



## Regulatory Circular 21-010

**Date:** June 1, 2021

**Exchanges:** Cboe Options and C2 Options

**Markets:** Options

**To:** Trading Permit Holders

**Re:** Registration Rule Changes Being Implemented July 1, 2021

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Cboe Exchange, Inc. (“Cboe Options”) and Cboe C2 Exchange, Inc. (“C2 Options”) (collectively the “Exchanges”) are issuing this Regulatory Circular to provide notice to Trading Permit Holders (“TPHs”) that a rule change, File No. SR-CBOE-2022, amending the Exchanges’ registration rules has become effective and to inform TPHs of the applicable implementation/compliance dates.<sup>1</sup>

The rule change reorganizes and amends Rules 3.30, 3.33, 3.36 and 3.37 and adopts Rules 3.31, 3.32 and 3.34. The changes are generally intended to more closely align the Exchanges’ registration provisions to similar requirements of Financial Industry Regulatory Authority, Inc. (“FINRA”)<sup>2</sup> and other exchanges in the interest of uniformity and to facilitate compliance by TPHs who are members of multiple self-regulatory organizations (“SROs”). For the most part, the amended/new rules are substantially similar to the existing Cboe Options/C2 Options Rules that they will replace. However, there are some significant differences related to the following (described in more detail below):

- expansion of Securities Trader (TD) registration category to cover persons responsible for algorithmic trading strategies;
- adoption of General Securities Principal (GP) and Compliance Officer (CR) registration categories;
- modification to standards for minimum number of registered principals;
- expansion of scope of permissive registrations;
- addition of requirements for persons functioning as principals for a limited period; and
- introduction of new process for waiver of examinations for individuals working for a financial services industry affiliate of a TPH.

*Please note that this Regulatory Circular only highlights significant changes. Please refer to the rule filing and rules for complete details. The changes will be implemented **July 1, 2021**. However, persons responsible for algorithmic trading strategies who are subject to the new registration requirement will have until **December 28, 2021** to obtain the necessary registration.*

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<sup>1</sup> See Release No. [34-91576](#) (April 15, 2021)(notice of filing and immediate effectiveness of File No. [SR-CBOE-2021-022](#)). These Cboe Options rule changes are incorporated by reference into the C2 Options Rules.

<sup>2</sup> See Release No. 34-81098 (July 7, 2017) (order approving File No. SR-FINRA-2017-007); see also FINRA Regulatory Notice 17-30 (SEC Approves Consolidated FINRA Registration Rules, Restructured Representative-Level Qualification Examinations and Changes to Continuing Education Requirements) (October 2017).

## **Expansion of Securities Trader (TD) Registration Category to Cover Persons Responsible for Algorithmic Trading Strategies – December 28, 2021 Compliance Date**

The Securities Trader (TD) representative-level registration category is being expanded to cover persons responsible for algorithmic trading strategies.

As is already the case under existing Exchange Rules, under new Rule 3.31(b)(3), each representative<sup>3</sup> is required to register with the respective Exchange as a Securities Trader (TD) if such person is engaged in proprietary trading, Market Making, the execution of transactions on an agency basis, or the direct supervision of such activities.<sup>4</sup> As is also provided under existing Exchange Rules, new Rule 3.31(b)(3) provides that each person seeking to register as a Securities Trader (TD) shall, prior to or concurrent with such registration, pass the Securities Industry Essentials Exam (SIE) and the Securities Trader qualification examination (Series 57).

Under new Rule 3.31(b)(3), the scope of the Securities Trader (TD) registration category is being expanded to provide that each person associated with a TPH who is: (i) primarily responsible for the design, development or significant modification of an algorithmic trading strategy;<sup>5</sup> or (ii) responsible for the day-to-day supervision or direction of such activities is required to register with Cboe Options or C2 Options, as applicable, as a Securities Trader (TD).

*Although the expanded scope of the Securities Trader (TD) registration category is being implemented **July 1, 2021**, TPHs will have until **December 28, 2021** to implement the requirement for persons responsible for algorithmic trading strategies to register under the Securities Trader (TD) category, as the registration may trigger new testing requirements for individuals who otherwise were not required to register prior to the rule change.*

## **Adoption of General Securities Principal (GP) and Compliance Officer (CR) Registrations Categories**

General Securities Principal (GP) and Compliance Officer (CR) registration categories are being added as new principal-level registration categories (the two not been previously recognized under the Exchanges Rules).

