

## Regulatory Circular RG99-30

**Date:** January 28, 1999  
**To:** All Members and Member Organizations  
**From:** Department of Market Regulation  
**Re:** Audit Trail Violations

On January 15, 1999, the SEC approved amendments to Exchange Rule 17.50 which sets forth the Exchange's minor rule violation fine plan. Specifically, among other things, Rule 17.50(g)(4) concerning failure to submit accurate trade information to the Exchange and Rule 17.50(g)(5) concerning failure to submit trade information to the price reporter have been amended (i) to clarify the method of calculating the fine imposed when a member incurs two (2) or more violations in any eighteen (18) month period, (ii) to change from the fifth day of the month to the tenth day of the month the date by which the Exchange shall attempt to serve notification to members who incur violations for activity that occurred during the previous calendar month, and (iii) to amend the date by which a member may request verification of the fine from the Exchange from the twentieth of the month to the twenty-fifth day of the month in which the notice is served. The amendments will become effective on January 29, 1999. The following is a summary of the provisions of those Rules.

### **Failure to Submit Accurate Trade Information - Rule 17.50(g)(4)**

A fine shall be imposed upon a Market-Maker, DPM or Floor Broker who executes at least five (5) transactions on each of at least ten (10) different trading days during any calendar month and who submits inaccurate or no transaction times to the Exchange for a significant percentage of transactions executed during such month. Such fines shall be imposed on the basis of the following schedule:

<i>Percentage of Inaccurate Times</i>	<i>Fine Amount</i>
20% or more, but less than 30%	\$100
30% or more, but less than 40%	\$250
40% or more	\$500

### **Failure to Submit Trade Information to Price Reporter - Rule 17.50(g)(5)**

A Market-Maker, DPM or Floor Broker who executes at least twenty-five (25) sale transactions during any calendar month and who fails to submit required information to the price reporter for a significant percentage of transactions executed during such month shall be subject to the following fines:

<i>Percentage of Sale Transactions for Applicable Month That Were Not Submitted to Price Reporting Per Market Data Retrieval Reports</i>	<i>Fine Amount</i>
30% or more, but less than 40%	\$300
40% or more, but less than 50%	\$500
50% or more	\$1,000

### **Calculation of Fines for Repeated Violations**

If, in any eighteen (18) calendar month period, a Market-Maker, DPM or Floor Broker incurs two (2) fines under either Rule 17.50(g)(4) or Rule 17.50(g)(5), any subsequent fine imposed under that Rule for any month will be equal to the sum of the fine assessed for the current violation and an amount equal to the total fine most recently incurred. As an example, if a member incurred a second fine of \$100 (based on the percentage of times that the member submitted inaccurate or no execution times) and incurred a subsequent third fine of \$250 within 18 months, the member must pay a fine of \$350 for the third violation. The fine is calculated by adding the third fine incurred (\$250) to the most recently incurred fine (\$100).

### **Right to Request Verification and Contest**

Exchange staff will attempt to serve written notice by the tenth (10<sup>th</sup>) day of the month following the month in which the activity occurred. Any member against whom a fine is imposed pursuant to Rule 17.50(g)(4) or Rule 17.50(g)(5) may request verification of the fine pursuant to Interpretation and Policy .03 to Rule 17.50. Such members may, on or before the twenty-fifth (25<sup>th</sup>) day of the month in which notice was served, request verification of the fine by the Exchange. However, please be advised that there is a cap of the greater of 50 transactions or 10% of the number of transactions deemed not to be in compliance with Rule 17.50(g)(4) or Rule 17.50(g)(5), as applicable, with respect to which a member may request verification when two (2) or more fines have been incurred.

In addition to the right to request verification, any member against whom a fine is imposed pursuant to Rule 17.50(g)(4) or Rule 17.50(g)(5) may contest the fine before the Exchange's Business Conduct Committee in accordance with the provisions of Rule 17.50(c). Please be advised that members wishing to request verification of, and/or contest fines imposed pursuant to Rule 17.50(g)(4) or Rule 17.50(g)(5) must comply with the deadlines and all of the other procedural requirements set forth, respectively, in Interpretation and Policy .03 to Rule 17.50 and Rule 17.50(c). Members who wish to request verification of, and/or contest fines imposed pursuant to Rule 17.50(g)(4) or Rule 17.50(g)(5) are advised to consult the specific provisions of Interpretation and Policy .03 to Rule 17.50 and Rule 17.50(c).

### **Interaction Between Rule 17.50(g)(4) and Rule 2.30.**

Pursuant to Exchange Rule 2.30, any Market-Maker who fails to submit in a timely manner the trade information required by Rule 6.51 for a stated percentage of such Market-Maker's daily transactions shall incur a transaction fee in accordance with the provisions of Rule 2.30. Please be advised that failure to include the accurate transaction time, or any transaction time, constitutes late submission under Rule 2.30, and will be counted toward the stated percentages contained in Rule 2.30, as well as the stated percentages contained in Rule 17.50(g)(4). Consequently, a Market-Maker who repeatedly fails to include the accurate transaction time, or any transaction time, may be subject to a transaction fee under Rule 2.30 and a fine pursuant to Rule 17.50(g)(4). For further information, Market-Makers are advised to review the provisions of Rules 2.30 and 17.50(g)(4).

Members who believe that they will be affected by the amendments to Rule 17.50 concerning audit trail that will take effect on January 29, 1999 are invited to contact Joanne Heenan (312-786-7786) or Melissa Becker (312-786-7362) of the Department of Market Regulation to discuss their situation. Any questions in connection with this circular should also be directed to above-named individuals.