

Date: February 9, 2004  
To: The Membership  
From: Financial Planning Committee  
Subject: DPM Fee Credits Relating to Linkage “Scratched” Transactions

Last February an Intermarket Linkage System was implemented which allowed liquidity providers to efficiently access markets at other exchanges, predominantly for the benefit of public customers.

When a customer order is received at the CBOE and there is a better market displayed away, the Designated Primary Market Maker (DPM) is expected to match that better market or to access the away market through the Linkage System for the benefit of the customer. When the DPM determines that a PA order (Principal acting as Agent) needs to be routed through the Linkage System to achieve that price, fees are assessed to the DPM including transaction fees of the away exchange, OCC fees, and charges by the DPM’s clearing firm. After successfully accessing the away market the DPM will then trade with the original customer order at CBOE, incurring a duplicate set of transaction, OCC, and clearing firm fees. This “scratched” or linked trade could cost the DPM as much as 90 cents per contract.

The Board of Directors recently approved a Financial Planning Committee recommendation that effective February 2, 2004, and subject to SEC approval, CBOE assessed DPM transaction and trade match fees from “scratched” (or linked) transactions resulting from outbound (PA) orders will be credited to DPMs (currently \$.24 per contract). In addition, DPMs will be credited 50% of their CBOE transaction and trade match fees related to outbound PA transactions, up to the amount of total linkage inbound transaction and trade match fees that the CBOE receives during that month. At current rates, this amounts to an additional credit of \$.12 per contract, for a total credit of \$.36 per contract.

For example:

If a 20 lot PA order is successfully executed through the Linkage System a DPM will receive a credit of \$4.80 (\$.24 x 20 contracts) to offset the “scratched trade” transaction fees at the CBOE as well as a \$2.40 credit to help defer his cost of sending that PA order through the Linkage System. The total credit for this trade will be \$7.20.

Credits will be calculated after each month-end and passed-through to each DPM’s clearing firm in the following billing cycle.

Also subject to SEC approval, the Board of Directors approved a Financial Planning Committee recommendation to retroactively apply the above fee relief to July 1, 2003. Retroactive fee relief is not an “effective on filing” rule change, and as a result, refunds will not be processed until SEC approval is obtained.

Please contact Don Patton at 312-786-7026 or patton@cboe.com if you have any questions.