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**CIRCULAR**  
April 23, 2007

## **REQUEST FOR COMMENTS**

### **ABROGATION OF ARTICLES 5101 AND 5102 OF RULE FIVE OF THE BOURSE – CANADIAN INVESTOR PROTECTION FUND**

#### **Summary**

The Special Committee – Regulatory Division of Bourse de Montréal Inc. (the Bourse) has approved the abrogation of articles 5101 and 5102 of Rule Five of the Bourse. The purpose of this abrogation is to reflect the fact that the Bourse is no longer involved in member regulation activities for what regards regulatory capital and sales compliance matters and is no longer a Canadian Investor Protection Fund (CIPF) sponsoring organisation.

#### **Process for Changes to the Rules**

Bourse de Montréal Inc. is recognized as a self-regulatory organization (SRO) by the Autorité des marchés financiers (the Autorité). In accordance with this recognition, the Bourse carries on activities as an exchange and as a SRO in Québec. In its SRO capacity, the Bourse assumes market regulation and supervision responsibilities of its approved participants. The responsibility for regulating the market and the approved participants of the Bourse comes under the Regulatory Division of the Bourse (the Division). The Division carries on its activities as a distinct business unit separate from the other activities of the Bourse.

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The Division is under the authority of a Special Committee appointed by the Board of Directors of the Bourse. The Board of Directors of the Bourse has delegated to the Special Committee – Regulatory Division its powers to approve or amend some aspects of the Rules and Policies of the Bourse governing approved participants, among which, the Rules and Policies relating to admission as approved participant, approval of persons, disciplinary matters, management of client accounts and operations. These changes are submitted to the Autorité for approval.

Comments on the proposed abrogation of articles 5101 and 5102 of Rule Five of the Bourse must be submitted within 30 days following the date of publication of the present notice in the bulletin of the Autorité. Please submit your comments to:

*Ms. Joëlle Saint-Arnault*  
*Vice-President, Legal Affairs and Secretary*  
*Bourse de Montréal Inc.*  
*Tour de la Bourse*  
*P.O. Box 61, 800 Victoria Square*  
*Montréal, Quebec H4Z 1A9*  
*E-mail: [legal@m-x.ca](mailto:legal@m-x.ca)*

A copy of these comments shall also be forwarded to the Autorité to:

*Ms. Anne-Marie Beaudoin*  
*Director – Secretariat of L'Autorité*  
*Autorité des marchés financiers*  
*800 Victoria Square, 22<sup>nd</sup> Floor*  
*P.O. Box 246, Tour de la Bourse*  
*Montréal (Quebec) H4Z 1G3*  
*E-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)*

## **Appendices**

For your information, you will find in appendices an analysis document of the proposed rule amendments as well as the proposed regulatory text. The implementation date of the proposed amendments will be determined, if applicable, with the other Canadian self-regulatory organizations following approval by the "Autorité des marchés financiers".



### **ABROGATION OF ARTICLES 5101 AND 5102 OF RULE FIVE OF THE BOURSE – CANADIAN INVESTOR PROTECTION FUND.**

#### **I OVERVIEW**

Current articles 5101 and 5102 of Rule Five of Bourse de Montréal Inc. (the Bourse) specify the obligations of approved participants of the Bourse for what regards the Canadian Investor Protection Fund (CIPF). The Bourse proposes to abrogate these two articles.

#### **II - DETAILED ANALYSIS**

##### **A) Current Rules**

Article 5101 prohibits approved participants from acting contrarily to the terms of any agreement entered into by the Bourse with other exchanges or other self-regulatory organizations of the securities industry in Canada in order to provide for the protection of the Bourse and of the public in the event approved participants would become insolvent or unable to meet their liabilities to their customers.

Article 5101 further specifies that such agreement shall be binding upon approved participants and that they must pay the assessments levied for the purposes of funding the CIPF.

Article 5102 of Rule Five specifies the display requirements that must be complied with by approved participants in order to clearly put in evidence their CIPF membership.

##### **B) The Issue**

The above-described CIPF-related requirements have become obsolete as of January 1, 2005 when the Bourse transferred its member regulation responsibilities to the Investment Dealers Association of Canada (IDA).<sup>1</sup> Furthermore, following this transfer of responsibilities, the Bourse has withdrawn as a CIPF sponsoring organization and is no longer a party to the industry agreement relating to the CIPF.

##### **C) Objective**

The objective of the abrogation of articles 5101 and 5102 of Rule Five of the Bourse is to reflect the fact that the Bourse is no longer involved in member regulation activities for what regards regulatory capital and sales compliance matters and is no longer a CIPF sponsoring organisation.

##### **D) Consequences of the proposed abrogation**

The abrogation of articles 5101 and 5102 of Rule Five of the Bourse will have no effect on approved participants of the Bourse, on their clients, on the Bourse itself and on the public in general.

Canadian approved participants of the Bourse are required to be members in good standing of the IDA. This automatically implies that they are also members of the CIPF. In reason of their IDA membership, Canadian approved participants of the Bourse are bound by any agreement entered into by the IDA with the CIPF. As members of the IDA, Canadian approved participants are also required to comply with various regulatory requirements of the IDA relating to their regulatory capital situation as well as to the payment of assessments to the CIPF.<sup>2</sup>

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<sup>1</sup> Decision no 2004-PDG-0223 of the Autorité des marchés financiers (AMF) dated December 30, 2004.

<sup>2</sup> See, for example, IDA Bylaws 1.1, 15.5, 15.11, 28.4, 29.14, 30.3, 30.7, 35.1 and 35.6, Regulation

For what regards foreign approved participants of the Bourse, since they are not carrying business with Canadian clients and they do not have any place of business and/or registration in Canada, their clients are not eligible to coverage by the CIPF and consequently this category of approved participants is exempted, upon admission, from any requirements relating to the CIPF.

