

Regulatory Circular RG04-30

To: Individual Exchange Members

From: Membership Department

Re: Transfer of Individual Memberships in Trust

Date: February 24, 2004

Exchange Rule 3.25 - Transfer of Individual Membership in Trust allows an individual Exchange member in good standing who owns a membership to transfer the membership into a living trust, subject to various requirements concerning the structure of the trust as it relates to the holding of the membership. Among these requirements, which are more fully described in Rule 3.25, are the following:

- (i) The member must be the sole beneficiary of the trust during the member's lifetime.
- (ii) The member must be the sole trustee of the trust during the member's lifetime.
- (iii) The trust agreement must provide for a successor trustee for the purpose of transferring the membership in the event of the member's death, legal incompetence, or disability. Such transfer may include a sale of the membership or a transfer of the membership to a close relative of the member who has qualified for Exchange membership.
- (iv) The trust agreement may also provide the successor trustee with the authority to lease the membership for the benefit of the member during any period in which the member is legally incompetent or is disabled.
- (v) The powers of the successor trustee with respect to the membership must be limited to those specified in (iii) and (iv) above.
- (vi) The successor trustee must be a legally qualified individual or institution.
- (vii) The trust agreement must provide that the Exchange shall bear no liability for any actions taken or omitted by the member or any successor trustee with respect to the administration of the trust or the management of trust assets.
- (viii) The attorney who prepared the trust agreement must furnish the Exchange with a certification that it conforms to the requirements of Rule 3.25.

Rule 3.25 does not affect the duties and obligations of a member who transfers his or her membership into trust (a "Trust Member"). Each Trust Member remains personally responsible

for all obligations and liabilities associated with the membership and its use, and the membership remains subject to all of the Rules of the Exchange.

The transfer of a membership into trust must be approved by the Membership Committee. In addition, the sale or lease of a membership held in trust is subject to existing Exchange Rules governing such activity. An Authorization to Sell may be granted with respect to a membership held in trust, in which case the provisions of Rule 3.14(d) and Rule 3.15(b) shall be applicable, and a membership held in trust may be sold in accordance with the provisions of Rule 3.14 and Rule 3.15.

A member desiring to transfer his or her membership into trust must submit to the Membership Department a completed Application to Transfer a CBOE Membership into Trust ("Trust Application"), a copy of the trust agreement, the attorney certification referred to in (viii) above, and a non-refundable \$550 application fee. In addition, after the transfer of a membership into trust has been approved by the Membership Committee, the Trust Member is required to submit any amendments to the trust agreement to the Membership Department and to notify the Membership Department in writing of any changes in the information set forth on the Trust Application, any changes in successor trustee, any release of the membership out of the trust, and any termination of the trust. In the event that the membership is released from the trust, the trust terminates, or the trust agreement is amended so that it no longer complies with the requirements of Rule 3.25, the Exchange shall deem the membership to have reverted to the Trust Member to be held directly and not in trust.

In the event of the legal incompetence or disability of a Trust Member, certification of such legal incompetence or disability must be submitted to the Membership Department prior to the appointment of a successor trustee. Also, in the event of the death of a Trust Member, a copy of the death certificate must be submitted to the Membership Department prior to any sale or transfer of the membership by the successor trustee.

This circular is not intended to be a comprehensive description of the requirements of Rule 3.25 and members are advised to read the full text of Rule 3.25 for more detail. Any questions regarding this circular may be directed to Stan Leimer at (312) 768-7299 or Regina Millison-Coleman at (312) 786-7452.

(Regulatory Circular RG95-88, Revised)