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| <input checked="" type="checkbox"/> | Trading – Interest Rate Derivatives    | <input checked="" type="checkbox"/> | Back-office - Options |
| <input checked="" type="checkbox"/> | Trading – Equity and Index Derivatives | <input checked="" type="checkbox"/> | Technology            |
| <input checked="" type="checkbox"/> | Back-office – Futures                  | <input checked="" type="checkbox"/> | Regulation            |
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**CIRCULAR**  
June 18, 2008

## **IMPORTANT NOTICE**

### **ORDERS IDENTIFICATION AND ENTRY**

#### **ARTICLE 6379 OF THE RULES OF BOURSE DE MONTRÉAL INC.**

#### **BACKGROUND**

On June 23, 2005, Bourse de Montréal Inc. (the Bourse) published a request for comments (Circular no. 099-2005) in connection with a proposal to amend article 6379 of the Rules of the Bourse which regards the identification and entry of orders. This article states that the identification of the account type (client, firm or pro) must be made at the time an order is entered into the electronic trading system of the Bourse.

The purpose of the regulatory amendment proposed by the Bourse was to introduce some flexibility into this requirement by permitting, for futures contracts and options on futures contracts that the identification of the account type be made at the time the executed orders are allocated into an account. The flexibility proposed by the Bourse was in response to a request expressed by some approved participants who were considering that the obligation to identify the account type at the time an order is entered was sometimes impairing their efficiency to serve their clients in the best possible manner, particularly when the market gets very active. For its part, the Bourse was of the opinion that permitting the proposed flexibility would not impair its capacity to reconstruct the audit trail of a transaction executed on the Bourse if needed.

It is important to mention that the amendment proposed by the Bourse was limited to transactions in futures contracts and in options on futures contracts listed on the Bourse. For other derivative instruments such as equity options, the obligation to identify the account type at the time the order is entered remained unchanged. The reason for this limitation is that the trading system of the Bourse, for what regards transactions in futures contracts and options on futures contracts, allows not only the Bourse to record the order entry and its subsequent execution, but also the identity of the account to which the executed order has been allocated. This functionality related to the allocation of executed orders is not yet available for other derivative instruments such as equity options. Consequently, the regulatory amendment proposed by the Bourse was drafted in such a way that for these other derivative instruments the obligation to identify the account type when entering the order remained unchanged.

Circular no.: 098-2008

The proposed amendment to article 6379 was submitted to the Autorité des marchés financiers (AMF) for approval on June 29, 2005 and published in the AMF Weekly Bulletin on July 1, 2005.

Following the publication of requests for comments by the Bourse and by the AMF, two approved participants forwarded a comment letter stating that they were supporting the amendment proposed by the Bourse.

Following its analysis of the amendment proposed by the Bourse, the AMF concluded that it could not approve this amendment because it was contrary to the provisions of subparagraph 1) k) of article 11.2 of Regulation 23-101 of the AMF (*Trading Rules*) which require the recording of the account type immediately upon the receipt or the creation of an order. The AMF therefore refused to approve the amendment proposed by the Bourse to article 6379 of its Rules and issued on March 11, 2008 its decision no. 2008-PDG-0089 (see the March 21, 2008 AMF Weekly Bulletin, vol. 5, no. 11, Section 7.5) confirming its refusal.

## CONSEQUENCES OF THE AMF REFUSAL

Up until now, the Bourse had exercised some tolerance regarding the exact identification of the account type at the time of entering an order. The fact that an account type was not entered correctly at the time an order is entered did not result in any disciplinary consequence when a correction was done at time of allocation of this order once executed.

The consequence of the refusal decision of the AMF along with the above-mentioned requirements of Regulation 23-101 is that from now on the Bourse will no longer be in a position to exercise the same tolerance as it was the case in the past and **approved participants that do not ensure that the account type is clearly and correctly identified immediately upon entering an order will expose themselves to disciplinary sanctions from the Bourse.**

Furthermore, in connection with its refusal decision, the AMF has requested from the Bourse that it provides to the AMF a follow-up report regarding the identification of account type at the time of order entry by approved participants of the Bourse. The report requested by the AMF will provide, for each approved participant, information on all transactions executed on the Bourse during the period from April 1, 2008 to June 30, 2008 for which the identification of the account type has not been made in compliance with the requirements of article 6379 of the Rules of the Bourse.

Following the preparation of this report, the Bourse will transmit to each approved participant identified as not having complied with the requirements of article 6379 a warning letter reminding the requirements of this article for what regards the obligation to correctly identify the account type at the time of order entry. Thereafter, the Bourse will continue to monitor very closely situations of non compliance and any approved participant that has already been the subject of a warning letter as mentioned above and which continues to not be in compliance with the requirements of article 6379 could be subjected to disciplinary sanctions.

**The obligation to strictly comply with the requirements of article 6379 regarding the account type identification is immediate.** Approved participants should therefore not wait to receive a warning letter as mentioned above before implementing all procedures and controls ensuring compliance with these requirements.

For further information, please contact Mr. Denis Chouinard, Director, Examinations and Market Analysis, Regulatory Division, at 514-871-3569 or by e-mail at [dchouinard@m-x.ca](mailto:dchouinard@m-x.ca).

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