



## Regulatory Circular 20-031

**Date:** April 15, 2020

**Exchanges:** Cboe Options

**Markets:** Options

**To:** Trading Permit Holders

**Re:** Cboe Options Rule 6.8 – Off-Floor RWA Transfers

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Cboe Exchange, Inc. (“Cboe Options” or the “Exchange”) is issuing this circular to provide further information with regard to Rule 6.8, which is intended to facilitate the reduction of risk-weighted assets attributable to open positions by permitting certain off-floor transfers. This circular provides an overview of the rule, information on effecting the transfers through The Options Clearing Corporation (“OCC” or the “Clearing Corporation”), and some examples and responses to frequently asked questions.

### Off-Floor RWA Transfers

Rule 6.8 permits a Trading Permit Holder (“TPH”) or non-TPH (including an affiliate of the TPH) to transfer existing positions in options listed on the Exchange of the TPH or non-TPH on, from, or to the books of a Clearing TPH (“CTPH”) off the Exchange if the transfer establishes a net reduction of risk-weighted assets attributable to those options positions that the TPH or non-TPH transfers (an “RWA Transfer”).

In relevant part, Rule 6.8 provides that RWA Transfers:

- **may** occur on a routine, recurring basis;<sup>1</sup>
- **may** result in the netting of positions;<sup>2</sup>
- may **not** result in preferential margin or haircut treatment;<sup>3</sup>  
may **not** result in a change in ownership, as they must occur between accounts of the same Person;<sup>4</sup> and
- do **not** require prior written notice to the Exchange to effect.<sup>5</sup>

Rule 6.8 also describes two scenarios in which a transfer would be deemed to establish a net reduction in RWA, and thus qualify as RWA Transfers:

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<sup>1</sup> See Rule 6.8(b).

<sup>2</sup> See Rule 6.8(c).

<sup>3</sup> See Rule 6.8(d). 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.

<sup>4</sup> See Rule 6.8(e). 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 subdivision thereof.”

<sup>5</sup> See Rule 6.8(f).

- a transfer of options from Clearing Corporation member A to Clearing Corporation member B that net (offset) with positions held at Clearing Corporation member B, and thus closes all or part of those positions;<sup>6</sup> and
- a transfer of options positions from a bank-affiliated Clearing Corporation member to a non-bank-affiliated Clearing Corporation member.<sup>7</sup>

These scenarios are not exhaustive examples. Other scenarios may also qualify as RWA Transfers.

### Transfer Processing and Other Regulatory Requirements

An off-floor transfer effected pursuant to Rule 6.8 must occur in accordance with OCC Rules. In this regard, Clearing TPHs are to directly report the transfer to OCC using OCC's position adjustment/transfer procedures (and the CMTA Transfer procedure should not be used).

The off-floor transfer procedure in Rule 6.8 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.<sup>8</sup>

### Examples and Frequently Asked Questions

**Examples 1 and 2:** Rule 6.8(a)(1) and (2) set forth two examples of transfers that are deemed to qualify as RWA Transfers (see discussion above).

**Example 3:** Market-Maker A clears transactions on the Exchange into an account it has with CTPH X, which is affiliated with a U.S.-bank holding company. Market-Maker A opens a clearing account with CTPH Y, which is not affiliated with a U.S.-bank holding company. CTPH X has informed Market-Maker A that its open positions may not exceed a certain amount at the end of a calendar month, or it will be subject to restrictions on new positions it may open the following month. On August 28, Market-Maker A reviews the open positions in its CTPH X clearing account and determines it must reduce its open positions to satisfy CTPH X's requirements by the end of August. It determines that transferring out 1000 short calls in class ABC will sufficiently reduce the RWA capital requirements in the account with CTPH X to avoid additional limits in September. Market-Maker A wants to retain the positions in accordance with its risk profile. Pursuant to the proposed rule change, on August 31, Market-Maker A transfers 1000 short calls in class ABC to its clearing account with CTPH Y. As a result, Market-Maker A can continue to provide the same level of liquidity in class ABC during September as it did in previous months.

### Question 1. Are off-floor RWA Transfers only applicable to SPX?

**Answer:** No. Transfers pursuant to Rule 6.8 are applicable to all option classes listed for trading on the Exchange. TPHs are reminded that rules of other self-regulatory organizations to which

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<sup>6</sup> See Rule 6.8(a)(1).

<sup>7</sup> See Rule 6.8(a)(2).

<sup>8</sup> See Rule 6.8(g).

they are a member (or to which their clearing firm are members) may also apply to transfers of positions. (See “Transfer Processing and Other Regulatory Requirements” discussion above.)

**Question 2. Is it permissible to transfer a position that cleared in a range other than “M” into a market-maker account if the transfer results in a reduction of RWA?**

**Answer:** No. Rule 6.8(d) prohibits any RWA Transfer that results in preferential margin or haircut treatment.

**Question 3. May a CTPH rely on the representation of the transferring TPH (e.g., a Market-Maker) that the transfer of the positions establishes a net reduction of risk-weighted assets attributable to those options positions?**

**Answer:** It would be reasonable for the transferring and/or receiving CTPH to rely on written representations of a transferring TPH that the transfer of positions would establish a net reduction of risk-weighted assets attributable to that TPH’s option positions at the transferring and/or receiving CTPH. The written representation must also include reasonable documentation in support of the representation. However, if the CTPH knows or has reason to know that the representation is false or otherwise inaccurate then reliance on the representation without further inquiry would not be reasonable, and the CTPH should have a process in place to further inquire or reject the transfer, if warranted.

Note that this response relates only to scenarios where the transferring party is a TPH. When the transferring party is a non-TPH, the transferring and/or receiving CTPH must directly assess whether the transfer would establish a net reduction of risk-weighted assets attributable to that non-TPH’s options positions at the transferring and/or receiving CTPH.

**Question 4. What records or documentation are required to be maintained for an off-floor RWA Transfer?**

**Answer:** Each TPH and each CTPH that is a party to an off-floor transfer must make and retain records of the information associated with the transfer pursuant to Cboe Options Rules, the Exchange Act, and the rules thereunder. Records should include, but may not be limited to:

- the transferring TPH’s or non-TPH’s name and account(s), at the transferring and receiving CTPH(s), as well as the identity of the transferring and receiving Clearing TPHs and relevant OCC clearing number(s);
- the Exchange-listed options transferred;
- confirmation that there will be no preferential margin or haircut treatment as a result of the transfer;
- confirmation that there will be no change in ownership as a result of the transfer;
- the transfer date; and
- the transfer price for each component options series and the method for determining that price.

Additional records must be maintained evidencing that the transfer resulted in a reduction of RWA. For example, as described above, where a transfer of a TPH's options positions from Clearing Corporation member A to Clearing Corporation member B nets positions held at Clearing Corporation member B, and thus closes all or part of those positions, it would be sufficient in this circumstances to maintain the transferring TPH's written representation and supporting documentation evidencing that the positions net at the time of the transfer.

The Exchange may request the above documentation from time-to-time to confirm compliance with applicable rule requirements.

### **Additional Information**

For additional information, please refer to [Rule 6.8](#), as well as Rule Filings [SR-CBOE-2019-044](#) (which adopted the Rule; see also the related [Filing Notice](#), which includes additional background and examples) and [SR-CBOE-2091-095](#) (which renumbered Rule 6.49B to Rule 6.8). Any further questions regarding this Regulatory Circular may be referred to Regulatory Interpretations at [RegInterps@cboe.com](mailto:RegInterps@cboe.com) or 312.786.8141.