

Notice to Members

SEPTEMBER 2006

SUGGESTED ROUTING

Legal and Compliance
Options
Institutional
Senior Management
Trading

KEY TOPICS

Disclosure Documents Delivery
Characteristics and Risks of
Standardized Options
Special Statement for Uncovered
Option Writers
Options
Rule 2860

GUIDANCE

Option Disclosure Documents

Amendments to Option Disclosure Documents Delivery Requirements in Rule 2860; **Implementation Date: October 26, 2006**

Executive Summary

On August 17, 2006, NASD filed with the Securities and Exchange Commission (SEC) for immediate effectiveness a rule change to Rule 2860 (Options) to (1) require that a copy of each amendment to the options disclosure document, Characteristics and Risks of Standardized Options, be distributed to each customer not later than the time of the delivery of a confirmation of a transaction in the category of options issued by The Options Clearing Corporation (OCC) to which the amendment pertains, and (2) clarify that revisions to the Special Statement for Uncovered Option Writers be distributed to each customer approved for writing uncovered short options not later than the time of the delivery of a confirmation of a transaction in options issued by the OCC.¹ Rule 2860, as amended, is set forth in Attachment A of this *Notice*. The amendments will be implemented on October 26, 2006.

Questions/Further Information

Questions regarding this *Notice* may be directed to Gary Goldsholle, Vice President and Associate General Counsel, Office of General Counsel (OGC), Regulatory Policy and Oversight (RPO), at (202) 728-8104; or Kathryn M. Moore, Assistant General Counsel, OGC, RPO, at (202) 974-2974.

Background and Discussion

NASD has amended the requirement to deliver amendments and/or revisions to the options disclosure documents in Rule 2860 to conform to similar rules of other self-regulatory organizations.² Specifically, NASD has amended the rule to more clearly delineate the particular delivery requirements applicable to the Characteristics and Risks of Standardized Options (commonly known as the ODD) and the Special Statement for Uncovered Option Writers (the Special Written Statement).

Rule 2860(b)(11)(A) previously required that amendments and revisions to both disclosure documents be distributed to each customer not later than the time a confirmation of a transaction is delivered to each customer who enters into a transaction in options issued by the OCC. As amended, the delivery of an amendment to the ODD is triggered by a customer transaction in an options contract to which such amendment pertains. The rule change harmonizes NASD's rule for amendments to the ODD with the corresponding rules of the Options Exchanges.

In addition, through a new subparagraph (2), NASD clarified that revisions to the Special Written Statement must be distributed to each customer having an account approved for writing uncovered short options not later than the time a confirmation of a transaction is delivered to each customer who enters into a transaction in options issued by the OCC.

The amendments to Rule 2860 will be implemented on October 26, 2006.

Endnotes

- 1 See Exchange Act Release No. 54463 (September 15, 2006), 71 FR 55814 (September 25, 2006) (Notice of Filing and Immediate Effectiveness of File No. SR-NASD-2006-100). Under Section 19(b) of the Securities Exchange Act of 1934 (Act), the SEC has the authority to summarily abrogate this type of rule change within 60 days of filing.
- 2 See Rule 9.15 of the CBOE; Rule 616 of the ISE; Rule 1029 of the PHLX; Rule 926 of the AMEX; Rule 726 of the NYSE; and Chapter XI, Section 17 of the BOX (collectively referred to as the Options Exchanges).

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ATTACHMENT A

New language is underlined; deletions are in brackets.

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2860. Options

(a) No Change.

(b) Requirements

(1) through (10) No Change.

(11) Delivery of Current Disclosure Documents[(s)]

(A) (1) Characteristics and Risks of Standardized Options (the "ODD"). Every member shall deliver the [appropriate] current ODD [disclosure document(s)] to each customer at or prior to the time such customer's account is approved for trading [in the category of] options issued by The Options Clearing Corporation [to which such disclosure document relates]. Thereafter, a copy of each amendment to the ODD shall be distributed to each customer to whom the member previously delivered the ODD not later than the time a confirmation of a transaction in the category of options to which the amendment pertains is delivered to such customer.

(2) Special Statement for Uncovered Option Writers ("Special Written Statement"). In the case of customers approved for writing uncovered short options transactions, the Special Written Statement [disclosure document] required by paragraph (b)(16) shall be in a format prescribed by [the Association]NASD and delivered to customers in accordance with paragraph (b)(16). [Thereafter,] A copy of each new or revised Special Written Statement [current disclosure document(s)] shall be distributed to [every]each customer having an account approved for writing uncovered short options [such trading or in the alternative, shall be distributed] not later than the time a confirmation of a transaction is delivered to each customer who enters into a transaction in options issued by The Options Clearing Corporation.

(3) [The Association] NASD will advise members when a new or revised current disclosure document meeting the requirements of SEC Rule 9b-1 of the Act is available.

(B) and (C) No Change.

(12) through (24) No Change.