

Date: November 1, 2007

To: Members and Member Organizations

From: Department of Market Regulation

Re: Audit Trail Violations

The purpose of this Regulatory Circular is to remind members and member organizations that sanctions imposed in connection with a member's failure to submit timely trade information have been increased and strengthened and the surveillance "look-back" period for such conduct has been increased from a rolling eighteen-month period to a twenty-four month period. Under Rule 17.50(g)(4),¹ a fine shall be imposed upon a Market-Maker or Floor Broker who fails to submit trade information in accordance with Rule 6.51 on the basis of the following schedule:

<i>Number of Offenses*</i> <i>in any Rolling Twenty-Four Month Period</i>	<i>Fine Amount</i>
1 st Offense	\$1,000 - \$2,500
2 nd Offense	\$2,000 - \$5,000
Subsequent Offenses	\$5000 or Referral to BCC

For purposes of this Rule, an "offense" is defined as an instance in which a pattern or practice of late reporting or failure to report without exceptional circumstances has been determined.

DISCUSSION

Exchange Rule 6.51(a) requires that a participant in each option transaction designated by the Exchange must report or ensure the transaction is reported to the Exchange within 90 seconds of execution. Any option transaction that is not reported within 90 seconds after execution shall be designated as late and will be considered a violation of Exchange Rule 6.51. A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with just and equitable principles of trade and subject to summary fine under Exchange Rule 17.50(g)(4) or discipline by the Business Conduct Committee. In making a determination as to whether exceptional circumstances exist, the following will be considered:

- (i) a CBOE system error results in a late report or a failure to report.
- (ii) a late report is a result of a multi-party or complex spread transaction.

The fact that a transaction time submitted by a Market-Maker or Floor Broker was incorrectly entered due to illegible handwriting on an order ticket shall be no defense to the imposition of a fine under this Rule.

¹ The Rule was amended effective November 29, 2006 (see SR-CBOE-2006-81).

Pursuant to Rule 17.50 Interpretations and Policies .02, any member against whom a fine is imposed pursuant to Rule 17.50(g)(4) may request verification of the fine. The Rule requires the Exchange to attempt to serve members fined under this Rule with a written statement of such fine within the month immediately following the month in which the violations were alleged to have occurred. The time period within which a member may request verification of the fine imposed is fifteen (15) days after the date of service of the written statement. The Rule further sets forth a cap on the number of transactions during a particular month for which a member may request verification. Such cap shall be imposed pursuant to the following schedule:

<i>Number of Offenses Within a Rolling Twenty-Four Month Period²</i>	<i>Maximum Number of Transactions During a Particular Month with Respect to Which Verification May Be Requested</i>
1-2	No Limit
3+	The greater of (i) 50 transactions or (ii) 10% of the number of transactions deemed not to be in compliance with Rule 17.50(g)(4).

In addition to the right to request verification, any member against whom a fine is imposed may contest the fine before the Exchange's Business Conduct Committee in accordance with the provisions of Rule 17.50(c). Please be advised that members wishing to request verification of and/or contest such fines must comply with all deadlines and other procedural requirements set forth within the Rule. Therefore, members who wish to request verification of and/or contest such fines are advised to consult the specific provisions of Interpretations and Policies .02 of Rule 17.50 and Rule 17.50(c).

Questions regarding this circular should be directed to Ji Min Kim of the Department of Market Regulation at (312) 786-7043.

(RG01-107, Revised)

² This Rule amendment was effective September 20, 2007 (see SR-CBOE-2007-84).