

Options Positions Reporting

FINRA Reminds Firms of Their Obligations When Reporting Large Options Positions

Executive Summary

In light of recent disciplinary actions against firms, FINRA reiterates and reminds firms of their obligations under FINRA Rule 2360(b)(5) to report large options positions to the Large Options Positions Reporting (LOPR) system,¹ in a manner prescribed by the U.S. options exchanges and FINRA. This *Notice* provides an overview of the options reporting requirements and consolidates and summarizes previously issued guidance.²

Questions concerning this *Notice* should be directed to:

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Background & Discussion

FINRA Rule 2360(b)(5) requires a firm to report (or have reported on its behalf) any options position in an account in which the firm has an interest and each customer, non-member broker, or non-member dealer account that has established, acting alone or in concert, an aggregate option positions of 200 or more option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security or index.³ These positions must be reported to the LOPR system no later than the close of business on the next day following the day on which the transaction or transactions requiring the filing of such report occurred.⁴ For aggregate positions that meet the 200 contract reporting threshold, the option position for each individual account must be reported to the LOPR system.⁵

FINRA has provided below a summary of previously issued guidance relating to the reporting of standardized and conventional option positions, aggregation of accounts and positions, reporting format and specifications, changes to account information, in concert reporting, position maintenance records, rejections and effective supervision practices.

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Notice Type

- ▶ Guidance

Suggested Routing

- ▶ Compliance
- ▶ Institutional
- ▶ Legal
- ▶ Operations
- ▶ Options
- ▶ Risk
- ▶ Senior Management
- ▶ Systems
- ▶ Technology
- ▶ Training

Key Topics

- ▶ Aggregation
- ▶ Conventional (or OTC) Index Options
- ▶ Conventional (or OTC) Options
- ▶ In Concert Reporting
- ▶ Large Options Positions Report
- ▶ Options Reporting
- ▶ Standardized Index Options
- ▶ Standardized Options

Referenced Rules & Notices

- ▶ FINRA Rule 2360
- ▶ Notice to Members 94-46
- ▶ Notice to Members 97-56
- ▶ Notice to Members 98-92
- ▶ Notice to Members 05-22
- ▶ Notice to Members 07-03
- ▶ Regulatory Notice 09-47

Standardized Options Positions

FINRA member firms that conduct a business in standardized options but are not themselves members of the options exchange on which such options are listed and traded (referred to as “access firms”) are required under FINRA Rule 2360(b)(5)(A)(i)b to report to the LOPR system positions in standardized options covering the same underlying security or index that meet the 200 contract reporting threshold. Positions resulting from trades effected by the broker-dealer or that are maintained on the broker-dealer’s books must be reported to the LOPR system.⁶ This includes, but is not limited to: (1) accounts of public customers; (2) accounts of broker-dealer customers; (3) proprietary accounts held in the same account type (as discussed below) at the OCC as non-proprietary accounts;⁷ and (4) any accounts that FINRA or a U.S. options exchange directs a firm to report to the LOPR system. In general, self-clearing firms’ proprietary standardized option positions are satisfied by the OCC’s publication of positions held in the Account Type of “F” (for Firm) by Clearing Member number; however, hedge instrument positions, where required by rule,⁸ must be reported.⁹

Conventional Options Positions

FINRA Rule 2360(b)(5)(A)(i)a requires that all members report to the LOPR system positions in conventional (or OTC) options covering the same underlying security or index that meet the 200 contract reporting threshold. Options positions for all accounts, including proprietary accounts, where the position is maintained on the broker-dealer’s books or where the trade was effected by the broker-dealer must be reported to the LOPR system.¹⁰ The reporting requirement applies to conventional options covering (1) equity securities and (2) indexes that underlie, or are substantially similar to indexes that underlie, standardized index options. Conventional index options based on an index that does not underlie, or is not substantially similar to an index that underlies a standardized index option (*e.g.*, is based on a customized basket of securities) does not need to be reported to the LOPR system, provided the option on the basket of securities meets the definition of conventional index option.¹¹ In the case where an option on a basket of securities does not meet the definition of conventional index option, the option must be deconstructed into its various underlying components and each underlying component must be reported to the LOPR system as a separate position.¹²

