



Regulatory Circular RG09 - 24

To: Members, Member Organizations  
From: Division of Member and Regulatory Services  
Date: February 17, 2009  
Re: Amendments to CBOE Rule 4.21, Third Party Deposits Prohibited

On January 27, 2009, the Securities and Exchange Commission approved amendments to CBOE Rule 4.21, Third Party Deposits Prohibited. The amendments expand permissible deposits, allowing clearing firms to now accept for deposit to a broker-dealer account checks and funds transfers that:

- 1) constitute an award or settlement paid as the result of litigation or arbitration which arose in connection with the broker-dealer's securities or futures business;
- 2) are drawn on an account of the government of the United States; or
- 3) are drawn on the account of another broker-dealer for satisfaction of the resolution of transaction disputes.

Additionally, interpretation .06 of Rule 4.21 has been amended to clarify that documents evidencing that a deposit qualifies for acceptance under the rule as well as documents authorizing transfers between two accounts under the rule, must be maintained by the clearing firm.

Also, the following exceptions to the Rule 4.21 prohibition on third party deposits continue to be available under the Rule's Interpretations and Policies:

- 1) Deposits of checks, funds or securities to a market-maker account that are drawn on a joint account to which the market-maker is named, and the name of the market-maker on both accounts match,
- 2) Deposits of checks, funds or securities to a US broker-dealer account if the depositor has an ownership interest disclosed on Schedule A of the

broker-dealer's Form BD, or the depositor is a US broker-dealer and has an ownership interest disclosed on Schedule B of Form BD,

- 3) Deposits of checks, funds or securities to a US broker-dealer account in order to (i) establish a positive net liquidating equity or supplement equity when required based upon internal risk control procedures of the clearing firm or (ii) achieve compliance with SEC Rule 15c3-1 (the Net Capital Rule), provided that an officer or partner of the clearing firm grants an exception in writing with respect to any deposit prohibited by Rule 4.21 and;
- 4) Transfers of funds or securities between two accounts cleared and carried by the same clearing firm provided that, if both accounts are not owned by the same person(s) or entity, the transfer is authorized in writing by the owner of the account from which funds and/or securities would be withdrawn.

Questions regarding this Regulatory Circular or Rule 4.21 should be directed to James Adams at (312-786-7718) or Robert Gardner at (312-786-7937).