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**CIRCULAR**  
June 16, 2011

## **REQUEST FOR COMMENTS**

### **REPORTS RELATED TO THE ACCUMULATION OF POSITIONS FOR DERIVATIVE INSTRUMENTS**

#### **AMENDMENTS TO ARTICLE 6654 — REPORTS RELATED TO POSITION LIMITS**

#### **AMENDMENTS TO ARTICLE 14102 — REPORTS PERTAINING TO THE ACCUMULATION OF POSITIONS FOR DERIVATIVE INSTRUMENTS**

The Rules and Policies Committee of Bourse de Montréal Inc. (the Bourse) has approved amendments to articles 6654 and 14102 of the Rules of the Bourse, which deal with reports related to position limits. The purpose of these amendments is to facilitate the commissioning of the new declaration tool that will enable the approved participants to submit their reports to the Bourse via electronic.

Comments on the proposed amendments to articles 6654 and 14102 of the Rules of the Bourse must be submitted within 30 days following the date of publication of the present notice, at the latest on July 18, 2011. Please submit your comments to:

*Mr. François Gilbert*  
*Vice-President, Legal Affairs, Derivatives*  
*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*  
*Corporate Secretary*  
*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)*

Circular no.: 109-2011

## **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 by the Bourse, in accordance with the self-certification process as established in the Derivatives Act (2008, c.24).

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

Bourse de Montréal Inc. is authorized to carry on business as an exchange and is recognized as a self-regulatory organization (SRO) by the Autorité des marchés financiers (the Autorité). The Board of Directors of the Bourse has delegated to the Rules and Policies Committee of the Bourse its powers to approve and amend its Rules. The Rules of the Bourse are submitted to the Autorité in accordance to the self-certification process as established in the Derivatives Act (2008, c.24).

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.

The Division is under the authority of a Special Committee appointed by the Board of Directors of the Bourse. The Special Committee is empowered to recommend to the Board of Directors the approval or amendment of some aspects of the Rules of the Bourse governing approved participants. The Board of Directors has delegated to the Rules and Policies Committee of the Bourse its powers to approve or amend these Rules upon recommendation from the Special Committee.



## REPORTS RELATED TO THE ACCUMULATION OF POSITIONS FOR DERIVATIVE INSTRUMENTS

### AMENDMENTS TO ARTICLE 6654 — REPORTS RELATED TO POSITION LIMITS

### AMENDMENTS TO ARTICLE 14102 — REPORTS PERTAINING TO THE ACCUMULATION OF POSITIONS FOR DERIVATIVE INSTRUMENTS

## I SUMMARY

On April 22, 2010, Bourse de Montréal Inc. (the Bourse) published a circular informing its approved participants of an automation project for the declaration of large open positions<sup>1</sup> which would render the daily submission of such reports mandatory.

As announced in its circular, the Bourse needed to revise its regulation to determine whether amendments would be necessary with the new declaration tool.

Upon completion of this revision, the Bourse proposes to amend articles 6654 of Rule Six (“Reports Related to Position Limits”) and 14102 of Rule Fourteen (“Reports Related to the Accumulation of Positions for Derivative Instruments”) in order to facilitate the commissioning of the new declaration tool and to specify that the reporting thresholds must take into consideration all accounts held or controlled by the same beneficial owner.

## II ANALYSIS

<sup>1</sup> See circular no. 047-2010

### A) Context

Under existing Bourse regulation, appearing in two separate sections, each approved participant of the Bourse must submit to the Bourse a report pertaining to the positions exceeding certain reporting thresholds, in the manner prescribed by the Bourse.

Article 6654 details the reporting thresholds for options on equity, bonds, Exchange Traded Fund units (ETF), indices, currency, futures contracts on Canadian Government Bonds, futures contracts on Three-Month Canadian Bankers’ Acceptance and sponsored options. This article stipulates that the position report of an approved participant must be submitted to the Bourse “no later than three business days following the last business day of each week”.

