



DATE: September 9, 2020

TO: MIAX Options, MIAX PEARL, and MIAX Emerald Members

FROM: MIAX Options, MIAX PEARL, and MIAX Emerald Regulatory Department

RE: Adoption of new Exchange Rule 1326, Transfer of Positions

This Regulatory Circular is to inform MIAX Options, MIAX PEARL, and MIAX Emerald Members that the Exchange has adopted new Exchange Rule 1326, Transfer of Positions.

MIAX Options Rule 1326, is incorporated by reference into MIAX PEARL and MIAX Emerald Rule Books, and thus is a MIAX PEARL and MIAX Emerald Rule applicable to MIAX PEARL and MIAX Emerald Members respectively. MIAX PEARL and MIAX Emerald Members are required to comply with MIAX Options Rule 1326 as though such rule were fully set forth in the MIAX PEARL and MIAX Emerald Rule Books.

MIAX Options Rule 1326, Transfer of Positions, provides a process by which Members may transfer option positions in limited circumstances. The rule specifies the specific limited circumstances under which a Member may effect transfers of positions.

Permissible Transfers

Existing positions in options listed on the Exchange of a Member, or non-Member, that are to be transferred on, from, or to the books of a Clearing Member may be transferred off the Exchange if the transfer involves one or more of the following events:

- (1) pursuant to Rule 301, 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 Person (as defined in Rule 100)), 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 Member 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;
- (7) positions transferred as part of a Member'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.

Netting and Preferential Haircut Treatment Restrictions

Unless otherwise permitted by paragraph (f) of Rule 1326, when effecting a transfer pursuant to paragraph (a) of Rule 1326, no position may net against another position ("netting"), and no position transfer may result in preferential margin or haircut treatment.

Transfer Price

The transfer price, 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, at which a transfer is effected may be:

- (1) the original trade prices of the positions that appear on the books of the transferring Clearing Member, 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) of Rule 1326 must be transferred at the correct original trade prices;
- (2) mark-to-market prices of the positions at the close of trading on the transfer date;
- (3) mark-to-market prices of the positions at the close of trading on the trade date prior to the transfer date; or
- (4) the then-current market price of the positions at the time the transfer is effected.

Prior Written Notice

A Member(s) and its Clearing Member(s) (to the extent that the Member is 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 Member, except that notification is not required for transfers effected pursuant to subparagraph (a)(1) or (a)(2) of Rule 1326.

- (1) The notice must indicate (A) the Exchange-listed options positions to be transferred, (B) the nature of the transaction, (C) the enumerated provision(s) under paragraph (a) of Rule 1326 pursuant to which the positions are being transferred, (D) the name of the counterparty(ies), (E)



the anticipated transfer date, (F) the method for determining the transfer price under paragraph (c) of Rule 1326, and (G) any other information requested by the Exchange.

(2) Receipt of 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 this Rule. Notwithstanding submission of written notice to the Exchange, Members and Clearing Members 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

Each Member and Clearing Member that is a party to a transfer must make and retain records of the information provided in the notice to the Exchange pursuant to subparagraph (d)(1) of Rule 1326, as well as information on (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 Member or Clearing Member to provide other information.

Presidential Exemption

In addition to the exemptions set forth in paragraph (a) of Rule 1326, 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 Member (with respect to the Member's positions) or a Clearing Member (with respect to positions carried and cleared by the Clearing Members), 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.

Frequency Restriction

The transfer procedure set forth in this Rule is intended to facilitate non-routine, nonrecurring movements of positions and is not to be used repeatedly or routinely, except for transfers between accounts of the same Person pursuant to subparagraph (a)(2) of Rule 1326. The transfer procedure may not be used in circumvention of the normal auction process.

Other Requirements

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.

More information regarding Rule 1326 can be found in the MIAX Option Exchange's rule filing, [SR-MIAX-2020-30](#).

MIAX Options Regulatory Circular 2020-43
MIAX PEARL Regulatory Circular 2020-37
MIAX Emerald Regulatory Circular 2020-39



Please contact MIAX Trading Operations at TradingOperations@MIAXOptions.com or (609) 897-7302 with any questions about transfers of positions.

Regulatory inquiries should be directed to Regulatory@miaxoptions.com or (609) 897-7309.