

| Regulatory Information Circular | | | |
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| Circular Number: | 2003-12 | Contact: | Jim Sampson, VP Market Supervision |
| Date: | July 8, 2003 | Telephone: | 212/897-0235 |

Subject: Disciplinary Ramifications of Trading Through the NBBO

The intermarket linkage ("Linkage") currently is in full operation and all multiply-listed options are included in all aspects of the Linkage. The goals of Linkage include limiting trade-throughs and providing national best bid and offer ("NBBO") protection for customer orders. In connection with linkage implementation, the SEC approved the Options Intermarket Linkage Plan, a national market system plan governing the operation of the Linkage and requiring the ISE and the other options exchanges to enact certain new rules.

Included in the new rules is Exchange Rule 1902 "Order Protection," which states, in part: *"Absent reasonable justification and during normal market conditions, members should not effect Trade-Throughs."*¹ Any member effecting a pattern or practice of trade-throughs could be subject to disciplinary action. In addition, pursuant to the Satisfaction Order mechanism, a trade-through could result in a Member's liability to fill customer contracts on the book on another exchange included in that exchange's disseminated quotation.

Please note that a trade-through will not be deemed to be subject to disciplinary action, and will not result in Satisfaction Order liability if:

- The member who initiated the trade-through was unable to avoid doing so because of a systems/equipment failure or malfunction;
- The member attempted to access the NBBO through Linkage but the NBBO market failed to trade or fade;
- The NBBO market is non-firm with respect to the option class (or, subject to certain limitations, the ISE market in the option class was non-firm);
- The bid/offer traded through was posted during a trading rotation at the NBBO exchange;
- The transaction that caused the trade through occurred during a trading rotation at the ISE;

¹ Exchange Rule 1902 defines a Trade-Through as "a transaction in an option series at a price that is inferior to the NBBO."

- The transaction that caused the trade through was part of a complex trade; or
- The member executed a Block trade inferior to the NBBO and the member promptly thereafter satisfied all aggrieved parties as required by the Linkage Plan.

All these exceptions are described in further detail in ISE Rule 1902.

Please contact me with any questions.