Aggregation of Accounts

Firms must identify all accounts that are under common control or those acting in concert and aggregate the options positions of such accounts to determine if the 200 contract reporting threshold is met. “Control” is defined as the power or ability of an individual or entity to make investment decisions for an account or accounts, or influence, directly or indirectly, the investment decisions of any person or entity that makes investment decisions for an account. Control is presumed to exist for:

- ▶ all parties to a joint account who have the authority to act on behalf of the account;
- ▶ all general partners to a partnership account;
- ▶ a person or entity that:
 - ▶ holds an ownership interest of 10 percent or more in an entity (ownership of less than 10 percent will not preclude aggregation), or
 - ▶ shares in 10 percent or more of profits and/or losses of an account;
- ▶ accounts with common directors or management; and
- ▶ an individual or entity with authority to execute transaction in an account.¹³

For example, without limitation, accounts for which a registered representative has trading authority, accounts of wholly-owned subsidiaries, multiple accounts held by related people or entities that have a common beneficial owner would be considered to be under common control and acting in concert. Firms must have reasonable policies and procedures that are documented and applied consistently to identify accounts under common control or acting in concert. Some effective practices to consider are identifying the appropriate In Concert Group, if any, during the account opening process and to regularly monitor the accuracy of the control and in concert relationships reported to the LOPR system. In addition, if an account can be considered as part of multiple In Concert Groups, effective practices include identifying the In Concert Group based on the largest contract volume or by sequentially applying control relationships (*e.g.*, first identifying accounts as part of an In Concert Group for all accounts with the same beneficial owner(s), then identifying In Concert Groups by registered representative for any accounts not assigned an In Concert Group based on beneficial owner, then identifying In Concert Groups by trading authority for accounts not previously assigned an In Concert Group).¹⁴

In addition, FINRA or a U.S. options exchange may require a firm to consider specific accounts as under common control or acting in concert, even where they do not meet the criteria described above. FINRA will consider the following factors¹⁵ in determining whether aggregation of accounts is required:

- ▶ similar patterns of trading activity among separate entities;
- ▶ the sharing of kindred business purposes and interests;
- ▶ whether there is common supervision of the entities, which extends beyond assuring adherence to each entity's investment objectives and/or restrictions; and
- ▶ the degree of contact and communication between directors and/or managers of separate accounts.

If FINRA makes the determination that certain accounts should be identified as In Concert, FINRA will notify the firm in writing with the list of the accounts determined to be acting in concert.

Aggregation of Positions

For each account, or accounts acting in concert, the firm must aggregate all positions for each underlying security or index in each options class (*i.e.*, puts or calls) on the same side of the market (aggregating long calls and short puts and short calls and long puts) to determine if the 200 contract reporting threshold has been met.¹⁶ With respect to options positions overlying the same security or index on the same side of the market, once a firm determines that the reporting threshold has been met for a particular account or accounts acting in concert, all positions for the account or each account acting in concert must be reported to the LOPR system. Firms cannot net options positions on the opposite sides of the market when determining if the reporting threshold has been met or when reporting the positions to the LOPR system.

Reporting Positions to the LOPR System

For each position reported to the LOPR system, firms must submit detailed account information relating to the account holding the position in the format specified in the [OCC's Reference Guide for LOPR Firms](#).

Unique Fields

The following reported fields are considered “unique fields,” which the OCC uses to group incoming reports to ensure there is no duplication of reporting:

- ▶ Firm (provide the clearing member OCC number)¹⁷
- ▶ Account Type¹⁸
- ▶ Branch
- ▶ Tax Number¹⁹
- ▶ Account Number
- ▶ Instrument Symbol
- ▶ Security Type Put/Call
- ▶ Strike Price
- ▶ Contract Date (Expiration Day/Month/Year)
- ▶ Exercise Style (OTC Options Only)
- ▶ Underlying Symbol (OTC Options Only)
- ▶ Underlying Quantity (OTC Options Only)

Effective Date Reporting

Firms must report the effective date of each position. The effective date of each position is the date on which the position being reported was established at that reporting firm. In general, the effective date of the position is the same as the trade date. For positions that are transferred to a firm after clearing, the receiving firm should use the transfer date as the effective date.²⁰ In the case where an execution, CMTA or transfer brings a customer, acting alone or in concert, above the 200 contract reporting threshold, the entire position must be reported to the LOPR system with the same effective date.²¹

