

Regulatory Circular RG03-62

Date: July 24, 2003
To: Members, Member Firms and Clearing Firms
From: Financial Regulatory Committee
Regulatory Services Division
Re: Transfer of Positions

This circular addresses Exchange Rule 6.49A - Transfer of Positions, which governs off-floor position transfers and sets forth an on-floor procedure for the bulk transfer of positions. Under Rule 6.49A, transfers can be made off-floor in the following situations:

- dissolution of a joint account when a remaining member assumes the positions of the joint account
- total or partial dissolution of a partnership or corporation when a former nominee or general partner assumes the positions; positions transferred as part of a member's capital contribution to a new or existing joint account, partnership or corporation
- donation of position(s) to a not-for-profit corporation
- transfer of positions to a minor under the "Uniform Gifts to Minor" law
- merger or acquisition where continuity of ownership or management results
- other situations when approved by the President of the Exchange.

Transfers permissible under the above situations are also subject to the following conditions:

- An options position cannot be transferred if such transfer results in a "netting" of open interest, except for transfers effected on behalf of member organizations that have nominee/market-makers in multiply listed option classes on the different options exchanges.¹
- Transfers that result in preferential margin or haircut treatment are prohibited as noted:

Not permissible: transfers from Customer, JBO and Firm account to Market Maker account.

Permissible: transfers from on-floor Market Maker account to Customer, Firm or JBO account provided that netting does not occur.

¹ For example, Member Organization ABC has a nominee on the CBOE in the IBM option class and a second nominee on the AMEX in the IBM option class. In as much as the nominees are trading for the same member organization and the option transactions cannot easily clear under the same acronym at the OCC, the options exchanges allow positions to be transferred into one central nominee account.

Exceptions to this policy will be considered on a case-by-case basis. An example of one situation where an exception was made and a transfer approved is a situation in which a member is changing his/her membership status from an upstairs JBO account to an on-floor Market Maker and wishes to transfer his/her account from JBO to Market Maker.

Transfers that result in no change in beneficial ownership: A transfer of positions between affiliated accounts in connection with a business reorganization where continuity of ownership results is permissible.

Bona fide errors: Pursuant to Exchange Rule 4.6, 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 are permissible.

For situations other than those listed above, a procedure has been developed for the transfer of a “package” on the floor that includes at least one option position that is a material part of the package. The transfer of option positions as a result of an acquisition or dissolution in which all or substantially all of the assets of one entity are acquired by another where there remains no continuity of ownership or management are examples of situations that normally would be (i) subject to this procedure or (ii) subject to transfer on another Exchange that lists the option. A “Transfer Package” is a set of options or other financial products that is offered as a package by the transferor to be bid upon at a net credit or debit for the entire package. Please refer to Exchange Rule 6.49A for a detailed description of the Transfer Procedures.

Questions concerning this circular can be addressed to Pat Cerny at (312) 786-7722 or Michael Felty at (312) 786-7504.

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