



REGULATORY CIRCULAR RG10-18

DATE: January 29, 2010
TO: Members
FROM: Member and Regulatory Services Division
RE: Information Barriers of DPMs and eDPMs

The Securities and Exchange Commission recently approved CBOE's rule filing¹ to amend Rule 8.91 – Limitations on Dealings of DPMs and Affiliated Person of DPMs and Rule 8.93 – eDPM Obligations. Specifically, CBOE deleted all of the existing provisions of Rule 8.91, including the *Guidelines for Exemptive Relief Under Rule 8.91(e) for Members Affiliated with DPMs*, and replaced those provisions with the specific requirement applicable to e-DPMs set forth in Rule 8.93(x) relating to the adoption of information barriers and compliance with Rule 4.18. CBOE also adopted in both Rule 8.91 and Rule 8.93 a limited exception for integrated market making in broad-based, highly capitalized and liquid ETFs and trust issued receipts (collectively "broad-based ETFs and TIRs"). The following is a summary of the key provisions of the amended Rules:

- DPMs are required to maintain information barriers that are reasonably designed to prevent the misuse of material non-public information with any affiliate(s) that may conduct a brokerage business² in option classes allocated to the DPM or act as specialist or market-maker in any security underlying options allocated to the DPM and otherwise comply with the requirements of Rule 4.18 regarding the misuse of material non-public information.
- DPMs and eDPMs in options overlying a broad-based ETF and TIRs that meets the criteria set forth in Rule 54.7, Interpretation and Policy .03, are not required to maintain information barriers between it and any affiliates that act as a specialist or market-maker in the underlying broad-based ETF or TIR.
- Rule 8.91 provides that DPMs must obtain prior written approval of their information barriers from the Exchange. However, if the information barriers were previously approved by the Exchange, they do not need to be re-approved by CBOE as a result of this rule change unless the procedures are subsequently modified. All submissions for approval should be sent to Markovic@cboe.com.

Questions regarding this circular may be directed to Milan Markovic of the Department of Member Firm Regulation at (312) 786-8192.

¹ See Securities Exchange Act Release No. 61336 (1/12/10), approving SR-CBOE-2009-092, which is available on CBOE's website www.cboe.org/Legal.

² This reference to "brokerage business" includes conducting investment banking business or a public securities business.