

Regulatory Circular RG99-140

Date: June 15, 1999

To: Membership

From: Regulatory Division and Legal Division

Re: Disciplinary Sanctions for Trading by or with Clerks

This is to remind all members about the limitations which Exchange rules place upon the activities of the clerks of DPMs, floor brokers, and market-makers (collectively, “**clerks**”), and to give notice of how these limitations will be enforced upon members as well as contra parties to any transaction improperly effected or attempted by or with a clerk.

As set forth in Exchange Rules 6.20(a) and 6.43, all transactions on the Exchange floor must be executed through open outcry by Exchange members or Order Book Officials (“**OBOs**”). Clerks employed by DPMs, like clerks employed by floor brokers or market-makers, may not themselves bid or offer or execute transactions. See Regulatory Circular RG99-116 (4-30-99).

Should any clerk engage in activity that involves the execution of, or the attempt to execute, one or more transactions, the member employing the clerk and the contra party or parties shall be deemed to have bid or offered without public outcry in violation of Rule 6.43.

If two Floor Officials determine that such conduct has occurred, they may impose trading conduct and decorum violation fines pursuant to Exchange Rules 6.20(c), 17.50(g)(6), and Regulatory Circular RG98-123 (Nov. 11, 1998) as follows:

	1st Offense	2nd Offense	Subsequent Offenses
Effecting or Attempting to Effect Transactions with No Public Outcry	\$ 500	\$1,000	\$2,000

Floor Officials may impose the maximum fine for any offense. As provided in Section (3) of RG98-123, such fines may be imposed individually against any or all of the following: (a) the clerk **and/or** (b) the member **and/or** any supervisory personnel of the member that failed to adequately supervise the clerk to ensure compliance with Exchange rules **and/or** (c) the contra party or parties who traded with the clerk.

In addition, per Rule 6.20 and Interpretation .05(i) thereof, two Floor Officials may nullify any trade which they determine to have been executed with a clerk in contravention of Rule 6.43. Also, any action taken by Floor Officials under Rules 17.50(g)(6) and 6.20(c) does not preclude additional disciplinary action by the Business Conduct Committee under Chapter XVII of the Exchange Rules. **Contacts:** Andrew Spiwak (312) 786-7483; Gregory Rich 786-7847