Submission of Add, Modify and Delete Records

Each position reported to the LOPR system must be identified as Add, Modify or Delete records as follows with examples of each below:

- ▶ Add records are for positions reported to the LOPR system that do not currently exist.
- ▶ Modify records are for positions reported to the LOPR system where the position being reported is different from the position previously reported to the LOPR system.
- ▶ Delete records are for positions reported to the LOPR system where the position is being set to zero, for a position previously reported to the LOPR system.

Examples of when Add records must be submitted:

- ▶ A firm executes an order for its customer whose previous position was not currently open on the LOPR system and that account, or accounts acting in concert, now meets the reporting threshold.
- ▶ A firm receives a transferred position for its customer whose previous position was not currently open on the LOPR, and that account, or accounts acting in concert, now meets the reporting threshold.

Examples of when Modify records must be submitted:²²

- ▶ A firm executes an opening trade for its customer whose previous position is currently open on the LOPR system, where the customer's position changes from their prior day's position.
- ▶ A firm executes a closing trade that reduces a customer's position, currently open on the LOPR system, below the reporting threshold, but does not eliminate the position.²³
- ▶ A firm is assigned contracts by the OCC. Following the firm's internal assignment process, some assigned contracts are allocated to an account whose previous position is currently open on the LOPR system, and the assignment changes from the customer's position compared to that of the prior day.
- ▶ A firm partially exercises contracts held by a customer whose previous position is currently open on the LOPR system.

Examples of when Delete records must be submitted:²⁴

- ▶ A firm executes an order for its customer closing the entire reported position.
- ▶ A firm exercises all contracts held by a customer on a day that is not the option's expiration date.
- ▶ A firm, which had mistakenly reported swap contracts to the LOPR system, removes these non-reportable positions from the LOPR system.²⁵
- ▶ A firm receives and allocates an assignment that eliminates a reported position.

Changes to Account Information

The OCC will not accept Modify records where the position is unchanged. If the firm requires a change to one of the *non-unique* fields, the firm must either submit a Delete and an Add record or wait until the position changes, at which time a Modify record will be accepted.²⁶ In cases where a *unique* field (those identified above) requires an update, a firm must submit a Delete and an Add record.²⁷

In rare cases, where there are significant reporting errors that cannot reasonably be resolved with Delete and Add records, a firm can request a purge of its LOPR records at the OCC. Such a request must be submitted in writing and must be approved in advance by the U.S. options exchanges and FINRA.

In Concert Reporting

In addition to aggregating all positions under common control or acting in concert to determine if the LOPR reporting threshold has been met (as well as for position limit purposes), a firm must also submit the accounts acting in concert to the OCC.²⁸ As described in the [OCC's Reference Guide for LOPR Firms](#), firms must create a unique "In Concert ID" for each group of accounts under common control or acting in concert referred to as an in concert group. When an "in concert group" meets the 200 contract reporting threshold, the firm must report each account within the in concert group and the unique In Concert ID to the LOPR system. The OCC follows a similar Add and Delete process for in concert reporting. Each account within the in concert group must be identified with the same unique In Concert ID, which allows FINRA and the US options exchanges to identify positions held by individual accounts as well as aggregate positions held by groups of accounts under common control.

Introducing Firms

An introducing firm that clears on an omnibus basis must report all individual positions for customer and proprietary options positions to the LOPR system.²⁹ In addition, these introducing firms must identify and report all in concert information to the OCC.

An introducing firm that clears on a fully disclosed basis must report customer and proprietary options positions to the LOPR system (unless the clearing firm files on its behalf). These introducing firms are also responsible for identifying in concert relationships and reporting these relationships to the LOPR system (or having their clearing firm report on their behalf). An effective practice is for clearing firms to have a reasonable process to identify potential in concert groups based on the positions of the introducing firms that clear on a fully disclosed basis.³⁰ The clearing firm must establish a reasonable system or process to collect in concert information from its introducing firms, if reporting on their behalf, and notify their introducing firm of accounts with potential in concert relationships identified in their review for potential inclusion.

