Regulatory Circular RG 08-169

Date: December 24, 2008
To: The Membership
From: Finance & Administration
Subject: 2009 Fee Changes

The Financial Planning Committee recommended and the Board of Directors approved the 2009 budget on December 9, 2008. Included in the budget are various fee changes. Subject to SEC approval, the changes summarized below will be effective January 1, 2009.

1) **Liquidity Providers (LPs) Transaction Fee Sliding Scale Modifications** – A transaction fee sliding scale program was launched in 2007 for LPs. A LP's rate per contract is reduced if certain volume thresholds are reached in a month. Contracts traded in all products are eligible for the plan. The sliding scale is effective for all LPs (MM, DPM, eDPM, and LMM). In order to capture the lower rates noted in tiers three through six, a LP must prepay transaction fees as noted below.

Prepayment Incentives:

- To be eligible to participate in the sliding scale above 1.35 million contracts per month, a LP must prepay their entire fees for the first two levels of the sliding scale for the entire year ($2,936,400).

- Another incentive option is to prepay tiers one through four for the entire year to capture a $685,000 (7.5%) prepayment discount. After deducting the discount a net payment amount of $8,446,400 must be paid in early January 2009.

Prepayment elections and wired payments must take place during the period January 2 through January 9, 2009.

A LP's monthly contract volume is determined at the firm affiliation level. For example, if five LPs are affiliated with member organization/firm ABC as reflected in Exchange records for the entire month, all of the individual LP's contract volume will count towards ABC's sliding scale transaction fees for that month. If a LP firm has nominees that trade independently and have their own profit-loss accounts that are separate and distinct from those of other nominees of the LP, the independent nominee's individual contract volume shall not be grouped with the contract volume of the LP for purposes of calculating the LP's sliding scale monthly volume total.

Contract volume benefiting from CBOE's strategies fee cap rebate program (dividend, merger and short stock interest strategies) are not eligible for the LP sliding scale since significant fee reductions may already have been captured.

The 2009 revised LP transaction fee sliding scale per month is detailed below:

Tiers	2008 Monthly Contracts	2008 Rate	**2009 Monthly Contracts**	**2009 Rate**
First	First 75,000	20 cents	**First 85,000**	**20 cents**
Second	Next 1,125,000	18 cents	**Next 1,265,000**	**18 cents**
Third	Next 1,800,000	15 cents	**Next 2,075,000**	**15 cents**
Fourth	Next 1,800,000	10 cents	**Next 2,050,000**	**10 cents**
Fifth	Next 5,200,000	3 cents	**Next 5,025,000**	**3 cents**
Sixth	Above 10,000,000	1 cent	**Above 10,500,000**	**1 cent**

2) **Surcharge increase in RUT, MNX and NDX Indexes** – Surcharge rates in 2008 were 10 cents per contract in RUT, MNX, RUT, DJX and DXL, as well as 6 cents per contract in SPX, OEX, XEO, BXO, RUH, and volatility indexes. Customer orders are exempt from the surcharge fee. Surcharges in RUT, MNX and NDX will be adjusted in 2009 to help offset CBOE license costs. Details of the adjustments are noted below:

Products	2008 Surcharge	**2009 Surcharge**
RUT, MNX & NDX indexes	10 cents	**15 cents**

3) **Firm Proprietary Orders Transaction Fee Sliding Scale Modifications–** The firm proprietary orders (F origin code) transaction fee per contract sliding scale will be modified as detailed below. Joint Back-Office (JBO) firms are not eligible for the sliding scale.

Tiers	2008 Monthly Contracts	2008 Rate	**2009 Monthly Contracts**	**2009 Rate**
First	First 400,000	20 cents	**First 450,000**	**20 cents**
Second	Next 200,000	15 cents	**Next 225,000**	**15 cents**
Third	Next 150,000	10 cents	**Next 175,000**	**10 cents**
Fourth	Next 100,000	5 cents	**Next 100,000**	**5 cents**
Fifth	Above 850,000	2 cents	**Above 950,000**	**2 cents**

Due to CBOE's obligation to pay license fees on certain products, the Exchange will assess a ten cent per contract license fee (a total of 10 cents per contract less any surcharge fee already assessed) on all licensed products when a firm reaches the fifth tier of the sliding scale. The license fee will be 15 cents per contract for RUT, MNX and NDX.

