

Regulatory Circular RG 99-33

To: Members and Member Organizations

From: Department of Financial and Sales Practice Compliance

Date: February 9, 1999

RE: Adjustments to Market-Maker Equity in Certain Market Conditions

On January 25, 1999, the SEC approved Rule Change File No. SR-CBOE 98-11, which amends CBOE Rule 12.3 - Margin Requirements, by adopting Interpretation and Policy .06. Interpretation .06 allows a clearing member to adjust the equity in the account of a market maker whose net liquidating equity is in deficit and permits the clearing member to extend credit for opening trades in certain limited circumstances. (Securities Exchange Act Release No. 34-40971, 64 FR 4916 (February 1, 1999)) The rule allows relief in those circumstances where the closing price for a stock is disseminated after 3:02 p.m. and incorporates information that is not reflected in the closing price for the overlying options resulting in an out-of-line relationship. This discrepancy between the last sale price of the underlying stock and the closing price of the options series could cause a market maker's account to liquidate to a deficit.

As a result, Interpretation and Policy .06 will permit a clearing broker to adjust the market maker's equity under these circumstances. If the adjustment eliminates the deficit in the market maker's account, the clearing member may extend credit to the market maker for opening transactions. The clearing member is required to document any adjustment to a market maker's equity and file it with the CBOE's Department of Financial and Sales Practice Compliance before the next day's opening, but in any case, before the clearing member extends credit to the market maker for opening transactions. The Department must approve any adjustment before the clearing firm may finance opening trades. All information regarding the adjustment must be retained by the clearing firm. The CBOE will ascertain at the end of the business day following the adjustment whether any market maker whose equity was adjusted continues to experience difficulty in maintaining positive equity in their account. If a market maker fails to maintain positive equity in their account at the end of the business day following the adjustment, the requirements of Exchange Act Rule 15c3-1(c)(2)(x)(D) and CBOE Rule 12.3(f)(3)(C)(3) will apply to the account.

Any questions regarding the above rule change may be directed to Doug Beck at (312) 786-7959 or Rich Lewandowski at (312) 786-7183. A copy of Interpretation .06 to Rule 12.3, as approved, is available from the Legal Division.