded on the separate document as a record to be preserved under SEC Rules 17a-3 and 17a-4.

Example 3: A floor broker or clerk receives instructions to cancel an order or, following an order's execution, discovers a trading error and makes a correction to change the price, class, series, volume, contra-parties, etc., on the order. The floor broker or clerk's firm must retain a copy of the original order and any written cancel instructions, unexecuted order(s), price adjustments, or any other changes or corrections to the terms or conditions of the original order.

Any questions regarding this circular may be directed to Karen Calvin in the Regulatory Liaison Department at (312) 786-7759.