Position Maintenance Records

As noted above, a firm must report options positions to the LOPR system by no later than the close of business on the next business day following the day on which the transaction or transactions requiring the filing of such report occurred. However, the OCC allows a five day reporting window for submitting updates relating to adjustments, assignments, error corrections and position transfers.³¹ All reports submitted by a firm must have an effective date within the five day reporting window. If the firm identifies positions that should have been reported (or should have been reported with different information than what was reported) with an effective date prior to the five day window, the firm must report the current position to the LOPR system immediately.

Rejected LOPR records

The OCC does not check for the accuracy of the positions reported by firms, but does validate the format of the record type (Add, Modify or Delete) as well as the format and length of the various fields. The OCC will reject reports if the fields are improperly formatted, including, but not limited to:

- ▶ field lengths longer than what is specified in the OCC's documentation; and
- ▶ missing data in required fields.

Supervision

Firms should have reasonable controls in place to ensure the accuracy of their compliance with their reporting requirements, including but not limited to:

- ▶ identification of any related accounts for in concert reporting purposes during the account opening process;
- ▶ periodic routine review of the accuracy of the firm's in concert groups;
- ▶ periodic routine review of the accuracy of the firm's data reported to the LOPR system, including data as well as positions reported;
- ▶ review of the firm's rejected LOPR records; and
- ▶ review of over-the-counter products to assess whether they meet the definition of "option" under FINRA Rule 2360(a)(21), to determine the applicability of reporting to the LOPR system and other option provisions.³²

To aid the supervisory efforts of the firms, the OCC provides daily files containing the following:

- ▶ the current positions as known by the OCC and provided to FINRA and the U.S. options exchanges (a.k.a. "Snapshot");
- ▶ the current in concert relationships as known by the OCC and added to the position records during processing; and
- ▶ the LOPR and in concert records rejected from processing by the OCC.

Endnotes

1. The Options Clearing Corporation (OCC) is currently hosting the LOPR system and collects and disseminates all LOPR data for the U.S. options exchanges and FINRA.
2. This *Notice* consolidates and provides an overview of guidance previously issued in the following Notices: *NTM 94-46*, *NTM 97-56*, *NTM 98-92*, *NTM 05-22*, *NTM 07-03*, and *Regulatory Notice 09-47*. Firms should also review the [OCC's Reference Guide for LOPR Firms](#) and the [OCC LOPR FAQs](#).
3. In the context of options reporting, in aggregating options on "the same side of the market", long call positions are aggregated with short put positions (bullish) and long put positions are aggregated with short call positions (bearish). Bullish and bearish positions are not netted or combined.
4. See FINRA Rule 2360(b)(5)(A)(ii).
5. The end of day quantity reported should include any and all executions, adjustments, transfers, exercises and assignments for the effective date of such transaction, excluding the expiration and assignment processing the OCC performs at option expiration. See OCC LOPR FAQs #67.
6. Trades required to be intermediated by a U.S. broker-dealer under SEA Rule 15a-6(a)(3) or 15a-6(a)(4) must be reported to the LOPR system. See previously issued guidance in *Notice to Members 98-92*.
7. This may occur when a self-clearing firm also reports positions for other broker-dealers with which they have a Joint Back-Office agreement.
8. See previously issued guidance in *Notice to Members 97-56*. See also, for example, CBOE Rules 4.13(b) and 24.4, Interpretations and Policies .03.
9. As with customer accounts and co-mingled customer and proprietary accounts, if the firm's affiliate positions are held in Account Type "C" (for Customer), the positions must be reported.
10. Unlike standardized options, if a firm enters into a conventional option transaction with a customer creating a reportable position for both the firm and the customer, FINRA rule 2360(b)(5)(A)(i)a. requires the firm submit an LOPR report for the position of both the customer and the firm. See previously issued guidance in *Notice to Members 05-22*.
11. See FINRA Rule 2360(a)(8). For example, among other requirements, the basket underlying the option must include nine or more equity securities.
12. See previously issued guidance in *Notice to Members 07-03*. In addition, each of the components would be separately subject to position and exercise limits.
13. See FINRA Rule 2360(a)(6)(A). See also FINRA Rule 2360(a)(6)(B); the control presumed by one or more of the above circumstances may be rebutted by providing an affidavit to FINRA proving the factor does not exist or by showing other factors that negate the presumption of control. See previously issued guidance in *Notices 97-56* and *07-03*.
14. See OCC LOPR FAQs #48.
15. See FINRA Rule 2360(a)(6)(C) and previously issued guidance in *Notice to Members 07-03*.