- **General Securities Principal (GP)**

Under new Rule 3.31(a)(2), each principal<sup>6</sup> will be required to register with the respective Exchange as a General Securities Principal (GP), subject to certain exceptions. In particular, the

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<sup>3</sup> The term “representative” is being defined in new Rule 3.31(b)(1) as any person associated with TPH, including assistant officers other than principals, who is engaged in the TPH’s investment banking or securities business, such as supervision, solicitation, conduct of business in securities or the training of persons associated with a TPH for any of these functions.

<sup>4</sup> Related to equity, preferred or convertible debt securities, or options transactions.

<sup>5</sup> The term “algorithmic trading strategy” is being defined in new Rule 3.31(b)(3)(A) as an automated system that generates or routes orders (or order-related messages) but shall not include an automated system that solely routes orders received in their entirety to a market center.

<sup>6</sup> The term “principal” is being defined in new Rule 3.31(a)(1) as any person associated with a TPH, including, but not limited to, sole proprietor, officer, partner, director or other person occupying a similar status or performing similar functions, actively engaged in the management of the TPH’s securities business, including supervision, solicitation, conduct of the TPH’s business, or the training of persons associated with a TPH for any of these

new rule provides that if a principal's activities include the functions of a Compliance Officer (CR), a Financial and Operations Principal (FN), a Securities Trader Principal (TP), a Securities Trader Compliance Officer (CT), or a Registered Options Principal (OP), then the principal must appropriately register in one or more of those categories. New Rule 3.31(a)(2) further provides that if a principal's activities are limited solely to the functions of a General Securities Sales Supervisor (SU), then the principal may appropriately register in that category in lieu of registering as a General Securities Principal (GS); provided, however, that if the person is engaged in options sales activities, then he or she would be required to register as a Registered Options Principal (OP) as specified under paragraph (a)(7) of new Rule 3.31 or as a General Securities Sales Supervisor (SU) as specified under paragraph (a)(8).

New Rule 3.31(a)(2) also provides that each person seeking to register as a General Securities Principal (GP) shall, prior to or concurrent with such registration, become registered as a General Securities Representative (GS) and either (i) pass the General Securities Principal (GP) qualification examination (Series 24), or (ii) register as a General Securities Sales Supervisor (SU) and pass the General Securities Sales Supervisor Module qualification examination (Series 23).

- **Compliance Officer (CR)**

Under new Rule 3.31(a)(3), each person designated as a Chief Compliance Officer on Schedule A of a TPH's Form BD is required to register with the respective Exchange as a Compliance Officer (CR), subject to certain exceptions. In particular, the rule provides that an individual designated as a Chief Compliance Officer on the Schedule A of a TPH that is engaged in limited securities business may be registered in a principal category under new Rule 3.31(a) that corresponds to the limited scope of the TPH's business.

New Rule 3.31(a)(3) also provides that each person seeking to register as a Compliance Officer (CR) shall, prior to or concurrent with such registration: (i) become registered as a General Securities Representative (GS) and pass the General Securities Principal qualification examination (Series 24); or (ii) pass the Compliance Official qualification examination (Series 14).

### **Modification of Standards for Minimum Number of Registered Principals**

New Rule 3.30.01<sup>7</sup> does not create any additional requirements, but provides additional flexibility in the manner in which a TPH may satisfy the existing two principal requirement.

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functions. Such persons shall include, among other persons, a TPH's chief executive officer and chief financial officer (or equivalent officers). A "principal" also includes any other person associated with a TPH who is performing functions or carrying out responsibilities that are required to be performed or carried out by a principal under the Cboe Options or C2 Options Rules, as applicable. The term "actively engaged in the management of the TPH's securities business" includes the management of, and the implementation of corporate policies related to, such business. The term also includes managerial decision-making authority with respect to the TPH's securities business and management-level responsibilities for supervising any aspect of such business, such as serving as a voting member of the TPH's executive, management or operations committee.

<sup>7</sup> The new rule is substantively the same as FINRA Rule 1210.01 (Minimum Number of Registered Principals).

Under the new provisions, each TPH shall have at least two officers or partners who are registered as General Securities Principals (GPs) pursuant to new Rule 3.31(a)(2), provided that a TPH that is limited in the scope of its activities may instead have two officers or partners who are registered in a principal category under new Rule 3.31(a) that corresponds to the scope of the TPH's activities. As is the case under the existing Exchange Rules any TPH with only one associated person is excluded from the two principal requirement and a proprietary trading firm with 25 or fewer registered representatives shall only be required to have one officer or partner who is registered as a principal.

#### **Expansion of Scope of Permissive Registrations**

New Rule 3.30.02<sup>8</sup> expands the scope of permissive registrations and clarifies a TPH's obligations regarding individuals who are maintaining such registrations.