Article 14102 stipulates that such reports must be submitted to the Bourse “on a weekly basis or as otherwise required by the Bourse” for positions exceeding reporting thresholds for each class of derivative instruments. The thresholds for futures contracts negotiated on the Bourse are detailed in Rule Fifteen (“Futures Contracts Specifications”).

The Bourse regularly publishes circulars related to position limits for both options and futures contracts, which also detail applicable reporting thresholds and the frequency with which these reports must be submitted<sup>2</sup>. These circulars also state that the position reports for futures contracts and options on futures contracts must be submitted to the Bourse “within 48 hours following the close of the second and fourth business day of each week”.

As indicated in the many circulars published by the Bourse since April 2010<sup>3</sup> pertaining to the automation project for the reporting of large open positions (also known as the “LOPR tool”), the main goal in establishing such a tool is to ensure the confidentiality and security of all reports transmitted to the Bourse, to significantly reduce

<sup>2</sup> By way of example, see circulars no. 080-2011 and 065-2011

<sup>3</sup> See circulars no. 047-2010, 048-2010, 016-2011, 020-2011 and 074-2011.

the amount of time approved participants require for the preparation and transmission of these reports, and in so doing, reducing or eliminating the need for manual processing of data. It is worthy of mention that a similar process has been in place for several years in the United States, for both the options and the futures market.

Since it has been determined that all large open position reports will have to be transmitted to the Bourse on a daily basis once the LOPR tool is launched, it is necessary to proceed to certain amendments to articles 6654 and 14102 of the Rules of the Bourse.

It is proposed to specify that gross, rather than net, open positions must be considered when determining if a given account holds a number of positions equal or superior to the prescribed reporting threshold. In addition, it will be specified that approved participants must take into consideration all accounts held or controlled by a beneficial owner to determine if the prescribed reporting threshold has been reached for a given instrument. Such specifications were published in a Bourse circular on April 22, 2010<sup>4</sup>.

### **B) Proposed Amendments**

Firstly, it is proposed to regroup all requirements related to position limit reports in a single article of the Rules of the Bourse. As indicated above, these requirements are currently located in articles 6654 and 14102 under similar titles. However, article 6654 makes note of reporting thresholds applicable to options and options on futures contracts, while Rule Fifteen elaborates on the threshold pertaining to futures contracts.

The Bourse proposes to regroup these requirements in article 14102 of Rule Fourteen. The titles of this Rule, (“Derivative Instruments – Miscellaneous Rules”), of the section in which article 14102 can be found (“Reports for Derivative Instruments”) and of the article in question (“Reports Pertaining to the Accumulation of Positions for Derivative Instruments”) allow for the inclusion of requirements applicable to options and futures contracts alike. The current article

6654 would therefore only refer to article 14102 for matters pertaining to position reports.

The Bourse also proposes to include provisions indicating the manner and frequency with which approved participants must submit their position reports, notably to allow for a certain smoothness in the transition to the new LOPR tool and its related technical requirements, as this tool will require daily reporting for both options and futures contracts rather than weekly or bi-weekly reporting, as is currently the case.

Given the amendments proposed to paragraphs 1) and 4) of article 14102, the Bourse moves to abrogate the current paragraph c) as it refers to a definition of the term “client”, which will no longer be relevant.

A new paragraph 2) will detail the principle by which approved participants are to determine if the reporting thresholds are applicable to their positions, that is to say that they must consider all accounts held or controlled by a given person, as beneficial owner. Even though these specifications were published in the Bourse circular number 048-2010 of April 22, 2010, it is proposed to include them in article 14102.

Moreover, the Bourse proposes to enumerate, in paragraph 3) of article 14102, the applicable reporting thresholds for both options and futures contracts. As indicated above, Rule Fifteen (“Futures Contracts Specifications”) mentions reporting thresholds for futures contracts as well as the possibility that the Bourse may establish any other threshold if deemed necessary. It is therefore proposed to add a similar note at the end of this paragraph.

