

Regulatory Information Circular – 2001-12

To: ISE Market Makers & Clearing Members

Date: August 29, 2001

Re: Guidelines for Market Maker Financial Requirements

On August 22, 2001, the Securities and Exchange Commission approved an ISE rule change amending Rule 809, Financial Requirements for Market Makers. (Securities Exchange Act Release No. 44739 (August 22, 2001), 66 FR 45713). The full text of amended Rule 809 is attached.

Exchange Rule 809 sets forth the minimum financial requirements for market maker members. As amended, Rule 809 provides that every Primary Market Maker must maintain net liquidating equity of not less than \$3,250,000 plus \$25,000 excess equity for each underlying security upon which options are open for trading in excess of the initial ten (10) underlying securities. Rule 809 also provides that every Competitive Market Maker must maintain net liquidating equity of not less than \$1,000,000. The Legal & Regulatory Division has adopted the following guidelines in order to monitor compliance with these requirements and in the interest of maintaining a fair and orderly market:

- On a daily basis, each market maker must prepare (or direct their clearing firm to prepare on their behalf) a report to the Exchange of the respective market maker's equity for the prior trade day. Such report should be faxed to the Legal and Regulatory Division at (212) 635-0210 or electronically submitted via e-mail to regulation@iseptions.com by 12 noon Eastern Standard Time.
- If a Member's net liquidating equity falls below the minimum level required by Rule 809, the Member must immediately notify the Exchange of the deficiency. If the deficiency cannot be rectified immediately, the Member must submit within five (5) business days a business plan for raising its equity to the appropriate level. It should be noted that, pursuant to Rule 1500(a), a Member may be summarily suspended if the Exchange determines that the Member is in such financial or operating difficulty that the Member cannot be permitted to continue to do business as a Member with safety to investors, creditors, other Members, or the Exchange. Such a determination would take into consideration the particular facts and circumstances, and would include consideration of whether (i) the Member's failure to maintain the minimum level required by this Rule limits

its ability to comply with its market making obligations under ISE Rules, (ii) the Member has submitted a business plan that can reasonably be expected to bring the firm into compliance with the minimum level in a reasonable period of time, and (iii) the Member follows the business plan and meets objectives as proposed therein.

- With respect to a Primary Market Maker that falls below the minimum level required by Rule 809, if the Exchange determines that summary suspension is necessary under Rule 1500(a) given the facts and circumstances as discussed in the preceding paragraph, it will appoint an interim Primary Market Maker in the Member's assigned options classes to assure that fair and orderly markets are continued in the Primary Market Maker's assigned options.

Any questions regarding the foregoing may be directed to the attention of Jennifer Lamie, Assistant General Counsel (212-897-0234 or jlamie@iseoptions.com).

Text of the Rule Change

[Brackets] indicates deletions; underline indicates additions.

Rule 809. Financial Requirements for Market Makers

(a) *Primary Market Makers.* Every Primary Market Maker shall maintain [a cash or liquid asset position equal to the greater of] net liquidating equity of not less than \$3,250,000 plus \$25,000 excess equity for each underlying security upon which appointed options are open for trading in excess of the initial ten (10) underlying securities[\$5,000,000 or an amount sufficient to assume a position of twenty (20) options contracts of each class in which such Primary Market Maker is appointed (as computed on the basis of that series within each such class having the highest current premium)].

(b) *Competitive Market Makers.* Every Competitive Market Maker shall maintain [a cash or liquid asset position equal to the greater of] net liquidating equity of not less than \$1,000,000[or an amount sufficient to assume a position of ten (10) options contracts in each class of options to which the Competitive Market Maker is appointed (as computed on the basis of that series within each such class having the highest current premium)].

(c) Each market maker that makes an arrangement to finance his transactions as a market maker must identify to the Exchange the source of the financing and its terms. The Exchange must be informed immediately of the intention of any party to terminate or change any such arrangement.

Supplemental Material to Rule 809

.01 For purposes of Rule 809, the term “net liquidating equity” means the sum of positive cash balances and long securities positions less negative cash balances and short securities positions.