



BOXSM
REGULATION

Regulatory Circular

RC-2020-16

TO: BOX Options Participants
FROM: BOX Regulation
SUBJECT: BOX Rule 7160 - Transfer of Positions
DATE: May 5, 2020

BOX Exchange LLC ("BOX") recently filed a proposed rule change to allow for certain off-floor transfers of options positions. The criteria and procedures related to off-floor position transfers under BOX Rule 7160 (Transfer of Positions) are described below.

Permissible Transfers

BOX Rule 7160 permits transfers of options listed on the Exchange of a Participant or person associated with the Participant, or non-Participant or person associated with a non-Participant, that are to be transferred on, from, or to the books of a Clearing Participant if the transfer involves one or more of the following events:

- (1) pursuant to BOX Rule 3000, 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;
- (2) the transfer of positions from one account to another account where no change in ownership is involved (i.e., accounts of the same Person¹, provided the accounts are not in separate aggregation units or otherwise subject to information barrier or account segregation requirements;
- (3) the consolidation of accounts where no change in ownership is involved;
- (4) a merger, acquisition, consolidation, or similar non-recurring transaction for a Person;
- (5) the dissolution of a joint account in which the remaining Participant or person associated with the Participant assumes the positions of the joint account;
- (6) the dissolution of a corporation or partnership in which a former nominee of the corporation or partnership assumes the positions;

¹ Under this rule the term "Person" shall be defined as 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.

- (7) positions transferred as part of a Participant's or person associated with the Participant's capital contribution to a new joint account, partnership, or corporation;
- (8) the donation of positions to a not-for-profit corporation;
- (9) the transfer of positions to a minor under the Uniform Gifts to Minors Act; or
- (10) the transfer of positions through operation of law from death, bankruptcy, or otherwise.

Transfer Conditions

BOX Rule 7160 provides that the following conditions apply when effecting an off-floor transfer:

- **Netting and Preferential Margin or Haircut Treatment Restrictions:**

Unless otherwise permitted by BOX Rule 7160(f), when effecting a transfer pursuant to BOX Rule 7160(a), no position may net against another position ("netting"), and no position transfer may result in preferential margin or haircut treatment.

- **Transfer Price:**

BOX Rule 7160(c) lists the acceptable methodologies for determining the transfer price of options positions transferred pursuant to the procedures set forth in this rule. To the extent it is consistent with applicable laws, rules, and regulations, including rules of other self-regulatory organizations, and tax and accounting rules and regulations, the transfer price effected may be:

- the original trade prices of the positions that appear on the books of the transferring Clearing Participant, in which case the records of the transfer must indicate the original trade dates for the positions; provided, transfers to correct errors under subparagraph (a)(1) 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 transfer is effected.

- **Frequency Restriction:**

Pursuant to BOX Rule 7160(g), the transfer procedure is intended to facilitate non-routine, nonrecurring movements of positions. The transfer procedure is not to be used repeatedly or routinely in circumvention of the normal auction market process.

Prior Written Notice:

Pursuant to BOX Rule 7160(d), a Participant or person(s) associated with the Participant and Clearing Participant(s) (to the extent that the Participant or person(s) associated with the Participant are not self-clearing) must submit to the Exchange, in a manner determined by the Exchange, written notice prior to effecting a transfer from or to the account(s) of a Participant or person(s) associated with a Participant.

Notice is not required for transfers to correct errors pursuant to subparagraph (a)(1) of Rule 7160.

Notices must be emailed to BOXMRC@BOXregulation.com. A notice must indicate:

- the Exchange-listed options positions to be transferred;
- the nature of the transaction;
- the enumerated provision(s) under BOX Rule 7160(a) pursuant to which the positions are being transferred;
- the name of the counterparty(ies);
- the anticipated transfer date;
- the method for determining the transfer price under BOX Rule 7160(e); and
- any other information requested by the Exchange.

Receipt of written notice of a transfer does not constitute a determination by the Exchange that the transfer was effected or reported in conformity with the requirements of BOX Rule 7160. Notwithstanding submission of written notice to Exchange, Participants or person(s) associated with the Participant and Clearing Participant(s) that effect transfers that do not conform to the requirements of this Rule will be subject to appropriate disciplinary action in accordance with the Rules.

Records

Pursuant to BOX Rule 7160(e) each Participant or person(s) associated with the Participant and Clearing Participant that is a party to a transfer must make and retain records of the information provided in the notice to the Exchange, as well as the following information:

- (1) the actual Exchange listed options transferred;
- (2) the actual transfer date; and
- (3) the actual transfer price (and the original trade dates, if applicable).

The Exchange may also request the Participant or person(s) associated with the Participant or Clearing Participant to provide other information.

Presidential Exemptions

BOX Rule 7160(f) provides that the Chief Executive Officer or President of the Exchange (or senior-level designee) may grant an exemption from the requirement of this Rule, on his or her own motion or upon application of the Participant or person(s) associated with the Participant (with respect to the Participant or person(s) associated with the Participant's positions) or a Clearing Participant (with respect to positions carried and cleared by the Clearing Participants) when, in the judgment of the Chief Executive Officer or the President or his or her designee, allowing the 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 Chief Executive

Officer, President or his or her designee, market conditions make trading on the Exchange impractical.

Exemption requests must be emailed to BOXMRC@BOXregulation.com.

Other Requirements:

Pursuant to BOX Rule 7160(h), the transfer procedure set forth in this Rule is only applicable to positions in options listed on the Exchange. Transfers of positions in Exchange-listed options may also be subject to 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 this Rule.

For more information, please see [SR-BOX-2020-09](#).

Contact

Please review the information provided herein. If you have any questions regarding this information, please contact BOX Regulation at BOXMRC@BOXregulation.com.