



Regulatory Circular RG08-58

To: Members

From: Legal Division

Date: April 28, 2008

Re: Amendment to CBOE Rules Relating to Market-Makers and RMMs

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The SEC recently approved two CBOE rule filings. The first filing, SR-CBOE-2007-120, makes the following changes: (i) deletes reference to RMMs in CBOE's rules; (ii) amends Rule 8.3 and Rule 8.7 relating to the appointment of Market-Makers and Market-Maker obligations, respectively; and (iii) updates or deletes outdated provisions in other rules, including Rule 8.3A relating to Class Quoting Limits. The second rule filing, SR-CBOE-2008-50, allows Market-Makers affiliated with a DPM or LMM to hold an appointment and submit electronic quotations in the DPM's or LMM's option classes. An overview of these changes is provided below.

#### RMMs

RMMs were established in 2005 to allow market participants the ability to stream electronic quotations from a location outside of the physical trading station for an option class. Subsequently, CBOE amended its rules to permit Market-Makers to create a virtual trading crowd appointment and submit electronic quotations away from CBOE's trading floor.

Because the obligations of Market-Makers and RMMs are generally the same, and the class "appointment costs" and transaction fees of RMMs and Market-Makers are the same, CBOE determined that there is no reason to continue to maintain a category of market participant called RMM. Accordingly, and going forward, RMMs will be designated as Market-Makers. (*See* Rule 8.3.)

#### Amendment to Rules Relating to Market-Makers

In connection with the deletion of the reference to RMMs, CBOE has amended the definition of Market-Maker to include member organizations. Previously, a Market-Maker was defined as an individual (either a member or a nominee of a member organization) registered with CBOE.

CBOE also has updated and amended Rule 8.3 pertaining to the appointment of Market-Makers. Among other changes, affiliated Market-Makers, or Market-Makers affiliated with a DPM,<sup>1</sup> e-DPM or LMM, can hold an appointment and submit electronic quotations in the same class, provided CBOE does not use UMA as its allocation algorithm in that option class.<sup>2</sup> As a result of this change, e-DPMs are no

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<sup>1</sup> A DPM must comply with Rule 8.91 – Limitation on Dealings of DPMs and Affiliated Persons of DPMs, and the Guidelines for Exemptive Relief under Rule 8.91(e), when an affiliated Market-Maker holds trades in a DPM's option class.

<sup>2</sup> Rule 8.3(c)(vii)(3) specifically provides that there is no restriction on affiliated Market-Makers, or Market-Makers affiliated with a DPM, e-DPM or LMM, holding an appointment and submitting electronic quotations in the same

longer limited to only having one affiliated Market-Maker stream electronic quotations in the e-DPM's option classes, and it is no longer necessary for member firms that wish to have affiliated Market-Makers operate in the same option class to satisfy the requirements of the "multiple aggregation unit" pilot program.<sup>3</sup>

CBOE also has amended Rule 3.8 to allow any member organization that is the owner or lessee of more than one membership to designate one individual to be the nominee for all memberships utilized by the organization. However, for each membership utilized for trading in open outcry on the trading floor, the organization must designate a different individual to be the nominee for each of the memberships. Previously, only RMMs, e-DPMs and Off-Floor DPMs were permitted to designate one individual to be the nominee for all memberships utilized by the organization.

Copies of these two CBOE rule filings (SR-CBOE-2007-120 and SR-CBOE-2008-50) are available on CBOE's website at [www.cboe.org/Legal](http://www.cboe.org/Legal). Members should review the rule filings and the various rules that were amended, including 3.8, 8.3, 8.3A, 8.7, 8.15A, 8.85, and 8.91, to fully understand these changes. If you have any questions relating to this rule change, please contact Patrick Sexton at (312) 786-7467, or Jennifer Lamie at (312) 786-7576.

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class provided CBOE uses an allocation algorithm in the class that does not allocate electronic trades, in whole or in part, in an equal percentage based on the number of market participants quoting at the best bid or offer.

<sup>3</sup> CBOE did not delete the "multiple aggregation unit" pilot program from its rules, in case CBOE determined to use UMA as the allocation algorithm in an option class in the future.