



Regulatory Circular 20-007

Date: February 14, 2020

Exchanges: Cboe Options and C2 Options

Markets: Options

To: Trading Permit Holders

Re: Anti-Money Laundering Compliance Program and Filing Requirements for Certain Trading Permit Holders

Filing Requirements

As a reminder, in accordance with Cboe Exchange, Inc. (“Cboe Options”)/Cboe C2 Exchange, Inc. (“C2 Options”) Rule 8.12, *Anti-Money Laundering Compliance Program*,¹ each Trading Permit Holder (“TPH”) organization and each TPH not associated with a TPH organization shall develop and implement a written anti-money laundering program reasonably designed to achieve and monitor compliance with the requirements of the Bank Secrecy Act, and the implementing regulations promulgated thereunder by the Department of Treasury. Please refer to Rule 8.12 for additional information on AML program requirements.²

The filing requirements contained in this Regulatory Circular apply to TPHs for which **ALL** of the following conditions are **TRUE**:

- The TPH is not a FINRA member;³
- The TPH’s Designated Examining Authority is Cboe Options; **and**
- The TPH is not required to file monthly FOCUS reports.⁴

Please note that the filing requirements of this circular also apply to individuals and entities who may not necessarily be actively trading but are still registered broker-dealers.

TPHs to whom the filing requirements of this circular apply are required to submit the following to the Exchange:

¹ Chapter 5 of the C2 Options Rulebook incorporates by reference Cboe Options Chapter 8, including Rule 8.12.

² Rule 8.12 was recently amended to explicitly codify the Financial Crimes Enforcement Network’s Customer Due Diligence requirement. See Securities Exchange Act Release No. [87762](#) (December 16, 2019) ([SR-Cboe-2019-116](#)).

³ Cboe Options, C2 Options, and Financial Industry Regulatory Authority, Inc. (“FINRA”) have entered into a plan for the allocation of certain regulatory responsibilities pursuant to Rule 17d-2 under the Securities Exchange Act of 1934 (see, e.g., Securities Exchange Act Release Nos. 71964 and 72137). Under the plan, among other things, FINRA has assumed AML examination responsibilities for common members. As a result, Cboe Options and C2 Options TPHs that are FINRA members are generally subject to examination by FINRA.

⁴ If the TPH is not a FINRA member and is a monthly FOCUS filer, and Cboe Options is its DEA, its AML documentation will generally be reviewed in conjunction with the routine DEA examination program. If the TPH is not a FINRA member and Cboe Options is not its DEA, its AML documentation will generally be reviewed in conjunction with other routine examination programs.

- A copy of the broker-dealer's written procedures for its AML compliance program, signed by a member of senior management.
- An attestation identifying the broker-dealer's designated AML compliance person(s).
- Evidence of annual (or more frequent) AML training for all appropriate persons.
- If required, a copy of an independent review letter identifying the results of the independent testing conducted.⁵

If you have previously filed AML documents with the Exchange, your most recent AML filing was complete, and your AML program and designated AML compliance person(s) have not changed since that prior submission, then your filing may indicate those facts and your submission would only need to include the evidence of AML training and independent review letter (bullets 3 and 4 above).

Filing to be Emailed No Later than April 1

The AML information must be submitted to the Regulatory Division no later than April 1, 2020. TPHs should submit the required information via email to DMFRNotification@cboe.com.

Please do not submit your original documents. Broker-dealers have a books and records requirement to maintain copies of this information. Additionally, please be advised that all AML documentation is subject to regulatory review at any time.

* * * * *

The following information may be helpful in fulfilling the above requirements.

Procedures

To accommodate TPHs that are non-clearing, do not conduct a customer business, and do not receive customer funds or customer securities, the Regulatory Division created a small-firm AML compliance program template which is attached to this Circular. This template may suffice in complying with the written procedures requirement. However, every broker-dealer must decide, based on the type of business it is conducting, whether it must adopt more detailed procedures or whether the template will suffice.

