

MEMORANDUM

TO: Members, Member Organizations, Participants, Participant Organizations

FROM: Richard S. Rudolph, Vice President and Counsel  
Legal Department

DATE: July 21, 2008

RE: Participation Guarantees in Crossing and Facilitation Transactions  
40% for All Options Traded on the Exchange  
Rule 1064, Commentary .02

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The Exchange has filed for **immediate effectiveness** with the Securities and Exchange Commission (“SEC” or “Commission”) to adopt amendments to Exchange Rule 1064, Crossing, Facilitation and Solicited Orders, to provide that the percentage of the order which a Floor Broker is entitled to cross in **equity, index and U.S dollar settled foreign currency options**, after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied, is 40% of the remaining contracts in the order if the order is traded at or between the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market.

Exchange Rule 1064, Commentary .02 guarantees a participation percentage to Floor Brokers representing crossing and facilitation orders in open outcry. The percentage of the order which a Floor Broker is entitled to cross, after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied, was previously 40% of the remaining contracts in the order respecting equity options, and 20% of the remaining contracts in the order respecting index options.

Under the new rule, the participation guarantee is 40% for **equity options (including options overlying Exchange Traded Fund shares), index options, and U.S. dollar settled foreign currency options**. The specialist is not entitled to an Enhanced Specialist Participation unless the Floor Broker has chosen to cross less than its 40% entitlement, in which case the Enhanced Specialist Participation will be a percentage that combined with the percentage the firm crossed is no more than 40% of the original order.

The text of the new rule is set forth below. Questions may be addressed to Rick Rudolph in the Phlx Legal Department at (215) 496-5074.

Underlining indicates new text; brackets indicate deletions

## **Crossing, Facilitation and Solicited Orders**

**Rule 1064.** (a) – (d) No change.

Commentary:

01 No change.

.02 Firm Participation Guarantees. (i) – (ii) No change.

(iii) The percentage of the order which a Floor Broker is entitled to cross in equity, index and U.S dollar settled foreign currency options, after all public customer orders that were (1) on the limit order book and then (2) represented in the trading crowd at the time the market was established have been satisfied, is [determined as follows:

(A) With respect to orders for equity options,] 40% of the remaining contracts in the order if the order is traded at or between the best bid or offer given by the crowd in response to the Floor Broker's initial request for a market.

[(B) With respect to orders for index options, 20% of the remaining contracts in the order.]

(iv) – (v) No change.

(vi) If a trade pursuant to this Commentary occurs when the specialist is on parity with one or more controlled accounts, then the Enhanced Specialist Participation which is established pursuant to Exchange Rule 1014(g)(ii)-(iv) shall apply only to the number of contracts remaining after the following orders have been satisfied: those public customer orders which trade ahead of the cross transaction, and any portion of an order being crossed against the original order being represented by the Floor Broker.

(A) [ Respecting orders for index options and U.S. dollar-settled foreign currency options, the Enhanced Specialist Participation may only be 20% of the original order after customer orders have been executed for orders crossed pursuant to this paragraph (vi) unless the Floor Broker has chosen to cross less than its 20% entitlement, in which case the Enhanced Specialist Participation will be a percentage that combined with the percentage the firm crossed is no more than 40% of the original order.

(B) Respecting orders for equity options, t ] The specialist shall not be entitled to receive the Enhanced Specialist Participation in equity, index and U.S dollar

settled foreign currency options after customer orders have been executed for orders crossed pursuant to this paragraph (vi) unless the Floor Broker has chosen to cross less than its 40% entitlement, in which case the Enhanced Specialist Participation will be a percentage that combined with the percentage the firm crossed is no more than 40% of the original order.

If the trade occurs at a price other than the specialist's disseminated bid or offer, the specialist is entitled to no guaranteed participation.

(vii) - (x) No change.

.03. No change.