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CIRCULAR 028-14
February 27, 2014

SELF-CERTIFICATION

REGULATION RESPECTING ELECTRONIC TRADING AND DIRECT ELECTRONIC ACCESS TO MARKET PLACES

AMENDMENTS TO ARTICLE 6366 — ACCESS TO ELECTRONIC TRADING

The Rules and Policies Committee and the Special Committee – Regulatory Division of Bourse de Montréal Inc. (the Bourse) have approved amendments to article 6366 of the Rules of the Bourse, which deal with access to the Bourse granted by approved participants to their clients. These amendments have been self-certified in accordance with the self-certification process as established in the *Derivatives Act* (R.S.Q., chapter I-14.01) and will become effective on March 1, 2014.

The purpose of the amendments to article 6366 is to include in the regulation of the Bourse the obligations and requirements similar to those set out in *Regulation to amend Regulation 23-103 respecting Electronic Trading* regarding electronic access to the Bourse, as granted by approved participants to their clients.

The regulatory modifications discussed in this circular were subjected to a request for comments published by the Bourse on November 22, 2013 (circular 184-2013). The Bourse did not receive any comments following the publication of this circular.

As indicated in circular no 184-2013, a transition period of 180 days shall be granted from March 1, 2014, to allow approved participants to update the written agreements already entered into with their clients at this date, in order to comply with the new requirements listed under article 6366.

For further information, please contact Mr. Francis Larin, Director and Legal Counsel, Regulatory Division, at 514 871-3516 or at flarin@m-x.ca.

Brian Gelfand
Vice-President and Chief Regulatory Officer

Section 6365- 6401
Electronic Trading of Derivatives Instruments Traded on the Bourse

6366 Access to Electronic Trading
 (25.09.00, 24.09.01, 19.03.02, 03.11.04, 00.00.00)

- A) Only approved participants of the Bourse and restricted permit holders of the Bourse, through their respective clearing approved participants, will have access to the electronic trading for derivatives instruments traded on the Bourse and this, at the following conditions:
- a) certify to the Bourse that only their designated personnel approved by the Bourse and who has received the required training has access to the said system;
 - b) certify to the Bourse that only the designated personnel approved by a recognized exchange or association as described in article 7452 6) b) ii) of the Rules of the Bourse and who has received the required training has access to the said system;
 - c) put in place an internal security procedure for access to the electronic trading system; and
 - d) obtain the prior approval of the Bourse.

Each approved participant and each restricted permit holder is entirely and exclusively responsible for any unauthorized access to the said system.

The approved participant must give notice to the Bourse of the termination of employment ~~of its~~ of its designated personnel approved by the Bourse and this, within a delay of ten (10) business days from the date of termination of employment.

- B) ~~The a~~ approved participants can authorize clients to transmit electronically ~~use a computer system to route~~ orders to the Bourse through the systems of the approved participant, using the approved participant's identifier. In order to do so, the following conditions must be complied with:

1. Definitions

~~of clients: a)~~ For the purposes of this article, ~~a~~ a client is defined:

- i) as a person, other than those registered as an investment dealer with a securities regulatory authority or approved as a foreign approved participant by the Bourse, having entered into a written agreement with an approved participant which permits to transmit electronically orders to the Bourse through the systems of an approved participant, using the approved participant's identifier; ~~having an agreement with the approved participant to route his orders to the routing system of the approved participant.~~
- ii) as an investment dealer registered with a securities regulatory authority, or a foreign approved participant of the Bourse, having entered into a written agreement with an approved participant which permits the investment dealer or foreign approved participant to transmit electronically orders to the Bourse, through the systems of the approved participant, using the approved participant's identifier.

- b) For the purpose of this article, the terms “Electronic Trading Rules” refer to *Regulation 23-103 respecting Electronic Trading* (Chapter V-1.1, r. 7.1), as well as any applicable policy statement or notice.
- c) For the purpose of this article, the terms “Bourse and regulatory requirements” refer to the rules, policies and operational procedures of the Bourse, or to any condition imposed by the Bourse for the purpose of the electronic access provided to a client by an approved participant, as well as to applicable securities or derivatives legislation.

2. ~~Conditions for connections~~

2.1 An approved participant must:

- a) establish, maintain and apply standards that are reasonably designed to manage, in accordance with prudent business practices, the approved participant’s risks associated with providing an electronic access to a client, pursuant to paragraph B), including those set out in the Electronic Trading Rules;
- b) assess and document that a client meets the standards established by the approved participant, under subparagraph a).

2.2 The standards thus established by an approved participant, under subsection 2.1, shall include that a client must not have an electronic access to the Bourse, pursuant to paragraph B), unless:

- a) it has sufficient resources to meet any financial obligations that may result from the use of such electronic access by that client;
- b) it has reasonable arrangements in place to ensure that all individuals using such electronic access, on behalf of the client, have reasonable knowledge of and proficiency in the use of the order entry system that facilitates such electronic access;
- c) it has reasonable knowledge of and the ability to comply with all applicable Bourse and regulatory requirements;
- d) it has reasonable arrangements in place to monitor the entry of orders through such electronic access.

2.3 An approved participant must assess, confirm and document, at least annually, that a client continues to meet the standards established by the approved participant pursuant to subsection 2.1.

