

**EXHIBIT 5 to SR-CBOE-2010-082**

Text of the Regulatory Circular to be Eliminated

[Brackets] indicate deletions.

**[Regulatory Circular RG01-61**

Date: May 3, 2001  
To: The Membership  
From: Department of Market Regulation  
RE: Transactions Between Related Entities

This Circular addresses the Exchange's change in regulatory policy with respect to transactions between related accounts with common financial backing. Under the revised policy, trading between related entities as detailed below will be allowed, provided that such transactions are effected within existing exchange rules (i.e. in open out-cry and not of a manipulative nature), and where such entities have established a separation of business activities such that common control over daily trading activity does not exist. However, this change in policy does not effect the requirements of Exchange Rule 8.91 Limitations on Dealings of Designated Primary Market-Makers with respect to associated accounts of Designated Primary Market-Makers.

**Permitted Activity:**

- Trading will be allowed between different market maker or other broker/dealer accounts that are financed by the same member when there is no common control over the trading activity in those accounts.

**Example:** Market-Makers ABC and XYZ are each financed independently by the same individual, AYZ. The financing is provided to each of them either through a joint account, partnership, or Limited Liability Corporation. AYZ has no control over the trading activity in the accounts. Under this scenario, ABC and XYZ would be able to effect transactions as contra-parties.

- Trading will be allowed between subsidiaries (i.e., separate broker/dealers) independently operated under the same parent or holding company.

**Example:** ABC Trading Co. and DEF Trading Co., which are separate broker/dealers, are both wholly owned by XYZ Holding Co. ABC and DEF operate independently from each other and each has no control over the trading activity in the other firm's account. XYZ Holding also has no control over the trading activity in either ABC or DEF's accounts. Under this scenario, ABC Trading and DEF Trading would be able to effect transactions as contra-parties.

**Prohibited Activity:**

The following activity will continue to be prohibited under the new policy:

- A Market maker may not trade with his joint account, even though his percentage of ownership is less than 100% (i.e., market maker ABC finances market maker XYZ via a joint account and ABC is a participant in the joint account. XYZ makes his own trading decisions. ABC is still prohibited from trading directly with the joint account of which he is a member as all joint accounts are jointly and severally liable);
- Nominees of the same entity may not trade as contra-parties on behalf of the firm<sup>1</sup>;
- Firm traders employed by the same broker/dealer on different trading desks regardless of whether they are separate profit centers may not trade as contra-parties on behalf of the firm;
- Spouses may not trade as contra-parties.

**Additional Considerations:**

Members should be aware that under the new policy, related entities will continue to be aggregated for position limit purposes unless they have been granted non-aggregation pursuant to Exchange Rule 4.11.03.<sup>2</sup>

Questions regarding this circular may be addressed to Pat Cerny at (312) 786-7722 or Steve Slawinski at (312) 786-7744.

<sup>1</sup> This prohibition also applies to members who are registered fors.

<sup>2</sup> Members requesting non-aggregation must demonstrate that they do not control the trading decisions of the market-maker or member firm entity being financed. The rule requires the submission of an affidavit and/or other supporting documentation to rebut the presumption of control. Trading activity is reviewed on a periodic basis to ascertain if similar patterns of trading decisions are apparent.]