



Regulatory Circular 20-030

Date: April 15, 2020

Exchanges: Cboe Options

Markets: Options

To: Trading Permit Holders

Re: Cboe Options Rule 6.7 – Off-Floor Transfers of Positions

Cboe Exchange, Inc. (“Cboe Options” or the “Exchange”) is issuing this Regulatory Circular to advise Trading Permit Holders (“TPHs”) that changes to [Rule 6.7](#), which allows for certain off-floor transfers of options positions, were recently approved by the SEC (see approval order for Cboe Options Rule Filing [SR-CBOE-2019-035](#), [Amendment 1](#) and [Amendment 2](#), which is available [here](#)). The criteria and procedures related to off-floor position transfers under Rule 6.7, as amended, are described below.

Permitted Off-Floor Transfers

Rule 6.7(a) permits off-floor transfers of options listed on the Exchange of a TPH or a Non-TPH that are transferred on, from, or to the books of a Clearing TPH if the transfer involves one or more of the following events:

- pursuant to Rule 8.5 or 8.14, an adjustment or transfer in connection with the correction of a bona fide error in the recording of a transaction or the transferring of a position to another account, provided that the original trade documentation confirms the error;
- the transfer of position from one account to another account where no change in ownership involved (i.e., the accounts of the same Person (as defined in Rule 1.1)¹), provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements;
- the consolidation of accounts where no change in ownership is involved;
- merger, acquisition, consolidation or similar non-recurring transaction for a Person;
- the dissolution of a joint account in which the remaining TPH assumes the positions of the joint account;
- the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership assumes the positions;
- positions transferred as part of a TPH’s capital contribution to a new joint account, partnership, or corporation;
- the donation of positions to a not-for-profit corporation;
- the transfer of positions to a minor under the Uniform Gifts to Minors Act; or

¹ Under Rule 1.1, the term “Person” means “an individual, partnership (general or limited), joint stock company, corporation, limited liability company, trust or unincorporated organization, or any governmental entity or agency or political subdivision thereof.”

- the transfer of positions through operation of law from death, bankruptcy, or otherwise.

Off-Floor Transfer Conditions

Rule 6.7 provides that the following conditions apply when effecting an off-floor transfer:

- **Netting and Preferential Margin or Haircut Treatment Restrictions:** Under Rule 6.7(b), unless otherwise permitted under the Presidential Exemption described in Rule 6.7(f) (see the “Presidential Exemption” discussion below), no position may net against another position, and no position transfer may result in preferential margin or haircut treatment.²
- **Transfer Price Methodologies:** Rule 6.7(c) lists the acceptable methodologies for determining the transfer price of options positions transferred pursuant to the procedures set forth in Rule 6.7. To the extent it is consistent with applicable laws, rules, and regulations, including tax and accounting rules and regulations, the transfer price at which an off-floor transfer is effected may be:
 - the original trade prices of the positions that appear on the books of the transferring Clearing TPH, in which case the records of the transfer must indicate the original trade dates for the positions; provided, transfers to correct errors must be transferred at the correct original trade prices;
 - mark-to-market prices of the positions at the close of trading on the transfer date;
 - mark-to-market prices of the positions at the close of trading on the trade date prior to the transfer date; or
 - the then-current market price of the positions at the time the off-floor transfer is effected.
- **Frequency Restriction:** Pursuant to Rule 6.7(g), the off-floor transfer procedure in Rule 6.7 is intended to facilitate non-routine, non-recurring movements of positions. The off-floor transfer procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process.

Prior Written Notice

Pursuant to Rule 6.7(d), a TPH(s) and its Clearing TPH(s) (to the extent that a TPH is not self-clearing) must submit to the Exchange, in a manner determined by the Exchange, written notice prior to effecting an off-floor transfer from or to the account(s) of a TPH. Please note that this prior written notice requirement applies only to transfers involving a TPH’s positions and not to positions of non-TPHs. In addition, no notice would be required to effect off-floor transfers to correct bona fide errors as described in Rule 6.7(a)(1).

Notices must be emailed to positiontransfers@cboe.com. A notice must indicate:

- the Exchange-listed options positions to be transferred;

² Transfers from Customer, Firm or JBO account range to Market Maker account range are not permitted. Transfers from Market Maker account range to Customer, Firm or JBO account range are permitted, provided that netting does not occur.

- the nature of the transaction;
- the enumerated provision(s) in Rule 6.7(a) pursuant to which the positions are being transferred;
- the anticipated transfer date;
- the method for determining the transfer price under Rule 6.7(c); and
- any other information requested by the Exchange.

Receipt of written notice does not constitute a determination by the Exchange that the off-floor transfer was effected or reported in conformity with the requirements of Rule 6.7. Notwithstanding submission of written notice to the Exchange, TPHs and Clearing TPHs that effect off-floor transfers that do not conform to the requirements of the Rule will be subject to disciplinary action.

The Exchange intends to make a form available that TPHs can utilize for these notices. A separate Regulatory Circular will be issued once the form is available.

Recordkeeping Requirement

Pursuant to Rule 6.7(e), each TPH and each Clearing TPHs that is a party to an off-floor transfer must make and retain records of the information that would be provided in the notice to the Exchange (see the “Prior Written Notice” discussion above), as well as information on the following:

- the actual Exchange-listed options transferred;
- the actual transfer date; and
- the actual transfer price for each component options series (and the original trade dates, if applicable).
- The Exchange may also request the TPH or Clearing TPH to provide other information.

Presidential Exemption

In addition to the enumerated events in Rule 6.7(a) (see the “Permitted Off-Floor Transfers” discussion above), Rule 6.7(f) provides that the Exchange President (or senior-level designee) may grant an exemption from the requirement of Rule 5.12, on his or her own motion or upon application of a TPH (with respect to the TPH’s positions) or a Clearing TPH (with respect to positions carried and cleared by the Clearing TPH), when, in the judgment of the President or his or her designee, allowing the off-floor transfer is necessary or appropriate for the maintenance of a fair and orderly market and the protection of investors and is in the public interest, including due to unusual or extraordinary circumstances, such as the possibility that the market value of the Person’s positions will be compromised by having to comply with the requirement to trade on the Exchange pursuant to the normal auction process or when, in the judgment of the President or his or her designee, market conditions make trading on the Exchange impractical.

Exemption requests must be emailed to positiontransfer@cboe.com. Any decision to grant or deny an exemption request will generally be communicated back via email by the Cboe Regulatory Division.

Transfer Processing and Other Regulatory Requirements

An off-floor transfer effected pursuant to Rule 6.7 must occur in accordance with the rules of The Options Clearing Corporation (“OCC”). In this regard, Clearing TPHs are to directly report the transfer to OCC using the OCC position adjustment/transfer procedures (and the OCC CMTA Transfer procedure should not be used).

Pursuant to Rule 6.7(h), the off-floor transfer procedure in Rule 6.7 is only applicable to positions in options listed on the Exchange. Off-floor transfers of positions in Exchange-listed options may also be subject to other applicable laws, rules and regulations, including rules of other self-regulatory organizations. Transfers of non-Exchange listed options and other financial instruments are not governed by the Rule.

Additional Information

Please refer to Rule 6.7 and Rule Filing SR-CBOE-2019-035 for additional information. Any further questions regarding this Regulatory Circular may be referred to Regulatory Interpretations at reginterps@cboe.com or 312.786.8141.