The addition of a paragraph 5) to article 14102 will allow the detailing of criteria used by the Regulatory Division in granting exemption requests to approved participants who have not traded any of the derivative instruments listed on the Bourse in the last calendar year and who do not plan to trade any of them in a foreseeable future. Furthermore, some approved participants offer execution services only pursuant to which all transactions executed are immediately given up to the approved participants that are using their services. Generally, these executing approved

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<sup>4</sup> See circular no. 048-2010

participants never hold positions in derivative instruments for their own account and do not hold client accounts. They therefore have no derivative instruments positions in their books. Paragraph 5 would therefore allow such participants to be exempted from the provisions set forth in paragraph 1) of article 14102, under certain conditions detailed in paragraph 5).

Finally, the Bourse proposes to add a paragraph 6) to article 14102, which will enumerate the required conditions under which an approved participant may delegate to a third party its obligations pertaining to the transmission of position reports to the Bourse, as is prescribed in paragraph 1).

### **C) Public Interest**

Given that the regulatory amendments proposed in this analysis aim to establish the commissioning of the LOPR tool, which will be entirely automated and will ensure the confidentiality and security of position reports, while diminishing the time required by approved participant personnel for the preparation and transmission of such reports, the Bourse considers that these amendments are of public interest.

Also of public interest, the commissioning of the LOPR tool will require that approved participants provide the Regulatory Division with confidential and/or personal information pertaining to those derivative instruments account holders whose positions are to be reported to the Bourse.

### **D) Impact of the Proposed Amendments on Systems**

The regulatory amendments proposed aim to ensure that Bourse regulation be written without any contradictions and/or inconsistencies between what is stipulated in the Rules and their intended application once the LOPR tool is commissioned.

The commissioning of the LOPR tool will require that approved participants set up one of the IT

solutions of the Bourse for this tool (see Appendix A). Setting up these technological tools will require some effort on the part of approved participants. The effort required will vary according to the technological infrastructure these participants currently have at their disposal and the level of automation they wish to attain. In most cases, the LOPR tool will also require dedicated communication lines, either in the form of private telephone lines or of a virtual private network (VPN), as well as the equipment necessary for their proper functioning (e.g. servers, terminals, etc.).

Technical notices and documents related to the LOPR tool are regularly published by the Bourse since early 2011<sup>5</sup>, and discuss the technical specifications of the project.

### **E) Interest of Financial Markets**

For reasons mentioned above, the Bourse believes the regulatory amendments proposed in this analysis will in no way harm the interest of financial markets.

On the contrary, these amendments will allow the Bourse, and the Regulatory Division in particular, to dispose of more complete and up-to-date information pertaining to large open positions in derivative instruments listed on the Bourse, held by approved participants and/or their clients.

This information will allow the Division to perfect its mandate to more efficiently manage the risks related to holding derivative instruments and better identify situations where a concentration of derivative instruments are held by one account holder or a small group of account holders, as well as situations where the allowed position limit is attained or almost attained.

The commissioning of the LOPR tool is also to the advantage of approved participants as they will

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<sup>5</sup> See technical notices nos 011-10, 016-10, 001-11, 003-11, 005-11, 007-11, 008-11 and 009-11, as well as the technical documents related to the LOPR project, published on the Bourse's website at ([http://reg.m-x.ca/en/lopr/tech\\_notices](http://reg.m-x.ca/en/lopr/tech_notices)) and ([http://reg.m-x.ca/en/lopr/tech\\_documents](http://reg.m-x.ca/en/lopr/tech_documents)).

dispose of a tool that significantly reduces, and eventually eliminates, the manual processing of information and its transmission to the Bourse. It will thereby minimize the risk of mistakes or omissions, which are inherent to manual processing. The LOPR tool will also contribute to improving the confidentiality and security of the information submitted to the Bourse at the time of its submission, reception and retention.

### F) Other Considered Alternatives

No other alternative has been considered by the Bourse.

## III COMMENTS

### A) Efficiency

As previously indicated, the main objective of the regulatory amendments proposed to articles 6554 and 14102 discussed in this analysis is to allow for the commissioning of a new automated tool for the reporting of large open positions (“LOPR tool”).