16. The 200 contract reporting threshold is based on the definition of Options Contract in FINRA Rule 2360(a)(23). Options contracts covering 100 shares, when written, are considered one (1) option contract for the life of the contract, regardless of any splits, reverse splits or other corporate actions that may impact the number of deliverable shares. For example: a mini option that, when written delivers 10 shares per contract, is considered one tenth (1/10th) of an option contract towards the reporting threshold for the life of the contract; however, an option that, when written delivers 100 shares per contract that undergoes a 10:1 reverse split and now delivers 10 shares per contract, will be considered one (1) contract for the life of the contract.
17. A firm must report the clearing member number where the reportable position is held at the OCC.
18. The Account Type for standardized options is the same as where the position resides at the OCC (*i.e.*, “C” for customer, “F” for firm or “M” for market maker). See LOPR FAQs #53. Similarly, the Account Type for conventional options is determined by the account holding the position (*i.e.*, proprietary accounts are “F” and customer or non-proprietary accounts are “C”).
19. For foreign accounts, if the foreign tax number is known and can be reported, the firm should report the foreign tax number and report in the Tax Number Type field “J.” If there is no foreign tax number or it cannot be reported (*e.g.*, the account is an omnibus account or the account is in a jurisdiction where the laws prohibit the sharing of this information), a firm should report all nines (999999999) for the Tax Number field and a Tax Number Type of “J.” For foreign accounts, the Tax Number Type should be reported as “J” even when using a domestic mailing address for any foreign omnibus reporting. Also, dashes (“-”) are not required when submitting data in the Tax Number field.
20. While receiving firms may use the trade date if it is known to them, it is the transferring firm’s responsibility to report the position to the LOPR system for any dates between the trade date and the transfer date, if required.
21. The LOPR system is a position reporting system and not a trade reporting system. The effective date on these records signifies the date the aggregate position met the reporting threshold.
22. Modify records can only be submitted with an effective date later or equal to the effective date of the latest record submitted.
23. No subsequent position reports are required until such time as the account, or accounts acting in concert, again meet the 200 contract reporting threshold. However, a firm may elect to submit a Delete record for aggregate positions below the reporting threshold, provided the effective date of the Delete record is at least one day after the effective date the position was modified below the 200 contract reporting threshold. See OCC LOPR FAQs #24 and #59.
24. Delete records can only be submitted with an effective date later or equal to the effective date of the latest record submitted.
25. In these situations, the “Correction Text” field should be populated with a description. The effective date of the Delete record should be the same date as the effective date of the original position, if possible.

26. Firms should consider the nature and scope of the information change when determining which method to follow. Firms may contact FINRA Options Regulation with any questions. For example, an updated address does not need to be reported until the position changes, however incorrectly populated addresses should be corrected as soon as practicable. In addition, in light of OCC's method for processing records, changes to non-unique fields require Delete and Add records with the same effective date be submitted over two days. *See* OCC LOPR FAQs #62.
27. Delete and Add records used to change a unique field must be submitted on the same day for the same effective date.
28. *See* previously issued guidance in *Notice to Members 97-56* and *ISG Important Notice, Large Options Position Report (LOPR)/Mandatory Automated Reporting Requirement Notice* dated May 1, 1991.
29. If an introducing firm uses its clearing firm or third party service provider to report positions on its behalf, the firm must ensure the accuracy of such reporting.
30. *See* OCC LOPR FAQs #51. The clearing firm would not need to review for potential in concert relationships for accounts held across broker-dealers, including the clearing firm and its introducing firms. As detailed above, the clearing firm must identify and report in concert groups for its own accounts.
31. *See* previously issued guidance in *Regulatory Notice 09-47*.
32. Some effective practices to consider are involving legal, compliance and trading personnel in these discussions. The outcome and rationale, including the factors considered should be documented and maintained by the firm.