



Regulatory Circular 20-041

Date: June 23, 2020

Exchanges: Cboe Options

Markets: Options

To: Trading Permit Holders

Re: Open Outcry Order Entry and Reporting Procedures During an Exchange System Outage

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) is issuing this Regulatory Circular to notify Trading Permit Holders (“TPHs”) of the order entry and reporting procedures for open outcry orders in the event the Exchange experiences a system malfunction or disruption of its systems that impacts the trading floor. In addition, the Exchange recently added new functionality on the PAR workstation to permit TPHs to manually enter open outcry execution time(s) on trade records during a PAR outage (“PAR Outage functionality”). See Rule Filing [SR-CBOE-2020-053](#) and Exchange Notice [C2020061200](#) for more information related to the new PAR Outage functionality.

In the event of an Exchange system malfunction or disruption, the Exchange will provide TPHs with guidance regarding whether trading may continue on the trading floor and the manner in which orders must be recorded and reported to the Exchange based on the facts and circumstances at the time of the malfunction or disruption.¹ For example, in the event of a PAR outage, the Exchange may instruct TPHs trading on the Exchange’s trading floor to continue to systematize and process orders by inputting all relevant order information,² such as the time the order is received, into another available Exchange-approved system (e.g., PULSe, Silexx or an Exchange-approved TPH proprietary system) and submitting the order to PAR upon resumption of the PAR system. The PAR Outage functionality will permit TPHs to enter the open outcry execution time(s) on PAR when reporting these trades.³ Please be advised, during the period in which the Exchange is experiencing an Exchange system issue, TPHs should not enter order or execution information into other floor tools (e.g., Clearing Editor, etc.) unless specifically instructed to do so by the Exchange.

¹ See Cboe Options Rules, including but not limited to, Rules 5.7, 5.23, 5.24, and 6.1.

² As discussed further below, each order, cancellation of, or change to an order transmitted to the exchange must be “systematized” in a format approved by the Exchange. See, e.g., Cboe Options Rules 5.7(f) and 6.1(e) for applicable order information. In addition, certain events associated with the process of an order must also be recorded and reported. See, e.g., Cboe Options Rules 6.1 and 7.22.

³ During any Exchange system outage, TPHs must manually record the time of trade (and other events) using clocks that satisfy the synchronization and time stamp granularity requirements under Cboe Options Rules 7.21 and 7.25. The Exchange has clocks on the trading floor that TPHs may use when recording these timestamps. Once the PAR system resumes, the TPH must input the manually recorded times. Trade executions will be reported to the tape as “late.” (Cboe Rule 6.1(a) requires TPHs to submit trade information, including among other things the time of transaction obtained from a source designated by the Exchange, within 90-seconds or the execution will designated as “late” when reported to the consolidated tape.)

With respect to orders received during a malfunction or disruption of the Exchange's tools used to systematize and process orders, TPHs must legibly record the terms and time of receipt of each order transmitted to the Exchange in a written form approved by the Exchange.⁴ Additionally, TPHs must legibly record each cancellation of, or change to, an order, including the time of receipt of the change or cancellation, transmitted to the Exchange floor in a written form approved by the Exchange, among other events.⁵ Please note, written form includes, but is not limited to, paper or other available Exchange-approved systems (e.g. PULSe, Silexx or an Exchange-approved TPH proprietary system) as the Exchange determines appropriate given the facts and circumstances of the specific system issue.

Upon the cessation of a malfunction or disruption, TPHs must immediately resume systematizing and/or processing orders. In addition, TPHs must exert best efforts to input all relevant order information received during the time period in which the system malfunction or disruption occurred electronically into the Exchange's systems as soon as possible, and, in any event, not later than the close of business on the day in which the malfunction or disruption ceases.⁶ If the Exchange's systems were to become available after the close of business, TPHs are expected to input all relevant order information received during the time period in which the system malfunction or disruption occurred into the Exchange's systems on the next business day.⁷

Reporting obligations pursuant to the Consolidated Audit Trail ("CAT") Compliance Rule (Cboe Options Rules 7.20 through 7.32) remain in effect during any Exchange system outage. Please note that, under the CAT Compliance Rule provisions, there is no relief from the applicable requirements due to Exchange system outages, including but not limited to CAT requirements related to clock synchronizations, timestamps, event reporting and timing of recording and reporting.

Additional Information

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

⁴ See Cboe Options Rule 5.7(f)(2)(C)(i).

⁵ See Cboe Options Rule 5.7(f)(2)(C)(ii). See, also notes 2 and 3 above.

⁶ See Cboe Options Rule 5.7(f)(2)(A) and 6.1(a)(2).

⁷ See Cboe Options Rule 5.7(f)(2)(B).