

Regulatory Circular RG10-42

To: Members

From: Department of Market Regulation

Date: March 19, 2010

Re: AIM AON Solicitation Auction Mechanism
Notification Reminder

As a reminder, under CBOE Rule 6.74B.02, prior to entering agency orders into the AIM AON Solicitation Auction Mechanism (the “Auction”) on behalf of customers, members, including Floor Brokers) must deliver to their customers a one-time written notification that informs the customers that their orders may be executed using the Auction. The written notification must disclose the terms and conditions contained in Rule 6.74B and be in a form approved by CBOE.

In issuing this reminder, we also want to take this opportunity to clarify the Exchange’s policy and interpretation regarding which customers should receive the one-time written notification. For the purposes of Rule 6.74B.02, the term “customer” refers to any client from whom a member receives an agency order that the member then subjects to the Auction, regardless of the order origin code.¹ Only customers with “originating” agency orders are subject to the notification requirement. It is not necessary for a member to provide notice to any solicited party. Also for purposes of Rule 6.74B.02, the “member” that is subject to the requirement to notify is the member that makes the decision to subject the agency order to the Auction.²

As previously noted in Regulatory Circular RG08-53, the following text may be used by members to satisfy the notification requirement:

When handling an order of 500 contracts or more on your behalf, [firm] may solicit other parties to execute against your order and may thereafter execute your order using the Chicago Board Options Exchange’s AON AIM Solicitation Mechanism. This functionality provides a single-priced execution, unless the order results in price improvement for the entire quantity, in which case multiple prices may result. For further details on the operation of this mechanism, please refer to Chicago Board Options Exchange Rule 6.74B, which is available at www.cboe.org/Legal.

Members may submit alternative forms of notification for approval or direct questions to the Department of Market Regulation, 312-786-8460 or 312-786-7730. For additional information on the Auction requirements, please refer to Rule 6.74B, which is located at www.cboe.org/legal.

¹ If the member provides the one-time written notification to a broker-dealer client, that broker-dealer should consider whether there is a need to pass through notification to the ultimate account holder(s).

² For example, if a member instructs a Floor Broker to enter an agency order into the Auction, the member (not the Floor Broker) has the responsibility to provide the one-time written notification.