Training

Training should be conducted at least annually and developed under the leadership of the designated AML compliance person(s) or senior management. Broker-dealers should document the content of the training and maintain a list of the participants. The broker-dealer may wish to have participants sign an attestation acknowledging that they have participated in the training and understand the firm's AML program. The attestation could contain language directing any questions to the firm's AML Compliance Officer. In addition, training should be updated as necessary to reflect new developments in the Bank

⁵ Rule 8.12 requires annual (on a calendar-year basis) independent testing for compliance. However, Rule 8.12 permits certain TPHs and TPH organizations to have the independent audit performed every two years (on a calendar year basis), if the broker-dealer does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts (e.g., engages solely in proprietary trading or conducts business only with other broker-dealers). However, all TPHs and TPH organizations must conduct independent testing during the first calendar year of becoming a TPH or TPH organization of the respective Exchange. See Rule 8.12(b)(3) and .01 for more information on who may conduct the independent testing.

Secrecy Act.

FINRA's website (<https://www.finra.org/rules-guidance/key-topics/aml>) has on-line training and guidance available which would be considered appropriate training for Market-Makers that are non-clearing and do not conduct business with the public.

Independent Review Letter

Broker-dealers must have an independent testing function to review and assess the adequacy of compliance with the firm's AML compliance program. In an effort to accommodate TPHs, the Regulatory Division has included an example of an independent review letter that may be used as a guideline. This letter should be tailored to accommodate the individual broker-dealer's business situation.

Additional Information

Any questions regarding this Regulatory Circular may be referred to Regulatory Interpretations at RegInterps@cboe.com or 312.786.8141.

Small Firm Template for TPHs That Do Not Conduct a Customer Business and Do Not Receive Customer Funds or Customer Securities:

[Broker-Dealer Name]

Anti-Money Laundering (AML) Compliance Program Written Supervisory Procedures

1. Trading Permit Holder Policy

It is the policy of _____ *[Broker-Dealer Name]* to prohibit and actively prevent money laundering and any activity that facilitates money laundering or the funding of terrorist or criminal activities. Money laundering is generally defined as engaging in acts designed to conceal or disguise the true origins of criminally derived proceeds so that the unlawful proceeds appear to have derived from legitimate origins or constitute legitimate assets.

The Broker-Dealer is currently _____ *[engaged in the business of market-making in options/engaged in the business of market-making in options and commodities trading/not actively trading but maintaining its Broker-Dealer registration with the Securities and Exchange Commission ("SEC")]*. It is not the policy of the broker-dealer to accept cash. The Broker-Dealer does not accept funds from individuals that do not have a disclosed ownership interest in the Broker-Dealer. Any fund transfers made are related to its Broker-Dealer activity in the normal course of business. The Broker-Dealer has _____ *[no/1/2/3]* outside bank accounts related to the broker-dealer business activity. (either) All funds transfers are effected through the Broker-Dealer's _____ *[clearing firm account or either the TPH's clearing firm account or its outside bank account]*.

2. AML Compliance Person(s) Designation and Duties

_____ *[Name(s)]* is (are) designated as the person(s) responsible for the Anti-Money Laundering Program, with full responsibility for the firm's AML program and is an associated person of the firm, and is qualified by experience, knowledge and training. The duties of the designated AML compliance person(s) will include monitoring AML compliance, overseeing communication and training for employees, and will also ensure that proper AML records are kept. When warranted, the designated AML compliance person(s) _____ *[add, if appropriate: "in consultation with {Name or title}" OR "with the approval of {Name or title}"]* will ensure Suspicious Activity Reports (SARs) are filed with the Financial Crimes Enforcement Network (FinCEN).

3. Training Programs

We will develop ongoing employee training under the leadership of the designated AML compliance person(s) and senior management. Our training will occur at least annually. The training will be based on our firm's size, its customer base, and its resources.

We will maintain records to show the persons trained, the dates, and the subject matter of their training. We will review our operations to see if certain employees require specialized additional training. These AML procedures will be updated to reflect any such specialized training.

4. Independent Testing of the AML Program

Independent testing must be conducted by a designated person with a working knowledge of applicable requirements under the Bank Secrecy Act (BSA) and its implementing regulations.

Independent testing may not be conducted by a person who performs the functions being tested, the designated anti-money laundering compliance person, or a person who reports to either of these two individuals.

If conducted by an outside party:

The testing of our AML program will be performed by _____
_____ [Name and Title], an independent third party.

