

MEMORANDUM

TO: Philadelphia Board of Trade Members and Member Organizations
FROM: Legal Department
DATE: June 20, 2007
RE: SR-PBOT-2007-09: Rule 60, Emergency Action
SR-PBOT-2007-10: Rule E10, Market Makers

The Philadelphia Board of Trade (“PBOT”) has filed with the Commodity Futures Trading Commission SR-PBOT-2007-09, amending Rule 60, Emergency Action, and has also filed SR-PBOT-2007-10, amending Rule E10, Market Makers. In each case the existing text of the rule is replaced in its entirety by new text. These rule changes are effective on Monday, June 25, 2007.

The text of amended Rules 60 and E10 are set forth below. If you have any questions regarding these rule amendments, please contact Carla Behnfeldt, Director and Counsel, at (215) 496-5208.

New language is underlined; strikeouts are deletions

Rule 60. Emergency Action

~~(a) In the event of an emergency, the Exchange, by a two thirds vote of the Board of Directors may place into immediate effect a temporary emergency Rule which may provide for, or may authorize the Exchange, the Board of Directors or any committee of the Board of Directors to undertake actions necessary or appropriate to meet the emergency, including, but not limited to, such actions as:~~

~~(i) limiting trading to liquidation only, in whole or in part;~~

~~(ii) extending or shortening the expiration date for trading in contracts;~~

~~(iii) extending the time of delivery;~~

~~(iv) changing delivery points and/or the means of delivery;~~

~~(v) ordering the liquidation of contracts, the fixing of a settlement price or the reduction in positions;~~

~~(vi) ordering the transfer of contracts and the money, securities, and property securing such contracts, held on behalf of customers by a member or member organization to another member or member organization, or other members or member organizations, willing to assume such contracts or obligated to do so;~~

~~(vii) extending, limiting or changing hours of trading;~~

~~(viii) suspending trading; or~~

~~(ix) modifying or suspending any provision of the By-Laws or Rules of the Exchange or the By-Laws and Rules of the Clearing Corporation.~~

~~(b) For purposes of this Rule, the term "two-thirds vote" of the Board of Directors means the affirmative vote of persons constituting not less than two-thirds of the members of the Board of Directors either~~

~~(1) physically present and voting at a meeting of the Board of Directors at which a quorum of at least one-third of the Board of Directors is physically in attendance or~~

~~(2) voting in any manner other than at a meeting at which a quorum is physically in attendance as may be permitted by law.~~

~~(c) Physical Emergency. If, in the judgment of the person authorized to take action as specified below, the physical functions of the Exchange are, or are threatened to be, severely and adversely affected by a physical emergency, as defined in Rule 15, such person shall have authority to take such action as such person deems necessary or appropriate to deal with such physical emergency. Such authorized action shall include, but shall not be limited to, closing the Exchange, delaying the opening of trading in any one or more commodity interests and/or suspending trading in any one or more commodity interests; provided, however, that suspension of trading ordered pursuant to this paragraph (c) shall not continue in effect for more than five days unless the Exchange has submitted in writing and the Commission has granted a written request for an extension of time, for good cause shown. The persons authorized to take action pursuant to this paragraph (c) are any one of the following, in the order of their availability to take such action:~~

~~(1) the President;~~

~~(2) the Chairman of the Board; or~~

~~(3) the senior available Vice President.~~

~~In the event such action is taken, thereafter any person who would be authorized to take action pursuant to this paragraph as aforesaid may order restoration of trading on the Exchange or removal of any other restriction heretofore imposed pursuant to this paragraph, in the absence of action by the Board of Directors, upon a determination by such person that the physical emergency has sufficiently abated to permit the physical functions of the Exchange to continue in an orderly manner. Any action taken by any person pursuant to this paragraph shall be subject to review, modification and/or reversal by the Board of Directors.~~

~~(d) Commission Notification. Notification of emergency action taken pursuant to this rule or any emergency rule implemented pursuant to this rule shall be made to the Commission pursuant to Commission Regulation 40.6(a)(2).~~

(a) General. If the President, or any individual designated by the President and approved by the Executive Committee, determines that an Emergency exists, the President or such designee, as the case may be, may take or place into immediate effect a temporary emergency action or rule. Any such rule may remain in effect for up to 30 Business Days, after which time it must be approved by the Board or Executive Committee to remain in effect. Any such action or rule may provide for, or may authorize the Exchange to undertake actions necessary or appropriate to respond to the Emergency, including such actions as:

(i) limiting trading to liquidation only, in whole or in part;

(ii) extending or shortening the expiration date for trading in contracts;

(iii) extending the time of delivery;

(iv) changing delivery points and/or the means of delivery;

(v) ordering the liquidation of contracts, the fixing of a settlement price or the reduction in positions;

(vi) ordering the transfer of contracts and the money, securities, and property securing such contracts, held on behalf of customers by a member or member organization to another member or member organization, or other members or member organizations, willing to assume such contracts or obligated to do so;

(vii) extending, limiting or changing hours of trading;

(viii) suspending trading; or

(ix) modifying or suspending any provision of the By-Laws or Rules of the Exchange.

