

DATE: November 22, 2002

TO: All Floor Members

FROM: Department of Market Quality Assurance  
Regulatory Services Division

RE: Circumvention of In-Person Requirements

---

Please note that Exchange Rule 8.7.03(B), states in part that “a Market-Maker must execute in person, and not through the use of orders, at least 25% of his total transactions, provided, however, that for any calendar quarter in which a Market-Maker receives Market-Maker treatment for off-floor orders in accordance with rule 8.1, in addition to satisfying the requirements of paragraph A of this Interpretation .03, the Market-Maker must execute in person, and not through the use of orders, at least 80% of his total transactions. The off-floor orders for which a Market-Maker receives Market-Maker treatment shall be subject to the obligations of Rule 8.7(a) and in general shall be effected for the purpose of hedging, reducing risk of, rebalancing or liquidating open positions of the Market-Maker. The appropriate Market Performance Committee may exempt one or more option classes from this calculation.”

It will be considered a serious violation of Exchange Rules 4.1 – Just and Equitable Principles of Trade and 8.7 – Obligations of Market Makers for any member to attempt to circumvent the above noted requirements by reporting trades to the Exchange and OCC in volumes which are smaller than that which actually occurred. For example, if a Market-Maker enters into a single thirty (30) contract transaction, but reports the trade to the Exchange and OCC as thirty (30) one-lot transactions, such activity would be in contravention of the rules. It is likewise a violation to enter into a trade with the book and then request that the trade be written up as a series of smaller transactions.

It will also be considered a violation of Exchange Rules for a member to attempt to circumvent the in-person requirement by successively entering into small transactions with the book or another member in order to artificially inflate their in-person trading percentage. For example, if the book displays an offer for 100 contracts of a certain series, it would be improper for a member to obtain the 100 contracts by successively bidding for 5 contracts at a time, thus resulting in 20 individual transactions. Such activity disrupts operation of the book, attempts to circumvent Exchange Rules, and is inconsistent with the maintenance of a fair and orderly market.

Attempts to circumvent either the 25% or 80% in-person requirement will be investigated and reported to the Business Conduct Committee for possible disciplinary action. Furthermore, activity that is disruptive to the maintenance of a fair and orderly market is subject to the issuance of fines by Floor Officials. Any questions regarding this memo may be directed to Dan Hustad (ex. 7511) or Steve Slawinski (ex. 7744).