OR

If conducted by an employee internally:

The testing of our AML program will be performed by _____
_____ [Names]. To ensure that they remain independent, we will separate their functions from other AML activities by requiring that the independent reviewer report to someone other than the designated AML compliance person(s).

Evaluation and Reporting:

AML testing will be completed at least bi-annually on a calendar year basis, as the Firm does not execute transactions for customers or otherwise hold customer accounts or act as an introducing broker with respect to customer accounts. The testing will include at a minimum, a review of the Firm's procedures in correlation with its business activity, a review of any bank account deposit activity for a specific period of time, a review of the Broker-Dealer's fund transfer activity, both incoming and outgoing made through any clearing firm account or bank account for a specific period of time, a review of any BSA forms required to be filed and a review of any Suspicious Activity Reports filed. After the testing is completed, the reviewer will report its findings to _____ [Senior Management]. We will address each of the resulting recommendations.

5. Approval

I hereby attest that I do not conduct a customer business and do not receive customer funds or customer securities. I have approved this AML program as reasonably designed to achieve and monitor ongoing compliance with the requirements of the USA PATRIOT Act and the implementing regulations under the BSA.

I understand and agree that should the nature and type of business conducted by the broker-dealer change, the broker-dealer will, make appropriate changes to its AML program.

AML Program Approval (Approved by Senior Management):

Signed: _____

Print Name: _____

Title: _____

Broker-Dealer Number: _____

Date: _____

Attestation for TPHs That Are Not FINRA Members for Whom Cboe Options is the DEA and Are Not Required to File Monthly FOCUS Reports:

Reminder: TPHs that are not FINRA members for whom Cboe Options is the DEA and that are not required to file monthly FOCUS reports are required to submit (i) a copy of the broker-dealer's written supervisory procedures for its AML Compliance Program, approved by a member of senior management, (ii) the completed broker-dealer AML attestation provided below, (iii) evidence of the AML training described in the attestation, and (iv) a copy of the independent review letter issued to the broker-dealer, to the Regulatory Division no later than April 1, 2020 in order to demonstrate the broker-dealer's compliance with Rule 8.12 Anti-Money Laundering Compliance Program.

Broker Dealer Number: 8- _____

Broker Dealer Name: _____

Address: _____

Daytime Phone: _____

Designated Anti-Money Laundering Compliance Person(s):

Name: _____

Title: _____

Email: _____

Address: _____

Phone: _____

Fax (If applicable): _____

Broker-Dealer Annual Training:

Attendees:

The broker-dealer training was conducted on _____, 20__ and
[Date]

was done _____. Some of the topics covered were
[internally/externally/via an internet website]

_____.

* **The above identification of specific training and participants in such training is intended to be evidence of the training conducted on behalf of _____ .**

Independent Review:

The independent review of the broker-dealer AML program was conducted on

_____, 20__, by _____,
[Date] [Name]

of _____.
[Company name (internal or external)]

* **Broker-Dealers are required to maintain written documentation of the Independent Review conducted.**

I _____, as _____, of
[Name] [Title]

_____, certify that the information listed above is accurate.
[Broker-dealer name]

TPH Signature: _____ **Date:** _____

This document and the attached copy of the letter prepared by the independent reviewer of the AML program are to be maintained as evidence of the independent review.

Example of Independent Review Letter:

Date

Managing Member

Firm Name

Address

City, State, Zip

Attn: Managing Member of the Firm

Dear _____:

[Managing Member of the B/D]

Please be advised that I conducted an Independent Review of the Anti-Money Laundering (“AML”) Program for _____ *[B/D Name]* as of _____ *[date]*. I am of the opinion that the Broker-Dealer’s AML program appears adequate given the nature and size of its business. Please be advised that my review noted no areas of concern.

_____ *[B/D Name]* is a _____ *[Sole-Prop/LLC/Corp]*, with ___ *[# of or no]* employees. The firm does not conduct a customer business. It is not the Broker-Dealer’s policy to accept cash. The Broker-Dealer has no outside bank accounts related to its Broker-Dealer business and has no foreign bank or securities accounts. Any fund transfers related to the Broker-Dealer are processed through its clearing account.

Sincerely,

Signature

Title

Company Name of Reviewer

Address

Phone Number