Any such action placed into effect in accordance with the preceding sentence may be reviewed by the Board or Executive Committee at any time and may be revoked, suspended or modified by the Board or Executive Committee, and any such rule placed into effect in accordance with the preceding sentence shall be reviewed by the Board or Executive Committee as soon as practicable under the circumstances, and may be revoked, suspended or modified by the Board or Executive Committee.

(b) Physical Emergency. If, in the judgment of the President, or any individual designated by the President and approved by the Board or the Executive Committee, the physical functions of the Exchange are, or are threatened to be, severely and adversely affected by a physical emergency (such as a fire or other casualty, bomb threats, terrorist acts, substantial inclement weather, power failures, communications breakdowns, computer system breakdowns, screen-based trading system breakdowns, computer system breakdowns, screen-based trading system breakdowns or transportation breakdowns), such Person may take any action that he or she may deem necessary or appropriate to respond to such physical emergency, including closing the Exchange, delaying the opening of trading in one or more Contracts or suspending trading in or extending trading hours for one or more Contracts. In the event that any action has been taken pursuant to the immediately preceding sentence, any Person who is authorized to take such action may order the removal of any restriction previously imposed pursuant to such sentence, upon a determination by such Person that the physical emergency that gave rise to such restriction has sufficiently abated to permit the physical functions of the Exchange to continue in an orderly manner; provided that any order pursuant to this sentence shall be subject to review, modification or reversal by the Board or the Executive Committee.

(c) Modification and Recording. The Exchange will notify the Commission of any action taken, or proposed to be taken, pursuant to this Rule 60 in accordance with Commission Regulation § 40.6. The decision-making process with respect to, and the reasons for, any such action will be recorded in writing.

(d) Conflicts of Interest. The conflict of interest provisions set forth in Rule 1300 shall apply to the taking of any action under this Rule 60 by the President, or his or her designee.

Rule E10. Market Makers

~~(a) To facilitate liquidity and orderliness, the Exchange may, in its sole discretion, appoint one or more Members or Member Organizations to act as Market Makers for one Contract or more.~~

~~(b) The Exchange may enter into a written agreement with a Market Maker establishing the Market Maker's rights and obligations. Among other possible obligations, the Exchange may require a Market Maker to (1) facilitate a liquid and orderly market, (2) enter into a written agreement specifying the frequency and competitiveness of its~~

~~Quotes, and (3) maintain records sufficient to prove compliance with the written agreement.~~

~~(c) Through a Notice to Members, the Exchange will describe the type and nature of obligations imposed on, and rights received by, Market Makers.~~

~~(d) The Exchange may suspend or revoke a Market Maker's designation if, in the Exchange's sole discretion, a Market Maker fails to satisfy any obligations to the Exchange, including any contractual or other obligations.~~

(a) The Exchange may from time to time approve such number of Members or Member Organizations as Market Makers and allocate to such Market Makers such number and types of Contracts, as it may deem necessary or appropriate. Any and all such approvals or allocations may be reviewed, conditioned or terminated at any time in accordance with this Rule.

(b) A Member or Member Organization desiring to act as a Market Maker shall file an application with the Exchange in such form as the Exchange may from time to time prescribe. Market Makers shall be selected by the Exchange from among the applications from time to time on file with the Exchange, based on the Exchange's judgment as to which applicant or applicants is or are most qualified to perform the functions of a Market Maker. Factors to be considered in making such selection may include, but are not limited to, any one or more of the following:

- (i) the adequacy of each applicant's capital;
- (ii) each applicant's operational capacity;
- (iii) the trading experience of, and observance of generally accepted standards of conduct by, each applicant, in particular the individual or individuals who would represent such applicant in its capacity as a Market Maker (each, a "Market Maker Designee");
- (iv) the number and experience of support personnel of each applicant who will be performing functions related to its Market Maker business;
- (v) if applicable, the regulatory history of, and history of adherence to the Rules of the Exchange, rules of other self-regulatory organizations and applicable law by, each applicant, in particular its Market Maker Designees;
- (vi) the willingness and ability of each applicant to promote the Exchange as the marketplace of choice;
- (vii) the market performance commitments of each applicant; and
- (viii) if applicable, any performance evaluations conducted pursuant to the Rules of the Exchange or rules of other self-regulatory organizations.