This tool will ensure improved confidentiality and security of the information submitted by approved participants of the Bourse as it relates to position reports. Moreover, the automation of this process should have a positive impact on approved participants of the Bourse, particularly as it pertains to the resources currently devoted to the preparation and manual transmission of these reports, all the while reducing the risks inherent to data manipulation.

### B) Process

The first step for the approval of the regulatory amendments that are proposed in this analysis consist in having them approved by the Special Committee – Regulatory Division of the Bourse. The proposed amendments are then submitted to the approval of the Rules and Policies Committee of the Bourse.

Once approved by the Rules and Policies Committee of the Bourse, the proposed amendments, including the present document and its appendices, will be simultaneously published

by the Bourse for a 30-day comment period and submitted to the Autorité des marchés financiers (AMF) for self-certification purposes. The AMF also publishes the proposed amendments and the 30-day request for comments in its weekly bulletin.

Finally, a copy of the abrogation and amendment proposition will be submitted to the Ontario Securities Commission.

## IV REFERENCES

- Article 6654 of Rule Six of Bourse de Montréal Inc.
- Article 14102 of Rule Fourteen of Bourse de Montréal Inc.
- Rule Fifteen of Bourse de Montréal Inc. — Futures Contracts Specifications
- Circulars, technical notices and documents related to the “LOPR” project (<http://reg.m-x.ca/en/lopr/>)

## **ANALYSIS – APPENDIX A**

### **LOPR APPLICATION SUMMARY DESCRIPTION**

In the goal of ameliorating the declaration process for large open positions, the Regulatory Division of Bourse de Montréal Inc. (the Division) will establish a tool for the declaration of large open position reports (LOPR) during the summer of 2011.

The LOPR declaration tool will allow Canadian and foreign approved participants of the Bourse to submit electronically, every day, the open positions and the profiles of their clients and their own proprietary accounts, which need to be declared to the Division when they reach the reporting thresholds prescribed by the Bourse. The prescribed reporting thresholds are those which can be found in the ammendment project to article 14102 of the Rules of the Bourse.

As it stands, approved participants must manually submit their positions and the profiles of the accounts which must be reported to the Division. In addition to being cumbersome and onerous for both approved participant and Bourse personnel, this process entails many other disadvantages with the most important among them:

- Very high risk of errors or omissions due to the manual processing of data;
- Non secure transmission;
- Inadequate reporting frequency (2 times per week for the futures contract market and once per week for options) especially when market conditions are volatile;
- Information not received in due time (2-3 business day delay before the Division receives the required information).

The LOPR tool will allow approved participants to submit their data to the Division in two different ways:

- With a graphical user interface (GUI) specially designed for the LOPR project by the IT Services of the Bourse; or
- With the SAIL protocol (SOLA® Access Information Language) currently in use for access to the electronic trading platform of the Bourse.

#### **Graphical User Interface (GUI)**

Those approved participants who choose to use a graphical user interface to submit their open position reports and the account profiles holding the positions will be able to manually enter their data into the interface and send it to the Division by exporting the data in a folder with integrated dividers and submitting it via the interface.

#### **Direct Communication via the SAIL Protocol**

The approved participants who are familiar with the SAIL protocol or who wish to establish a message process based on this protocol for the submission of their position reports and their account profiles holding these positions can use the SAIL protocol in one of the points of presence (POP) of the Bourse to transmit their data to the Division.

#### **Transmission Mode**

The transmission of positions reports to the Regulatory Division can be done, as is preferred by the approved participants, either by private telephone line or by virtual private network (VPN).

## ANALYSIS – APPENDIX B

### LOPR - INFORMATION REQUIRED

In addition to providing details of positions held in derivative instruments by accounts that exceed the reporting thresholds set in article 14102 of the Rules of the Bourse, approved participants will be required to provide the following information for each account reported to the Bourse (R = Required Information – O= Optional Information).

