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secretary

From: Joseph Wezner [jwez@optonline.net]
Sent: Sunday, November 16, 2008 8:53 PM
To: secretary
Cc: Joseph Wezner
Subject: Proposed Rules for Trading Off the Centralized Market

COMMENT

To Whom It May Concern:

I have been a member NYBOT/ICE and COMEX/NYMEX since 1995. I have spent most of those years as an option market-maker in the softs. In all those years, trading markets during frost, drought, and other extreme market conditions I have never seen a circumstance which warranted trades being executed non-competitively. In fact, everything I was every taught about ethics would seem to strictly forbid it. It is prearranged. It does not have to honor the best bid/offer. In practice, the trade gets reported when it is convenient, if at all. In the past all of these things were major violations. Today in the age of for-profit exchanges anything goes as long as it brings in a commission, and if it is a higher commission all the better.

Block trading is non-competitive trading.

That one sentence should automatically set off red flags. By its very nature all non-competitive trading should be avoided and, if necessary, used judicially and infrequently. As we all know, the most efficient mechanism for price discovery is a competitive market which functions out in the open. I can think of no compelling reason for options trades to be executed off-floor. Block trades hurt liquidity and hamper markets from functioning efficiently by taking pricing information away from the centralized market. This jeopardizes a market's role in price discovery and as such does not comply with Core Principle 9, which provides that trading be competitive, open, and efficient.

Block trading is also fraught with opportunities for one party to take advantage of another. There simply is no safeguard to ensure that a customer receives the best price. The overriding incentive for any broker holding a block trade order is now to fill both sides, so as to obtain double commission. Or worse yet, steer the order to a favored party. In other words the broker's best interests and his customer's interests no longer coincide. Since block-trading was implemented I have witnessed numerous examples of block-trades taking place at prices far worse the the centralized market would have provided. In fact, most block trades do not fall within the contemporaneous bid/ask spread on the centralized market. There really are no rules for block trades- anything goes. Specific trades have been brought to the attention of the compliance department on numerous occasions with no further action. It may be time to revisit the concept of self-regulation. Can a for-profit entity be expected to self-regulate when when doing so may result in a reduced bottom line?

There simply is no need for block trading in options. The exact same trade can take place through a cross trade. The only difference is that one side of the trade might get filled at a better price. This is exactly the way a market should function. Block trading grants those with access unfair advantage over the centralized marketplace. It also discourages market participation.

As it stands now the block trading rules on ICE are grossly too small and arbitrarily set. I would strongly discourage the use of block trading at all. When a compelling reason exists to allow block trades, the appropriate size should be determined by a committee of market users. The members should represent a broad range of market participants and be independent of the exchange. The committee's recommendation should then be reviewed by the Commission. The block trade should be executed in the centralized market similar to a cross trade to ensure that it trades within the contemporaneous bid/ask spread. I believe the Commission

should not set strict guidelines as to the size appropriate for each market, but should strongly discourage the use of block trades and make clear they should be the rare exception and not the rule. As it stands now I do not believe block trading rules comply with Core Principle 9, so the Commission needs to forcefully reiterate the utmost importance of this basic tenet of fair, open, and competitive trading.

Thank you for your consideration.

Joseph Wezner