



Date: September 18, 2009

To: Members

From: Division of Regulatory Services

Re: New M & N Order Marking Procedures in Restricted Series

Prohibition on Opening Transactions in Restricted Series

Pursuant to Exchange Rule 5.4 – Withdrawal of Approval of Underlying Securities, the Exchange may determine that an underlying security previously approved for Exchange option transactions should no longer be approved and may prohibit any opening purchase or sale transactions in series of options that were previously opened (except that (i) opening transactions by Market-Makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by CBOE member organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with CBOE Rule 6.74(b) or (d) may be permitted).¹

Currently, when trading in a series is restricted, the Hybrid Trading System is programmed to automatically restrict the entry of electronic orders using non-market-maker origin codes. If such an order is entered in a restricted series and marked close, it may be eligible for routing to the electronic book. If such an order is entered in a restricted series and marked open, it is automatically rejected.

Because Market-Makers are permitted to enter opening electronic transactions in certain instances, and are not typically required to mark their orders open or close, the open/close filters have not been applied to electronic M and N orders. As a result, it is possible that an electronic opening transaction that does not satisfy the requirements of Rule 5.4 may occur inadvertently. To address this, a system enhancement is being implemented that will automatically restrict the entry of electronic M and N orders. The enhancement is expected to be available as soon as October 1, 2009. The purpose of this circular is to provide Members notice of the planned enhancement because it will necessitate some changes in the handling of electronic Market-Maker orders by Members. A follow-up circular will be issued to announce the specific implementation date once it is known.

New Order Marking Procedures

Once the system enhancement is implemented, the Exchange will require the following with respect to Market-Maker orders entered in restricted series:

- **Open/Close Indicator** – Market-Makers are generally not required to mark their orders as open or close. However, when an options series becomes subject to Rule 5.4's restrictions on opening transactions, M and N orders in that options series that are electronically routed to the Hybrid System must be marked open or close. The Exchange is imposing this requirement in accordance with paragraph

¹ Rule 6.74 – Crossing Orders, relates only to open outcry crossing.

(d)(m) of Rule 6.51 – Reporting Duties, which provides in relevant part that each member must file trade information specified by the Exchange in the form prescribed by the Exchange.

- **Handling of M Orders** - M orders that are marked close may be eligible for routing to the electronic book. M orders that are marked open will be automatically rejected unless they contain an IOC contingency (see below). M orders that do not have an open/close indicator will be rejected. It is the responsibility of the member to verify whether an order is opening or closing before accepting an order in a restricted option.
- **IOC on Opening M Orders** – To be eligible for electronic trading, M orders that are marked open will require an immediate-or-cancel (IOC) contingency. Opening M orders with an IOC contingency will be permitted to allow Market-Makers to accommodate other market participants' closing orders that are resting in the electronic book. Please note that it will be the Market-Maker's responsibility to check that the contra-side is a resting order prior to submitting an M order that is marked open.²
- **Block on N Orders** – N orders that are marked close may be eligible for routing to the electronic book. N orders marked open or without an open/close indicator will be rejected.

As with all other orders, improperly marking an M or N order as close when it opened a position may constitute a violation of Rule 4.22 – Communication to the Exchange or the Clearing Corporation.

Any questions regarding this memorandum may be directed to Ji Min Kim at (312) 786-7043, or Tanja Samardzija at (312) 786-7722, in the Department of Market Regulation.

² The system enhancement will only be applicable to electronic M and N orders. Since electronic quotes will not be subject to the new open/close filter, it is still possible that an opening electronic transaction that does not satisfy the requirements of Rule 5.4 may occur inadvertently (e.g., an opening M order with an IOC contingency executes against an opening quote). It is also still possible for a transaction that does not satisfy the requirements of Rule 5.4 to occur in open outcry. These inadvertent opening transactions are subject to nullification under paragraph (a)(6) of Rule 6.25 – Nullification and Adjustment of Options Transactions.