Account Number (R)	
Account Owner Type (R)	Canadian Bank Foreign Bank Canadian Broker Foreign Broker Fund Manager Pension Fund Government and State Owned Companies Retail Client Insurance Company Miscellaneous Hedge Funds Mutual Funds Sovereign Funds Corporate Proprietary Trading Firms Primarily Algorithmic Proprietary Trading Firms
Type of account (R)	Client Firm Market Maker Omnibus Professional
Account Owner Name (R)	
Account Owner's unique identification (R)	Examples: <ul style="list-style-type: none"> <li>- For retail clients: Last four digits of Social Insurance Number or other unique identifier;</li> <li>- For corporate or institutional clients: Corporate registration number or other unique identifier</li> </ul>
E-mail address (O)	
Account Owner Phone Number (O)	
Account Owner Fax Number (O)	
Hedger/Speculator Indicator (R)	

**6654 Reports Related to Position Limits**

(05.08.75, 15.11.79, 24.04.84, 20.03.91, 10.11.92, 07.04.94, 07.09.99, 11.02.00, 28.01.02, 26.09.05, 00.00.00)

a) Each approved participant shall file with the Bourse, in the prescribed manner and frequency, a report prepared in compliance with article 14102, no later than three business days following the last business day of each week, a report in such form as may be prescribed, giving the name and address of any client who, on the last business day of any week, held aggregate long or short positions in excess of:

- ~~i) 250 contracts, in the case of stock and bond and 500 contracts, in the case of index participation units;~~
- ~~ii) 1,500 contracts, in the case of index options;~~
- ~~iii) 500 contracts, for currency options;~~
- ~~iv) 250 options or futures equivalent contracts (as defined in article 6651) with respect to a position involving the option and the underlying futures contract, in the case of options on Government of Canada Bond futures;~~
- ~~v) 300 options or futures equivalent contracts (as defined in article 6651) with respect to a position involving the option and the underlying futures contract, in the case of options on Canadian Bankers' Acceptance futures;~~
- ~~— on the same side of the market in any single class. The report shall indicate for each such class of options, the number of contracts comprising each such position and, in the case of short positions, whether covered or uncovered.~~
- ~~vi) The position limits requirements described above apply to sponsored options by using an equivalent unit of trading.~~

~~b) In addition to the reports required above, each approved participant shall report immediately to the Bourse any instance in which the approved participant has reason to believe that a client, acting alone or in concert with others, has exceeded or is attempting to exceed the position limits established in article 6651.~~

~~c) For the purposes of this article, the term "client" in respect to any approved participant shall include the approved participant, any general or special partner of the approved participant, any officer or director of the approved participant, or any participant, as such, in any joint group or syndicate account with the approved participant or with a partner, officer or director thereof.~~

**14102 Reports Pertaining to the Accumulation of Positions for Derivative Instruments**

(24.04.84, 01.06.84, 13.09.05, 04.03.08, 00.00.00)

- 1) Each approved participant must file daily with the Bourse, in the prescribed manner, a report detailing all gross positions held for its own account or for an account or group of accounts which are all owned by the same beneficial owner in derivative instruments listed on the Bourse when these positions exceed the reporting thresholds prescribed by the Bourse for each of these derivative instruments.
- a) ~~Each approved participant must file with the Bourse, on a weekly basis or as otherwise required by the Bourse, a report, in such form as may be prescribed, giving the name, address and account number of any clients and/or persons controlling this account who hold a position in excess of the reporting limit stipulated by the Bourse for each class of derivative instruments listed on the Bourse. The Bourse may, at its discretion, require reports from one or more approved participants on a smaller number of positions owned or controlled;~~
- 2) In order to determine if the reporting thresholds are attained, approved participants must aggregate positions held or controlled by the same account beneficial owner.
- 3) The reporting thresholds established by the Bourse are as follows:
  - a) For each options class other than options on futures contracts:
    - i) 250 contracts, in the case of stock and trust units options;
    - ii) 500 contracts, in the case of options on Exchange Traded Fund unit options;
    - iii) 500 contracts, in the case of currency options;
    - iv) 1,500 contracts, in the case of index options;
  - b) For futures contracts and the related options on futures contracts:
    - i) 300 contracts, in the case of futures contracts and options on futures contracts on Three-Month Canadian Bankers' Acceptance Futures (BAX and OBX), by aggregating positions on options on futures contracts and positions in the underlying futures contract. In this case, one options contract (OBX) is equal to one futures contract (BAX);
    - ii) 250 contracts, in the case of 30-Year Government of Canada Bond Futures (LGB);
    - iii) 250 contracts, in the case of futures and options on futures contracts on Ten-Year Government of Canada Bond Futures (CGB and OGB), by aggregating positions on options on futures contracts and positions in the underlying futures contract. For the purposes of aggregating positions, one options contract (OGB) is equal to one futures contract (CGB);
    - iv) 250 contracts, in the case of Five-Year Government of Canada Bond Futures (CGF);
    - v) 250 contracts, in the case of Two-Year Government of Canada Bond Futures (CGZ);

