



## Regulatory Circular RG00-193

**Date:** December 28, 2000

**To:** Membership

**From:** Modified Trading System (MTS) Appointments Committee

**Re:** DPM Participation Rights

This circular summarizes the participation rights of Designated Primary Market-Makers ("DPMs") under CBOE Rules.

### Price and Time Priority

A DPM's right to participate as principal in a transaction is generally governed by the principles of price and time priority as set forth in CBOE Rule 6.45.

Under these principles, if a DPM is first to respond with the best bid (offer) in response to a request for a market from a member not acting on behalf of the DPM, the DPM is entitled to participate up to 100% in any resulting transaction.

Similarly, if a market-maker is first to respond with the best bid (offer) in response to a request for a market and the market-maker's bid (offer) is better than the DPM's previously established principal bid (offer), the market-maker is entitled to participate up to 100% in any resulting transaction.

Where a DPM and one or more market-makers announce bids (offers) which establish the best bid (offer) *and the DPM was not previously bidding (offering) at that price*, the priority of bids and offers are as set forth in Rule 6.45. As such, the member who was first to respond at the best price (be it the DPM, a market-maker, or a floor broker) is entitled to participate up to the full amount of the order. In accordance with Rule 6.45, after the member with time priority has been satisfied, all other members bidding (offering) at the best price are entitled to participate based upon the sequence of their bids (offers).

### DPM Participation Right

In addition to the above, to the extent established by the MTS Committee, a DPM has a participation right when the DPM's bid (offer) is not otherwise entitled to priority under Rule 6.45 if the DPM's previously established principal bid (offer) is equal to the highest bid (lowest offer) in the trading crowd. Specifically, a DPM has the right to participate for its own account with the market-makers present in the trading crowd in

transactions in the DPM's allocated securities that occur at the DPM's previously established principal bid or offer. This participation right is applicable to all securities traded by DPMs including options as well as non-option securities traded pursuant to Chapter XXX of CBOE's Rules.

The DPM's participation right, as described above, in transactions that occur at its previously established principal bid or offer shall be as follows:

- **50%** when there is one market maker bidding (offering) at the DPM's previously established principal bid (offer) (i.e., is at parity with the DPM);
- **40%** when there are two market makers at parity with the DPM;
- **30%** when there are three or more market makers at parity with the DPM.

This participation right generally applies to all classes that are allocated to DPMs regardless of the volume in a particular class or whether or not the class is multiply listed. The MTS Committee also retains the authority to condition a DPM's appointment in accordance with the Rules by establishing a lower participation right in a class or classes allocated to the DPM.<sup>1</sup>

#### Agency Orders

The DPM participation right is a right to participate with other market-makers and not with orders in the order book or orders represented in the trading crowd. Thus, to the extent that an agency order participates in a transaction on the same side of the market as the DPM, the DPM participation right applies solely to the remaining portion of the transaction on that side of the market after deducting the number of contracts executed against that agency order. The following example illustrates this concept.

Assume there is an order in the book to buy 150 contracts at 3, a price that represents the national best bid. The DPM's previously established principal bid is 3 and there are two market-makers in the crowd each bidding at 3. If a floor broker enters the crowd with a market order to sell 300 contracts, the order in the book receives full execution of 150 contracts at 3. Thereafter, because the market makers' bids are at parity with the DPM's previously established principal bid, the DPM is entitled to a participation right of 40% with respect to the remaining 150 contracts of the market order. Therefore, the DPM receives 40% of the remaining 150 contracts at 3, or 60 contracts. The two market-makers in the crowd each receive 45 contracts at 3.

#### Orders in the Order Book

Since a DPM's previously established principal bid (offer) could not have been equal to the book offer (bid), the DPM is not entitled to participate with another member

---

<sup>1</sup>Currently, there is one class in which the DPM's participation entitlement is lower than 30%. The DPM participation entitlement in Loews Corporation (LTR) is 0%.

when that member buys the book offer or sells to the book bid. Even when the automated quotation updating system would have caused the DPM's principal bid (offer) to match the book offer (bid) (but is prevented from doing so by the current system function which prevents automatically generated quotations from quoting through the book), the DPM is not entitled to participate with a member if that member is first to buy the book offer or sell the book bid.

#### Orders Represented by a DPM as Agent

Due to a DPM's prior knowledge of an order the DPM represents as agent, a DPM Designee acting on behalf of the DPM's market-maker account cannot be deemed the first to respond to the request for a market from another person acting on behalf of the DPM in performing the DPM's agency function.

However, a DPM Designee acting on behalf of the DPM's principal trading account may be the first to make a bid (offer) at a particular price with respect to a previously displayed resting order in the book or a previously represented resting order held by a DPM Designee acting as floor broker.

Any questions regarding this circular may be directed to Daniel Hustad at (312) 786-7715.