Regulatory Circular RG97-116

Date: September 9, 1997

To: Members and Member Firms

From: Regulatory Services Division

Re: Revisions to CBOE Rules 9.24 and 9.21

In December 1995, the Exchange adopted Rule 9.24 which requires members and member organizations to make and maintain a centralized list of persons (i.e., a "do–not–call" list) who have informed a member, member organization or employee thereof that they do not wish to receive telephone solicitations. On September 5, 1997, the Securities and Exchange Commission ("SEC" or "Commission") approved amendments to Rule 9.24 to further address telephone solicitation. The amendments are effective immediately

The amendments are in response to the SEC's request that major self–regulatory organizations ("SROs") promulgate rules substantially similar to applicable provisions of the Federal Trade Commission rules adopted pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act to prohibit deceptive and abusive telemarketing acts and practices.

Rule 9.21 ("Communications With The Public") has been amended to include telemarketing scripts within the definition of "sales literature" which subjects them to a three–year retention requirement.

Generally, the amendments:

- Prohibit calling the residence of any person for the purpose of soliciting the purchase of securities or related services at any time other than between 8 a.m. and 9 p.m. local time at the called person's location without the prior consent of the person.
- Prohibit outbound telephone calls to any person for the purpose of soliciting the purchase of securities or related services without the caller disclosing promptly and in a clear and conspicuous manner to the called person the following information:

  (1) the identity of the caller and the member or member organization;

  (2) the telephone number or address at which the caller may be contacted; and

  (3) that the purpose of the call is to solicit the purchase of securities or related services.
- Exempt calls to certain existing customers from the time-of-day and disclosure requirements.
- Prohibit the use of a check, draft or other form of negotiable paper ('demand drafts") drawn on a customer's checking, savings, share, or similar account, without express written authorization which must be retained for three years. Written authorization may include the customer's signature on the negotiable instrument.
- Require telemarketing scripts to be retained for three years.

Questions relating to this matter may be directed to Lawrence J. Bresnahan at (312) 786-7713. A copy of the rule change filing is available from the Legal Department.