vi) 1,000 contracts, in the case of S&P/TSX 60 Index Standard Futures (SXF) and S&P/TSX 60 Index Mini Futures (SXM), by aggregating positions on both futures contracts. For the purposes of aggregating positions, one standard contract (SXF) is equal to one mini contract (SXM);

vii) 1,000 contracts, in the case of S&P/TSX Composite Index Mini Futures (SCF);

viii) 300 contracts, in the case of 30-Day Overnight Repo Rate Futures (ONX);

ix) 500 contracts, in the case of Sector Index Futures (SXA, SXB, SXH, SXY);

x) 250 contracts, in the case of futures contracts on Canada carbon dioxide equivalent (CO2e) units with physical settlement (MCX);

The Bourse may, at its discretion, impose the application of any other reporting threshold.

~~4b) in addition to the reports required under the provisions of the present article mentioned above, each approved participant must report immediately to the Vice-President of the Regulatory Division of the Bourse any instance-situation in which the approved participant has reason to believe that itself or a client, acting alone or in concert with others persons, has exceeded or is attempting to exceed the position limits established by the Bourse;~~

~~e) for the purpose of the present article and unless specifically exempted by the Bourse, the term "client" includes the approved participant itself, any partner, officer or director of the approved participant, or any participant, as such, in any joint group, syndicate or omnibus account with the approved participant or with a partner, officer or director thereof.~~

5) An approved participant of the Bourse which does not trade or does not hold or manage any trading accounts for its clients or itself for the purposes of transactions in any of the derivative instruments listed on the Bourse may be exempted from complying with the requirements as provided for in paragraph 1) of the present article, under the following conditions:

i) the approved participant must submit an exemption request in writing to the Regulatory Division, confirming that it has not traded any of the derivative instruments listed on the Bourse in the last calendar year and that it does not plan to trade any of them in a foreseeable future;

ii) all exemptions granted will be valid for a limited time not exceeding twelve (12) months;

iii) any exemption can be cancelled by the Regulatory Division at any time and, in any case, ends when an approved participant executes a transaction on any of the derivative instruments listed on the Bourse;

6) An approved participant may, with prior approval of the Bourse, delegate to a third party the transmission of position reports required under the provisions of paragraph 1) of the present article. In order for such an exemption to be granted, the following conditions must be met:

- i) the approved participant which wishes to delegate the task of producing and submitting position reports to a third party rather than doing so by itself must divulge to this third party all information necessary for the production of such reports, as is required by the Bourse;
- ii) any delegation established in accordance with the present paragraph must first be approved in writing by the Regulatory Division. An approved participant wishing to delegate the submission of positions reports required by the Bourse to a third party must therefore submit a request for approval in writing to the Regulatory Division;
- iii) all approvals of delegation granted by the Regulatory Division will be valid for a limited time not exceeding twelve (12) months;
- iv) any approval of delegation can be cancelled by the Regulatory Division at any time and, in any case, ends when the third party delegate ceases to produce reports or is unable to submit position reports in lieu of the concerned approved participant, pursuant to the requirements of the Bourse;
- v) an approved participant having chosen to delegate the submission position reports nevertheless remains responsible for obligations provided in the present article.