



**THE FOUNDATION  
FOR SECURE  
MARKETS**

#48120

**DATE: JANUARY 6, 2021**

**SUBJECT: EXECUTIVE ORDER 13959 – ADDRESSING THE THREAT FROM  
SECURITIES INVESTMENTS THAT FINANCE COMMUNIST  
CHINESE MILITARY COMPANIES  
OPTION SYMBOLS: CHL, CHU (January 11, 2021)**

**IMPORTANT NOTICE: This Information Memo replaces OCC Information Memo #48115, which was published in response to news that Executive Order 13959 (EO) would not be applicable to certain securities underlying listed options. However, recent regulatory guidance now states that China Mobile Ltd. (CHL) and China Unicom (CHU) are subject to the prohibitions of the EO beginning on January 11, 2021. Consequently, CHL and CHU options will also be affected by the EO.**

**OCC has been unable to confirm if exercises in option symbols CHL and CHU will be permissible beginning January 11, 2021. As stated below, investors should be aware that if option exercises are restricted due to EO prohibitions, such options would expire worthless, and the holder would lose the entire amount paid for the option.**

It is OCC's understanding the NSCC will accept CHL and CHU transactions from exercise and assignment activity for settlement through January 8, 2021. CHL and CHU option may be exercised through January 8, 2021, but it is unknown at this time if exercises will be permissible beginning January 11, 2021.

**OCC believes that the EO may have significant implications for affected CHL and CHU options. Market participants should read this memo in its entirety, review the EO, and consider its prohibitions in light of their options transactions and positions and/or the options transactions and positions of customers.**

This Information Memo provides an unofficial summary of the EO that was issued on November 12, 2020 by President Trump. The summary is intended to alert clearing members and options market participants to complexities and difficulties regarding certain listed options that may result from the EO, and it is provided for convenience only. OCC strongly urges clearing members and interested market participants to review the EO themselves and to consider the implications that its prohibitions may have for their options trading activities and positions and/or the options trading activities and positions of their customers. The EO is available at: <https://www.whitehouse.gov/presidential-actions/executive-order-addressing-threat-securities-investments-finance-communist-chinese-military-companies/>

The EO will prohibit transactions by U.S. persons in publicly traded securities of companies that are considered by the United States to be "Communist Chinese military companies." The prohibitions will first take effect at 9:30 Eastern Standard Time on Monday, January 11, 2021 for securities issued by or

associated with companies identified in the EO and will also take effect sixty (60) calendar days after any company is added to the list of companies considered by the United States to be a Communist Chinese military company (EO Effective Time(s)). Importantly, the EO states that its prohibitions also extend to transactions in securities that are derivative of, or designed to provide exposure to, such publicly traded securities. OCC therefore understands that as of the relevant EO Effective Times the prohibition will extend to listed options on such securities.

Presently, OCC understands that as of the EO Effective Times identified below transactions by U.S. persons will be prohibited in listed options covering the following equity security symbols. OCC cannot confirm, however, that this list is complete or that it will remain accurate.

### **EQUITY NAMES AND SYMBOLS**

- China Mobile Ltd. (CHL) – 1/11/2021 EO Effective Time
- China Unicom (CHU) – 1/11/2021 EO Effective Time

Certain ETFs that hold traded securities in “Communist Chinese military companies” may also be prohibited by the EO. Additional securities may be added to the list of “Communist Chinese military companies” in the future, and options on any such securities may be impacted as described in this Information Memo.

The scope of the EO prohibition may also prohibit U.S. persons as of the relevant EO Effective Time **from exercising options** on the securities of companies that are considered by the United States to be “Communist Chinese military companies.” OCC is unable to confirm at this time if the EO will result in exercise restrictions, however, option investors are reminded of the risks of trading options as described in the Options Disclosure Document, Characteristics and Risks of Standardized Options (also known as the “ODD”). Chapter X of the ODD contains the following statement:

It is also possible that a court, the SEC or another regulatory agency having jurisdiction would impose a restriction which would have the effect of restricting the exercise of an option. In such a case the option would not be exercisable until the restriction was terminated. In the remote possibility that the restriction were to remain in effect until the expiration of the option — which has never yet occurred — the option would expire worthless, and the holder would lose the entire amount that he paid for the option.

It is possible that the prohibitions of the EO may result in exercise restrictions as described in the ODD.

Even if exercises are permitted in connection with affected options, OCC anticipates that alternative settlement procedures may be necessary consistent with authority in OCC’s By-Laws and Rules. OCC also anticipates that, due to the U.S. person transaction prohibitions as of the relevant EO Effective Time, it may be difficult for OCC to determine the value of an underlying security that is affected by the EO. Depending on corporate actions related to such underlying securities, if any, adjustments to listed options covering the securities may also be necessary, consistent with the authority in OCC’s By-Laws and Rules.

As stated above, OCC believes that the EO may have significant implications for affected options classes. Market participants should review the EO and consider its prohibitions in light of their options transactions and positions and/or the options transactions and positions of customers.

**ALL CLEARING MEMBERS ARE REQUESTED TO IMMEDIATELY ADVISE ALL BRANCH OFFICES AND CORRESPONDENTS ON THE ABOVE.**

For questions regarding this memo, call Investor Services at 1-888-678-4667 or email [investorservices@theocc.com](mailto:investorservices@theocc.com). Clearing Members may contact Member Services at 1-800-544-6091 or, within Canada, at 1-800-424-7320, or email [memberservices@theocc.com](mailto:memberservices@theocc.com).