



## **CIRCULAR 042-21**

March 3, 2021

### **FREQUENTLY ASKED QUESTIONS SPONSORED ACCESS ARTICLE 3.5**

The Regulatory Division of the Bourse de Montréal Inc. (the “Division”) has received questions regarding sponsored access to the Electronic Trading System for derivative instruments traded on Bourse de Montréal Inc. (the “Bourse”) provided to clients by Approved Participants and Foreign Approved Participants (“Participants” collectively).

This circular is intended to provide clarity to Participants of the Bourse by answering a series of frequently asked questions (the “FAQ”) on [Article 3.5](#) of the Rules of the Bourse (the “Rules”).

**Q1: How is access to the Electronic Trading System of the Bourse permitted?**

**A1:** There are two ways to access the Electronic Trading System of the Bourse: as an Approved Person of a Participant (outlined in [Article 3.4](#)) or through the systems of a Participant (outlined in [Article 3.5](#)).

**Q2: What is the difference between direct electronic access and sponsored access?**

**A2:** Sponsored access pursuant to Article 3.5 of the Rules is referred to as “direct electronic access” pursuant to the Electronic Trading Rules. The terms are used interchangeably. Both relate to the access granted to a client when accessing the Bourse through the systems of a Participant.

**Q3: What are the Electronic Trading Rules?**

**A3:** “Electronic Trading Rules” means [Regulation 23-103 respecting Electronic Trading and Direct Electronic Access to Marketplaces \(V-1.1, r. 7.1\)](#) as well as any applicable policy statement or notice.

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**Q4: How is “client” defined?**

**A4:** For the purposes of Article 3.5 of the Rules, a client is a Person, an investment dealer registered with a securities regulatory authority, or a Foreign Approved Participant, having entered into a written agreement with a Participant granting permission to electronically transmit orders to the Bourse through the systems of the Participant using the Participant’s identifier.<sup>1</sup>

**Q5: What does “through the systems of the Participant” mean?**

**A5:** To transmit orders electronically to the Bourse, a client may use the Participant’s front-end trading system which can be the Participant’s proprietary system or a third party’s system licensed to the Participant and then sublicensed to the client. Further, at the Participant’s discretion, the client may also use its own proprietary front-end trading system or a third party’s system licensed to the client. “Through the systems of the Participant” would cover the aforementioned scenarios for which all orders must be subject to the Participant’s pre-trade controls (see questions hereinafter).

**Q6: When providing access to the Bourse, what is the Participant responsible for?**

**A6:** Risk Management and Supervisory Controls, Policies, and Procedures

The Participant must establish, maintain, and ensure compliance with risk management and supervisory controls, policies, and procedures including automated pre-trade controls.<sup>2</sup> The Participant must directly and exclusively set and adjust these pre-trade controls, including those provided by third parties.<sup>3</sup> All client orders are subject to the Participant’s pre-trade controls.

Annual Client Assessment

The Participant must assess, confirm, and document, at least annually, that each client continues to meet the standards established by the Participant pursuant to subparagraph 3.5(b)(i).<sup>4</sup>

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<sup>1</sup> Subparagraph 3.5(a)(i) of the Rules

<sup>2</sup> Paragraph 3(2)(a) of [Regulation 23-103](#)

<sup>3</sup> Subsection 3(5) of [Regulation 23-103](#)

<sup>4</sup> Subparagraph 3.5(b)(ii) of the [Rules](#)



### Client Identifiers

The Participant must ensure the client is assigned a client identifier in the form and manner required by the Bourse. The Participant must ensure that an order entered by a client using direct electronic access includes the appropriate client identifier.<sup>5</sup> Further, the Participant must promptly inform the Bourse if a Person ceases to be a client pursuant to paragraph 3.5(b).<sup>6</sup> The Participant must use the [DEA client module in the Participant Portal](#) to add, modify, and delete client identifiers as a means of notifying the Bourse. For further information on client identifiers, please consult our [FAQ on client identifiers](#).

The Participant should consult paragraphs (b), (c), and (d) of Article 3.5 of the Rules for an extensive list of its requirements.

**Q7: What are the Participant's requirements when using a third party's system for automated pre-trade controls?**

**A7:** The system that performs automated pre-trade controls can be a proprietary system owned and controlled by the Participant or one of its affiliates or a system provided by a third party<sup>7</sup>. When the system is provided by a third party, the third party must be independent from each client with sponsored access, except if the client is an affiliate of the Participant.<sup>8</sup>

In all circumstances, the Participant must be the only party to directly set and adjust the pre-trades controls and all other required risk management and supervisory controls, policies, and procedures for each of its clients that has sponsored access.<sup>9</sup>

Finally, when the Participant uses a third party's system to perform automated pre-trade controls, the Participant must regularly assess and document the adequacy and effectiveness of the third party's relevant risk management and supervisory controls, policies, and procedures; and must document any deficiencies in the adequacy or effectiveness of a risk management or supervisory control, policy, or procedure and ensure any deficiency is promptly remedied.<sup>10</sup>

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<sup>5</sup> Subparagraph 3.5(b)(vii) of the [Rules](#)

<sup>6</sup> Subparagraph 3.5(b)(viii) of the [Rules](#)

<sup>7</sup> Note that the optional pre-trade validation service offered by the Bourse is considered a third party system.

<sup>8</sup> Subsection 3(4) of [Regulation 23-103](#)

<sup>9</sup> Subsection 3(5) of [Regulation 23-103](#)

<sup>10</sup> Subsection 3(7) of Regulation 23-103



Questions regarding this FAQ may be directed to the Regulatory Division at 514-787-6530, toll-free at 1-800-361-5353 #46530, or at [info.mxr@tmx.com](mailto:info.mxr@tmx.com).

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