



**THE FOUNDATION
FOR SECURE
MARKETS**

#48279

DATE: FEBRUARY 10, 2021

**SUBJECT: UPDATE TO EXERCISE RESTRICTIONS FOR CHL AND CHU
OPTIONS RESULTING FROM EXECUTIVE ORDER 13959/CHL AND
CHU OPTIONS BROKER-TO-BROKER SETTLEMENT
* * * UPDATE * * ***

New regulatory guidance states that China Mobile Ltd. (CHL) and China Unicom (CHU) are subject to the prohibitions of Executive Order 13959 as amended (EO) on March 9, 2021. Consequently, exercise restrictions on CHL and CHU options imposed due to prior regulatory guidance and described in Information Memo #48140 will no longer be in place effective February 3, 2021 but will be reinstated on March 9, 2021.

CHL and CHU options may be exercised from February 3, 2021 through March 8, 2021. CHL and CHU exercise and assignments will be subject to the settlement process described below.

Exercise/Assignment Settlement

Pursuant to the OCC By-Laws and Rules, OCC has determined that:

1. Effective with exercises of February 3, 2021 and until March 8, 2021, all CHL and CHU exercise and assignment activity shall settle on a **broker-to-broker basis**.
2. The deliverable for CHL options will remain 100 China Mobile Ltd. (CHL) American Depositary Receipts (ADRs) and the deliverable for CHU options will remain 100 China Unicom (CHU) ADRs.
3. If it is not possible for the delivering Clearing Member to effect delivery of 100 China Mobile Ltd. (CHL) ADRs for CHL option exercises and assignments on the designated settlement date or 100 China Unicom (CHU) ADRs for CHU option exercises and assignments on the designated settlement date, then the settlement obligations of both delivering and receiving Members shall be delayed, until such time as OCC designates a new exercise settlement date and potentially also designates cash settlement as described below. This will allow delivering Clearing Members the opportunity to effect settlement if they have the ADRs and are able to effect delivery but delays the settlement obligation when this is not possible. Both the delivering and receiving Clearing Members are required to immediately notify OCC if they are unable to effect settlement.
4. If Clearing Members are unable to effect settlement of exercise/assignment activity on a broker-to-broker basis, OCC shall designate a new exercise settlement date and may designate a cash settlement method by fixing a cash settlement price in respect of the CHL ADRs and CHU ADRs.

CHL

OCC will fix a cash settlement price in respect of the CHL ADRs. OCC has determined that it will use the closing price of the ordinary shares of China Mobile Ltd. (which are traded on the Hong Kong Stock Exchange) as of the date the exercise was accepted by OCC. Such

closing price shall be obtained from a source that OCC deems to be appropriate, multiplied by 5 to account for the 1 ADR to 5 ordinary share ratio, and converted into U.S. dollars using such exchange rate (in effect on the exercise date) obtained from a source that OCC deems appropriate.

CHU

OCC will fix a cash settlement price in respect of the CHU ADRs. OCC has determined that it will use the closing price of the ordinary shares of China Unicom. (which are traded on the Hong Kong Stock Exchange) as of the date the exercise was accepted by OCC. Such closing price shall be obtained from a source that OCC deems to be appropriate, multiplied by 10 to account for the 1 ADR to 10 ordinary share ratio, and converted into U.S. dollars using such exchange rate (in effect on the exercise date) obtained from a source that OCC deems appropriate.

For CHL and CHU exercise and assignment activity that will settle using a cash settlement price, OCC will net the amounts to be paid by the delivering clearing member against the amounts to be paid by the receiving clearing member. Settlement will be accomplished by payment of the difference between the extended strike amount and the cash settlement price (x 100 per contract) from the exercise date.

Broker-to-Broker Delivery Advice/Settlement Procedures

Clearing Members should note that CHL and CHU exercise and assignment activity will be reported on the Broker-to-Broker Delivery Advice, which is a separate report from the regular Delivery Advice. Members will need to refer to this report each day to be informed of CHL and CHU exercise/assignment activity. The Broker-to-Broker Delivery Advice will also identify the opposite side Clearing Member with whom settlement is to be made. Members are responsible for contacting the opposing side on all CHL and CHU activity and for making arrangements for settlement. Both delivering and receiving Members are also reminded of their obligation to inform OCC in writing when settlement is made. OCC will margin any CHL and CHU exercise/assignment activity until settlement is accomplished.

Margin Treatment

As a result of the new regulatory guidance, all remaining open interest in CHL and CHU option classes will be included in margin processing beginning Wednesday, February 3, 2021. CHL and CHU option classes will also be restored to the Risk Based Haircut / Customer Portfolio Margin theoretical output files. This treatment will remain in place until such time that these option classes are subject to exercise restrictions.

ANTICIPATED EXERCISE RESTRICTIONS

Pursuant to regulatory guidance, CHU and CHL options may not settle in either shares or cash while such options are subject to the prohibitions of the EO, and therefore exercises in option symbols CHL and CHU will not be permissible when the restrictions of the EO go into effect on March 9, 2021. ONCE SUCH RESTRICTIONS ARE IN PLACE COMMENCING MARCH 9, 2021, HOLDERS OF CHL AND CHU OPTIONS WILL NOT BE ABLE TO EXERCISE WHILE THE EO PROHIBITIONS REMAIN APPLICABLE AND THEREFORE REMAINING CHL AND CHU OPTION POSITIONS WILL EXPIRE WORTHLESS ON THEIR EXPIRATION DATE.

The following is an unofficial summary of the EO that was issued on November 12, 2020, and amended on January 13, 2021, 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.federalregister.gov/documents/2020/11/17/2020-25459/addressing-the-threat-from-securities->

[investments-that-finance-communist-chinese-military-companies](https://www.federalregister.gov/documents/2021/01/19/2021-01228/amending-executive-order-13959addressing-the-threat-from-securities-investments-that-finance/) and <https://www.federalregister.gov/documents/2021/01/19/2021-01228/amending-executive-order-13959addressing-the-threat-from-securities-investments-that-finance/>

The EO prohibits 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 first took effect at 9:30 a.m. Eastern Standard Time on Monday, January 11, 2021 for securities issued by or associated with companies identified in the EO on November 12, 2020 and will 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)). The EO prohibits U.S. persons from possessing such securities on and after the date 365 days from the date on which the issuer was first considered by the United States to be a “Communist Chinese military company.” 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.

Regulatory guidance is that the EO prohibits 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.” 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.

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. Clearing Members may contact Member Services at 1-800-544-6091 or, within Canada, at 1-800-424-7320, or email memberservices@theocc.com.