## **E) Other Alternatives Considered**

No other alternative was considered.

## **F) Impact of proposed amendments on systems**

There will be, for approved participants and for the public, no systems impacts associated with the abrogation of articles 5101 and 5102 of Rule Five of the Bourse.

## **G) Interests of financial markets**

It is considered that the proposed abrogation of articles 5101 and 5102 of Rule Five of the Bourse will not affect the interests of financial markets.

## **H) Public Interests**

The purpose of the proposed abrogation of articles 5101 and 5102 of Rule Five of the Bourse is to eliminate from the Rules of the Bourse regulatory requirements related to the CIPF that have become obsolete since the Bourse is no longer carrying any member regulatory capital responsibilities following the transfer of these responsibilities to the IDA in January 2005. The proposed abrogation is considered to be of public interest.

## **III COMMENTS**

### **A) Efficiency**

As indicated above, the objective of the proposed abrogation of articles 5101 and 5102 of Rule Five of the Bourse is to eliminate CIPF-related regulatory requirements that have become obsolete following the transfer by the Bourse of its member regulation responsibilities to the IDA in January 2005.

### **B) Process**

The first step of the approval process for the regulatory abrogation proposed in the present document consists in having them approved by the Special Committee – Regulatory Division of the Bourse. Once the approval of the Special Committee is obtained, the proposed regulatory amendments will be simultaneously published by the Bourse for a 30-day comment period and submitted to the Autorité des marchés financiers for approval and to the Ontario Securities Commission for information.

## **IV SOURCES**

- Rule Five of Bourse de Montréal Inc.
- Decision No. 2004-PDG-0223 issued by the Autorité des marchés financiers (AMF) on December 30, 2004 – Published in the January 7, 2005 weekly Bulletin of the AMF (vol. 02, no. 01)
- Investment Dealers Association of Canada (IDA) - Bylaws, Regulations and Policies (see footnote 2 for specific references)
- Joint Regulatory Financial Questionnaire and Report (Policy C-3 of the Bourse and Form 1 of the IDA)

RULE FIVE

MISCELLANEOUS RULES

Section 5001 - 5100  
Business Day

(...)

Section 5101 - 5125  
Canadian Investor Protection Fund  
(abr. 00.00.07)

**5101 Canadian Investor Protection Fund**  
(15.03.05, 00.00.07)

~~The terms of any agreement entered into by the Bourse with other exchanges or other self-regulatory organizations of the securities industry in Canada in order to provide for the protection of the Bourse and of the public in the event approved participants would become insolvent or unable to meet their liabilities to their customers shall be binding on approved participants. No approved participant shall act contrary to the terms of any such agreement or expose the Bourse to liability thereunder.~~

~~—Without restricting the above, all approved participants must pay the assessments levied for the purposes of the Canadian Investor Protection Fund.~~

**5102 Display as Canadian Investor Protection Fund Participant**  
(01.01.95, 15.03.05, abr. 00.00.07)

~~1) Definitions~~

~~—For the purposes of this article, the term:~~

~~—"advertising" means any promotional material used in or on any media such as any newspaper, magazine, radio, video, television, telephone or cassette recording, motion picture, slide presentation or sign, billboard or Internet;~~

~~—"CIPF" means the Canadian Investor Protection Fund;~~

~~—"CIPF official explanatory statement" means the following statement:~~

~~—"Customers' accounts are protected by the Canadian Investor Protection Fund within specified limits. A brochure describing the nature and limits of coverage is available upon request."~~

~~—or such other statement as may be prescribed by the CIPF for use by approved participants;~~

~~—"CIPF official brochure" means any brochure or publication prescribed by the CIPF for use by approved participants;~~

## APPENDIX B

~~—"CIPF official symbol" means the symbol, mark or other designation prescribed by the CIPF for use by approved participants with the word "Member" appearing on top of the official symbol.~~

### ~~2) Display at Premises~~

~~—Each approved participant must conspicuously display in a prominent place at each of its locations to which customers have access the CIPF official symbol. No approved participant shall be required to display the CIPF official symbol until 30 days after the first day of operations as an approved participant.~~

### ~~3) Account Statements and Confirmations~~

~~—Each approved participant must include on the front of each confirmation and account statement sent to a customer the CIPF official symbol. Also, they must include in legible print on either the front or the back (at the approved participant's option) the CIPF official explanatory statement.~~

### ~~4) CIPF Official Brochure~~

~~—Each approved participant must make available to its customers, on request, the current version of the CIPF official brochure.~~

### ~~5) Advertising~~

~~—Each approved participant must include in any written, visual or audio advertising the words "Member CIPF" together with, at the option of the approved participant, a reproduction of the CIPF official symbol. Except as provided in this paragraph, no approved participant shall display or include in any advertising, promotional or other materials any symbol, statement or explanation relating to the CIPF or its membership in the CIPF, other than the ones prescribed by the CIPF.~~

### ~~6) Members of the CIPF~~

~~—For the purposes only of complying with this article and to the extent permitted by the CIPF, approved participants must identify themselves as members of CIPF.~~

### ~~7) Termination of CIPF Membership~~

~~—Upon its resignation, suspension or revocation, each approved participant must immediately cease using the CIPF official explanatory statement, the official brochure or the official symbol, and must immediately cease identifying itself as a member of the CIPF.~~

### ~~8) Exemptions~~

~~—An approved participant may be exempted from all or part of the requirements of paragraph 5) to the extent prescribed by CIPF.~~

(...)