



Regulatory Information Circular			
Circular number:	2003-16	Contact:	Jim Sampson, VP Market Supervision
Date:	October 20, 2003	Telephone:	212/897-0235

Subject: ISE Primary Market Maker Obligations

ISE Primary Market Makers (“PMM”) have access to certain types of market information not available to other market participants. This circular serves to remind ISE PMMs that they may not use this informational advantage in the course of making trading decisions. To act on this non-public information, and to thereby take advantage of the PMM position, would be considered a violation of ISE Rule 400 – “Just and Equitable Principles of Trade.”

For example, it is not consistent with just and equitable principles of trade for a PMM to increase the size of its quote prior to releasing a locked order in an attempt to maximize its allocation percentage. Changing its size only after obtaining knowledge of a particular order would provide the PMM with an unfair advantage over other market makers in the bin. Thus, the following scenario would not be allowed under ISE Rule 400: A PMM, while handling a locked customer order due to a better market at a competing exchange, may send a P/A Order via Linkage to the competing exchange expecting that the entire size of the P/A Order will not be satisfied (due to the nature of the order and prevailing market conditions). It would be considered a violation of ISE Rule 400 if, while waiting for a response to the P/A Order, the PMM were to increase the size associated with its quote, thus seeking to increase its allocation of the residual order.

Please contact me with any questions.