(c) In approving any applicant as a Market Maker, the Exchange may place one or more conditions or limitations on the approval, including but not limited to:

- (i) conditions concerning the capital, operations or personnel of such applicant, satisfaction of market performance commitments or benchmarks by such applicant, and the number or types of Contracts which may be allocated to such applicant; and
- (ii) limitations regarding the time period for which such applicant is approved as a Market Maker (which time period may be subsequently extended by the Exchange at its sole discretion).

(d) Each Member or Member Organization approved as a Market Maker shall retain such status until it resigns as a Market Maker and the Exchange relieves such Market Maker of its obligations to act as Market Maker, or the Exchange suspends or terminates such Market Maker's status.

(e) In allocating Contracts to Market Makers approved in accordance with the above, the Exchange may: (i) consider any relevant information, including but not limited to performance, volume, capacity, market performance commitments, operational factors, efficiency, competitiveness and recommendations of committees of the Board or of the Exchange; (ii) place one or more conditions or limitations of the type specified in paragraph (c) above on the approval; or (iii) allocate any Contract to more than one Market Maker, such that the different Market Makers serve at the same time but with respect to different contract months or in different time zones, or such that each of the Market Makers serves as the Market Maker for such Contract on a rotating basis.

(f) No Market Maker may sell, transfer or assign any of its rights or obligations as a Market Maker (including but not limited to its allocation of any Contracts by virtue of its status as a Market Maker) without the prior written approval of such sale, transfer or assignment (including but not limited to the approval of the Person to which such rights, obligations or allocation are intended to be sold, transferred or assigned) by the Exchange. Any purported sale, transfer or assignment in violation of the foregoing sentence shall be void from the outset. For purposes of this paragraph (f), the following transactions shall be deemed to constitute a transfer of a Market Maker's rights or obligations:

- (i) Any sale, transfer or assignment of five percent of the equity or profits or losses of a Market Maker (or any series of smaller changes that in the aggregate amount to a change of at least such percentage); provided that any sale, transfer or assignment of an interest of less than such percentage may be found by the Exchange to constitute a transfer of a Market Maker's rights or obligations if the particular facts and circumstances warrant such a determination;
- (ii) Any change in, or transfer of, control of a Market Maker; and

(iii) Any merger, sale of assets or other business combination or reorganization involving a Market Maker.

(g) The Exchange may from time to time evaluate a Market Maker's performance with respect to, among other things, one or more of the following: quality of markets, market share (taking into account all contracts similar to the relevant Contract or Contracts), administrative factors and observance of ethical standards. In this connection, the Exchange may consider any relevant information, including but not limited to market share and trading data, a Market Maker's regulatory history and such other factors and data as may be pertinent under the circumstances.

(h) The Exchange may terminate, place conditions upon or otherwise limit a Member or Member Organization approval to act as a Market Maker or a Market Maker's allocation of Contracts, under any one or more of the following circumstances:

- (i) if the Exchange finds in connection with an evaluation under paragraph (g) above that such Member or Member Organization's performance as a Market Maker has been unsatisfactory;
- (ii) if such Member or Member Organization becomes subject to a material financial, operational or personnel change;
- (iii) if such Member or Member Organization fails to comply with any conditions previously placed upon its approval as a Market Maker or its allocation of Contracts or perform its obligations; or
- (iv) if for any reason such Member or Member Organization is no longer eligible for approval as a Market Maker or to be allocated a particular number or type of Contracts.

(i) Each applicant for approval as a Market Maker pursuant to the above shall be given an opportunity to present any matter which it wishes the Exchange to consider in conjunction with the application. Prior to taking any remedial action against a Market Maker pursuant to the above, such Market Maker shall be given notice thereof and an opportunity to present any matter which it wishes the Exchange to consider in determining whether to take such action. The Exchange may require that any presentation under this paragraph be made partially or entirely in writing, and may require the submission of additional information from any Person wishing to make a presentation under this paragraph. Formal rules of evidence shall not apply to any proceeding involving such a presentation. Notwithstanding the foregoing, the Exchange shall have the authority to immediately terminate, condition or otherwise limit a Member or Member Organization approval to act as a Market Maker in accordance with the above, without prior notice or opportunity to make a presentation under this paragraph, if the financial, operational or personnel change in question warrants such action.

(j) Market Makers shall have such rights and obligations as the Exchange may specify in connection with their approval or prescribe from time to time in any Notice to Members.