

Regulatory Circular 06-42

To: CBOE Members and Member Firms

From: Department of Market Quality Assurance

Date: April 28, 2006

Re: Marketing Fee Program in NDX and RUT

**Effective on Monday, May 1, 2006, the Marketing Fee Program will commence in the Nasdaq – 100 Index (NDX) and Russell 2000 Index (RUT).**

The fee is assessed only on transactions of Market-Makers and DPMs resulting from orders for less than 1,000 contracts from payment accepting firms at the rate of \$.65 per contract.

Under the Program, the fee is not assessed on Market-Maker-to-Market-Maker transactions including transactions resulting from orders from non-member market-makers; transactions resulting from P/A orders; transactions resulting from accommodation liquidations (cabinet trades); and transactions resulting from dividend strategies, merger strategies, and short stock interest strategies as defined in footnote 13 of CBOE's Fee Schedule.

The money collected at each station will be disbursed by the Exchange according to the instructions of the DPM. These funds shall only be used to attract order flow to CBOE, and the funds made available to the DPM may only be used to attract orders in the option classes located at the trading station where the fee was assessed. If less than 80% of the marketing fee funds are paid out by the DPM in a given month, then the Exchange refunds such surplus at the end of the month on a pro rata basis based upon contributions made by the Market-Makers and DPMs. However, if 80% or more of the accumulated funds in a given month are paid out by the DPM, there will not be a rebate for that month and the funds will carry over and will be included in the pool of funds to be used by the DPM the following month. At the end of each quarter, the Exchange refunds any surplus, if any, on a pro rata basis based upon contributions made by the Market-Makers and DPMs.

Any questions regarding this program may be directed to Daniel Hustad, Vice President, Market Quality Assurance at (312) 786-7715.