Specifically, new Rule 3.30.02 allows any associated person of a TPH to obtain and maintain any registration permitted by the TPH. For example, an associated person of a TPH working solely in a clerical or ministerial capacity, such as in an administrative capacity, would be able to obtain and maintain a General Securities Representative (GS) registration with the TPH. As another example, an associated person of a TPH who is registered, and functioning solely, as a General Securities Representative (GS) would be able to obtain and maintain a General Securities Principal (GP) registration with the TPH. Further, new Rule 3.30.02 allows an individual engaged in the securities business of a foreign securities affiliate or subsidiary of a TPH to obtain and maintain any registration permitted by the TPH.

Individuals maintaining a permissive registration would be considered registered persons and subject to all Exchange Rules to the extent relevant to their activities. These individuals would be subject to Continuing Education requirements. Additionally, as further detailed in the rule, TPHs would be required to have adequate supervisory systems and procedures reasonably designed to ensure that individuals with permissive registrations do not act outside the scope of their assigned functions per the Exchanges' supervision rules.

#### **Addition of Requirements for Registered Persons Functioning as Principals for a Limited Period**

New Rule 3.30.04<sup>9</sup> does not create any additional requirements, but provides that a TPH may designate any person currently registered, or who becomes registered, with the TPH as a representative to function as a principal for a period of 120 calendar days prior to passing an appropriate principal qualification examination, provided that such person has at least 18 months of experience functioning as a registered representative within the five-year period immediately preceding the designation and has fulfilled all applicable prerequisite registration, fee and examination requirements prior to designation as a principal. Further, the rule provides that in no event may such person function as a principal beyond the initial 120 calendar days without passing the appropriate principal qualification examination.

New Rule 3.30.04 also provides that a TPH may designate any person currently registered, or who becomes registered, with the TPH as a principal to function in another principal category for a period of 120 calendar days prior to passing an appropriate qualification examination as specified under new

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<sup>8</sup> The new rule is substantively the same as FINRA Rule 1210.02 (Permissive Registrations).

<sup>9</sup> The new rule is substantively the same as FINRA Rule 1210.04 (Requirements for Registered Persons Functioning as Principals for a Limited Period).

Rule 3.31. However, in no event may such person function in such other principal category beyond the initial 120 calendar day period without having successfully passed an appropriate qualification examination.

### **Introduction of New Financial Services Affiliate Waiver Program**

New Rule 3.30.09<sup>10</sup> provides a new waiver process for eligible individuals who terminate their registrations with a TPH to work for a foreign or domestic financial services industry affiliate of a TPH (the “financial services affiliate waiver program” or “FSA waiver program”). Under the FSA waiver program, such persons would potentially qualify for a waiver of their requalification requirements when re-registering with Cboe Options or C2 Options, as applicable, within a single, fixed seven-year period, subject to meeting certain conditions.<sup>11</sup>

To establish an eligible individual’s initial FSA waiver program designation, the TPH with which the individual is registered must notify Cboe Options or C2 Options, as applicable, of the FSA waiver program designation concurrently with the filing of a full Form U5 terminating the individual’s registration with the TPH. The Exchanges intend to issue a separate Regulatory Circular with further details on the process for providing the required notification. In the meantime, any questions regarding the process may be directed to Regulatory Interpretations or Membership Services.

### **Additional Information**

As noted above, this Regulatory Circular only highlights significant changes being made. Please refer to the rule filing and rules for complete details. The rule filing is available for review [here](#) and the notice is available [here](#).

Any questions may be referred to Regulatory Interpretations at [RegInterps@cboe.com](mailto:RegInterps@cboe.com) or 312.786.8141 or Membership Services at [MembershipServices@cboe.com](mailto:MembershipServices@cboe.com) or 913-815-7002.

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<sup>10</sup> The new rule is substantively the same as FINRA Rule 1210.09 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member).

<sup>11</sup> The conditions are that: (a) prior to the individual’s initial designation as an FSA-eligible person, the individual was registered as a representative or principal with the Exchange for a total of five years within the most recent 10-year period, including for the most recent year with the TPH that initially designated the individual as an FSA-eligible person; (b) the waiver request is made within seven years of the individual’s initial designation as an FSA-eligible person by a TPH; (c) the initial designation and any subsequent designation(s) were made concurrently with the filing of the individual’s related Form U5; (d) the individual continuously worked for the financial services affiliate(s) of a TPH since the last Form U5 filing; (e) the individual has complied with the Regulatory Element of continuing education as specified in new Rule 3.33; and (f) the individual does not have any pending or adverse regulatory matters, or terminations, that are reportable on the Form U4, and has not otherwise been subject to a statutory disqualification as defined in Section 3(a)(39) of the Exchange Act while the individual was designated as eligible for a waiver. See new Rule 3.30.09.