

## Regulatory Circular No.93-59

Date: October 29, 1993  
To: All Designated Primary Market Makers (DPMs)  
From: The Modified Trading System (MTS) Appointment Committee  
Re: Obligations of DPMs

Over the course of this year the MTS Committee has been conducting operational reviews of DPMs during which, specific questions have arisen regarding the manner in which DPMs manage certain day to day activities in their respective assignments. The MTS Committee, through this memorandum, wishes to respond to those questions and clarify the Exchange's position regarding the following DPM practices: booking orders; RAES orders in relation to booked orders; acceptance of discretionary orders; DPM participation rights; prohibition against matching with orders; prohibition against clerks entering into trades on the floor of the Exchange; and DPMs' resolution of agency errors.

### **BOOKING ORDERS**

- 1) Where a DPM chooses to act as a floor broker in accordance with Exchange Rule 8.80(b)(10)(c), all bookable orders must be physically placed on the order book in accordance with Exchange Rule 8.80(c)(8).
- 2) Orders placed in the public limit order book (Book), regardless of the manner in which they were routed, may not be removed from the Book by any means other than the cancellation, expiration, or execution of such order. The DPM may not, under any circumstances, release a booked order to the custody of another agent, except at the direction of the member who booked the order.

### **RAES ORDERS IN RELATION TO BOOKED ORDERS**

A DPM or OBO may not accept, nor may a floor broker enter an order or a portion of an order onto the Book for the purpose of causing a RAES eligible order to be re-routed for execution by any other means. All postings of Book orders and their sizes must reflect legitimate orders that are to be executed by the DPM or OBO.

### **DISCRETIONARY ORDERS**

A DPM may not represent discretionary orders as a floor broker or otherwise, as stated in Exchange Rule 8.80(c)(8).

### **DPM PARTICIPATION RIGHTS** Rule 8.80(c)(7)

When a DPM is bidding or offering for his own account and his principal bid or offer is equal to

the highest bid or lowest offer in the trading crowd and a transaction takes place at that bid or offer, the DPM is entitled to purchase or sell up to 50% of the contracts after all customer orders are satisfied.

**PROHIBITION AGAINST "MATCHING" WITH ORDERS** Rule 8.80(c)(7)

Where a DPM represents an order as agent, whether the order is in the Book or being represented by the DPM as a floor broker, the DPM may not purchase or sell at that price or better for his DPM account unless all agency bids or offers in the DPM's possession at that price have been satisfied.

**PROHIBITION AGAINST CLERKS TRADING**

Employees of DPM organizations, including those employees who support the Book operation and may be wearing "black" badges, are prohibited by Exchange Rule 6.20 from entering into trades on the Exchange floor. See Regulatory Circular RG-93-57.

**DPM AGENCY ERRORS**

DPMs are subject to the same requirements as floor brokers with respect to handling errors when they are acting in their capacity as agent. For example, when a DPM does not execute an order which is in his possession and that order was entitled to an execution, upon discovery of the error, the DPM is obligated to fill that order at either the limit price of the order or the better price that may be available at the time of discovery of the error, whichever price is most beneficial to the order.

Questions regarding this memorandum may be directed to Daniel Hustad at 786-7715.