4) **Position Transfer Fee –** CBOE Rule 6.49A allows members to transfer their option positions to another entity when a discontinuation of management or ownership of substantially all the option positions occurs. The transfer can be done off-floor if certain criteria are present; otherwise an on-floor transfer procedure is an alternative. A position transfer fee will be initiated to offset the Exchange's costs to provide this service. The fee will be 2 cents per contract side with a cap of $25,000 per transfer.

Please contact Linda Gerdes in the Member & Regulatory Services Division at 312-786-7844 or gerdes@cboe.com if you have any questions relating to this fee.

5) **Mini-SPX (XSP) Transaction Fees to be Reinstated** – In conjunction with the November 19, 2007 re-launch of XSP, a transaction fee holiday has been in effect. Transaction fees will be reinstated at the beginning of 2009 and are detailed below:

XSP Order Type	Rate Per Contract
Customer	18 cents
Liquidity Provider (LP)	20 cents, subject to LP sliding scale
Member Firm Proprietary (FP)	20 cents, subject to FP sliding scale
Broker-Dealer – manual order	25 cents
Broker-Dealer – electronic order	45 cents
Voluntary Professional	20 cents
Non-member mrkt. mkr. AIM executions (*)	20 cents

(*) The 20 cents non-member market maker Automated Improvement Mechanism (AIM) fee only applies to N origin code orders initially entered as the contra party in the paired order AIM mechanism.

6) **Floor Broker Workstation (FBW) Rate Increase –** In an effort to recover CBOE's annual FBW costs, effective in 2009 the FBW monthly fee for all logins - equity and index, stationary and mobile - will increase to $355 per login.

7) **PAR Terminal Fee Initiated -** PAR terminals have been in service for many years with no user fee assessed. A $100 per month fee will be effective in 2009 to offset hardware costs.

   Please contact Monica Wiedlin-Torres in the Trading Systems Development Department at 312-786-7368 or torresm@cboe.com if you have any questions relating to fees for FBW or PAR terminals.

8) **Transaction-Based Options Regulatory Fee to Replace Registered Representative Fees** – The Exchange has eliminated its Registered Representative Fees and replaced this fee program with a transaction-based "Options Regulatory Fee" ("ORF"). Effective January 1, 2009, the Exchange will assess $.0045 per contract to each member for all options transactions executed by the member that are cleared by The Options Clearing Corporation ("OCC") in the customer range (i.e., that clear in a customer account at OCC), excluding Linkage orders, regardless of the exchange on which the transaction occurs. The fee will be collected by OCC on behalf of CBOE. The fee will be waived until February 1, 2009 to allow additional time for the Exchange and OCC to implement the procedures to be used by OCC to bill and collect the ORF.

   Please contact Larry Bresnahan at 312-786-7713 or bresnahl@cboe.com if you have any questions relating to the ORF.

9) **Complex Order Book (COB) Usage Fee –** In addition to the current equities and QQQQ customer fee of 18 cents per contract when taking liquidity from COB (only assessed to the largest leg), a new COB usage fee will be initiated as detailed below.

   Due to issues that have been experienced as a result of the large number of orders resting on the COB, a usage fee will be initiated. The fee will be assessed to an executing clearing firm (single clearing number) and will be calculated per CMTA/correspondent. The fee will be $2.00 for every unfilled complex order entered or resting in the COB each day. The fee will be assessed if: (i) the firm's contract trade rate is below 5% (i.e., more than 95% of all contracts an executing clearing firm entered or had resting in the COB in a month were unfilled, determined by counting contracts entered or resting in the COB each day), and (ii) the firm entered or had resting in the COB an average of 200 or more orders per day for the month. This fee will apply to all origin codes.

   Please contact Mike Trees at 312-786-8408 or treesm@cboe.com if you have any questions relating to the COB usage fee.

Other questions can be directed to Ermer Love at (312) 786-7032 (lovee@cboe.com), Cheryl Ahrens at 312-786-7450 (ahrens@cboe.com) or Don Patton at (312) 786-7026 (patton@cboe.com).

f:\shared\accounting\circulars\2009 fee changes circular updated Dec 19(2).doc