

## Regulatory Circular RG95-39

Date: April 17, 1995  
To: Members and Member Organizations  
From: Regulatory Services Division  
Re: **Marking Options**

Marking includes, but is not limited to, the act of changing the final disseminated price or the disseminated bid/ask quote of an option series for the purpose of influencing the mark-to-the-market value of the option or to reflect a price which is not representative of the true state of the market. Furthermore, members should be aware that marks which occur between the bid and offer and which are as small as 1/16 can have a significant impact on the valuation of the accounts of all market participants holding positions in the affected series by changing the amount of margin or capital required to maintain the positions as well as the equity of the account. Marking is a form of manipulation and thus, is a violation of Exchange Rule 4.7(a) -- **Manipulation**. Additionally, marking is conduct which is inconsistent with just and equitable principles of trade in violation of Exchange Rule 4.1 -- **Just and Equitable Principles of Trade** and Exchange Rule 8.7 -- **Obligations of a Market-Maker** in that it is inconsistent with a market-maker's affirmative obligations. Further, marking may also constitute a violation of Sections 9(a)(2) - "**Prohibition against Manipulation of Security Prices**" and 10(b) - "**Regulation of the Use of Manipulative and Deceptive Devices**" of the Securities Exchange Act of 1934, and Rule 10b-5 - "**Employment of Manipulative and Deceptive Devices**" thereunder. In appropriate cases, the Exchange may charge violations of the federal securities laws listed above. Members should also be aware that because marking is a violation of the federal securities laws, the SEC and the Justice Department could exercise their jurisdiction and pursue an action.

The Exchange's Regulatory Services Division will review activity and refer all possible marking violations to the Business Conduct Committee for disciplinary action. Also, marking activity by members of a trading crowd will be taken into consideration by the Market Performance Committee when evaluating a trading crowd's performance and may result in remedial action being taken by the Market Performance Committee under Exchange Rule 8.60 -- **Evaluation of Trading Crowd Performance**, notwithstanding any action taken by the Business Conduct Committee. The Committees believe it is in the best interest of all members, market-makers and floor brokers alike, to ensure that the credibility of our marketplace is not compromised due to the marking of options.

The Exchange has expended considerable time and effort to improve and build relations with our customers. The Business Conduct Committee and the Market Performance Committee are concerned that marking option prices is not only a serious violation of Exchange Rules, but also detrimental to the credibility of our marketplace. The Exchange by this notice is advising members that it intends to recommend increased sanction levels for those who engage in marking activity.

Questions concerning this matter may be directed to Jeff Schroer (312) 786-7716 or Barbara Casey (312) 786-7712.

(RG94-32 Revised)