

Regulatory Circular RG98-120

DATE: November 4, 1998

TO: Membership

FROM: Legal Division
Operations Planning Division

SUBJECT: Membership Vote on Restructured DPM Rules

Members should take note of the publication of the rule filing which restructures the Exchange's rules relating to Designated Primary Market Makers. The proposed rules will appear in the Exchange Bulletin dated November 13, 1998. The rule filing was originally submitted to the Securities and Exchange Commission in April 1998 and later withdrawn. At the October meeting of the Board of Directors, the Board approved substantially similar rules to be filed subject to their approval by a membership vote. The membership vote on this rule filing will be included on the ballot of the 1998 Annual Election Meeting which will be held on December 14, 1998 at 3:30 p.m.

The current rule that governs the operation of the DPM system (Rule 8.80 - Modified Trading System) was written and approved in 1987, prior to the beginning of the DPM program. The set of twelve rules that have been proposed to replace the existing Rule 8.80 are intended to address and clarify various issues pertaining to the administration and operation of the DPM system. In rewriting the rules pertaining to the DPM system, particular attention was paid to the issue of sale, transfer, or assignment of interest in DPM appointments. Members should note in particular proposed Rule 8.89 - Transfer of DPM Appointments and the related memorandum from the Board of Directors to the Modified Trading System Appointments Committee entitled "Guidelines Pertaining to Transfers of Interests in DPM Appointments Under New Rule 8.89". The related guidelines memorandum is included in the Exchange Bulletin identified above.

Since the original publication and filing of the rules, refinements to the proposed rules have been incorporated into the filing as summarized below:

- Proposed Rule 8.85(c)(vii) now explicitly states that DPMs are required to continue to serve as DPMs until relieved of their obligations to do so by the MTS Committee.
- Consistent with the provisions of the rule filing which grant to the Floor Procedure Committees the authority to determine RAES eligible series and order size, the rule filing now contains amendments to Rule 23.7 to grant this authority to the appropriate Floor Procedure Committee with respect to interest rate options.
- Proposed Rule 8.91(d) now explicitly prohibits a Floor Broker that is affiliated with a DPM, but who is not acting in his/her capacity as a DPM designee, from trading as a Floor Broker in the DPM's trading crowd.

- Proposed Rule 8.84 of the original rule filing provided that the MTS Committee may establish restrictions applicable to all DPMs on the concentration of securities allocable to a single DPM. The rule has been revised to provide that such restrictions may also apply to the concentration of securities allocable to affiliated DPMs.
- Proposed Rule 8.85(c)(vi) now authorizes the MTS Committee to establish standards applicable to all DPMs relating to the segregation of DPM activities from non-DPM activities.
- The original rule filing included as an exhibit the DPM equity guidelines issued by the MTS Committee. Following the publication of the original rule filing, the MTS Committee revised these guidelines by adding to the guidelines that the MTS Committee may immediately begin the process of appointing an interim DPM if a DPM's equity falls below 120% of the minimum capital required by SEC Rule 15c3-1. The rule filing now reflects this addition to the equity guidelines.
- Proposed Rule 8.81(b) now authorizes the MTS Committee to permit a member who is not affiliated with a DPM to act as a DPM Designee for the DPM on an emergency basis.
- The rule filing now reflects a recently added provision with respect to a DPM's obligations concerning the filling of the odd lot portion of a mixed lot order in any Chapter XXX security that has been allocated to the DPM.
- The original rule filing stated that the MTS Committee would perform the market performance evaluation and remedial action functions with respect to DPMs and Market-Makers that trade at DPM trading stations. Proposed Rules 8.88(b) will now provide that the MTS Committee will also perform these functions with respect to any Floor Brokers that regularly trade at DPM trading stations.
- Proposed Rule 8.89(d) provides that promptly after the receipt of a completed application for the approval of a proposed transfer of a DPM appointment, the MTS Committee will post notice of the proposed transfer on the Exchange Bulletin Board and in the Exchange Bulletin and that the MTS Committee will not ordinarily consider the proposed transfer until it has been posted on Bulletin Board for at least 10 business days. In the original rule filing, this posting period was 10 days instead of 10 business days. During this posting period, the MTS Committee will accept written comments on the proposed transfer from any member and will accept written proposals from other members and from Market-Maker trading crowds who wish to be considered for appointment in some or all of the classes that are the subject of the proposed transfer.

Members are encouraged to review the full text of the proposed restructured DPM rules and the related guidelines. In addition to reviewing the text of the proposed rules in the Exchange Bulletin note above, copies of the proposed rule changes, the related guidelines, and an accompanying description may be obtained from the Members Library or by calling Cindy Green at 312-786-7498. Questions regarding the proposed restructured DPM rules and related guidelines may be directed to Arthur Reinstein at 312-786-7570 or Daniel Hustad at 312-786-7715.