2.4 An approved participant must not allow any order to be transmitted to the Bourse, pursuant to paragraph B), unless:

- a) the approved participant is maintaining and applying the standards it has established under subsections 2.1, 2.2 and 2.3;
- b) the approved participant is satisfied that the client meets the standards established by the approved participant under subsections 2.1, 2.2 and 2.3;

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- c) the approved participant is satisfied that the client is in compliance with the written agreement entered into with the approved participant, under subsection 2.5;
- d) the order is subject to all applicable requirements pursuant to the Electronic Trading Rules, including those pertaining to the risk management and supervisory controls, policies and procedures of the approved participant.

2.5 An approved participant must not provide to a client an electronic access to the Bourse, pursuant to paragraph B), unless the client has entered into a written agreement with the approved participant, which provides that:

- a) the client's trading activity shall comply with all applicable Bourse and regulatory requirements;
- b) the client's trading activity shall comply with the product limits and credit or other financial limits specified by the approved participant;
- c) the client shall take all reasonable steps to prevent unauthorized access to the technology that facilitates such electronic access;
- d) the client shall not permit any person to use such electronic access provided by the approved participant, other than those authorized by a client as defined in subparagraph 1 a) (ii) or, in the case of a client as defined in subparagraph 1) a) (i), other than those authorized and named by the client under the provision of the agreement referred to in subparagraph h);
- e) the client shall fully cooperate with the approved participant in connection with any investigation or proceeding by the Bourse with respect to trading conducted pursuant to such electronic access, including, upon request by the approved participant, providing access to the Bourse to information that is necessary for the purposes of the investigation or proceeding;
- f) the client shall immediately inform the approved participant, if it fails or expects not to meet the standards set by the approved participant;
- g) when trading for the accounts of another person, under subsection 2.11, the client shall ensure that the orders of the other person are transmitted through the systems of the client and shall be subject to reasonable risk management and supervisory controls, policies and procedures established and maintained by the client;
- h) a client, as defined under subparagraph 1 a) (i), shall immediately provide to the approved participant, in writing, the names of all personnel acting on the client's behalf that it has authorized to enter an order, using the electronic access to the Bourse pursuant to paragraph B), as well as any changes thereof;
- i) the approved participant shall have the authority, without prior notice, to reject any order, to vary or correct any order to comply with Bourse and regulatory requirements, to cancel any order entered on the Bourse and to discontinue accepting orders from the client.

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- 2.6 An approved participant must not allow a client to have, or continue to have, an electronic access to the Bourse pursuant to paragraph B), unless it is satisfied that the client has reasonable knowledge of the applicable Bourse and regulatory requirements, and of the standards established by the approved participant under subsections 2.1, 2.2 and 2.3.
- 2.7 An approved participant must ensure that a client receives any relevant amendments to the applicable Bourse and regulatory requirements, or changes or updates to the standards established by the approved participant under subsections 2.1, 2.2 and 2.3.
- 2.8 Upon providing to a client an electronic access to the Bourse, pursuant to paragraph B), an approved participant must ensure the client is assigned a client identifier in the form and manner required by the Bourse.
- 2.9 An approved participant must ensure that an order entered by a client, using such an electronic access to the Bourse, includes the appropriate client identifier.
- 2.10 An approved participant must promptly inform the Bourse if a person ceases to be a client pursuant to paragraph B).
- 2.11 An approved participant must not provide an electronic access to the Bourse, pursuant to paragraph B), to a client as defined in subparagraph 1 a) i) that is trading for the account of another person, unless the client is:
- a) registered or exempted from registration as an adviser under securities legislation; or
 - b) a person that
 - i) carries on business in a foreign jurisdiction;
 - ii) under the laws of the foreign jurisdiction, may trade for the account of another person, using such an electronic access; and
 - iii) is regulated in the foreign jurisdiction by a signatory to the International Organization of Securities Commissions' Multilateral Memorandum of Understanding.
- 2.12 If a client referred to in section 2.11 is using such an electronic access to the Bourse to trade for the account of another person, it must ensure that the orders of the other person are initially transmitted through the systems of the client.
- 2.13 An approved participant must ensure that when a client is trading for the account of another person, using an electronic access to the Bourse pursuant to paragraph B), the orders of the other person are subject to reasonable risk management and supervisory controls, policies and procedures established and maintained by the client.

~~An approved participant may transmit orders received electronically from a client directly to the electronic trading system of the Bourse provided that the approved participant has:~~

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- ~~a) — obtained prior approval of the Bourse that the order routing system of the approved participant meets the following conditions:
 - ~~i) — supports compliance with the requirements of the Bourse dealing with the entry and trading of orders by all its clients who will use the order routing system (for example, the order routing system must support all valid order information that may be required);~~
 - ~~ii) — ensures security of access to the electronic trading system of the Bourse by having in place an internal security procedure;~~
 - ~~iii) — complies with specific requirements prescribed pursuant to article 6366 B) 2) of the Rules, including a facility to receive an immediate report of the entry or execution of orders; and~~
 - ~~iv) — enables the approved participant to employ order parameters or filters that will route orders to the approved participant (which parameters may be customized for each client);~~~~
- ~~b) — executed a standard service agreement (i.e. Order Routing Agreement) with its client providing for the following terms:
 - ~~i) — the client is authorized to connect to the approved participant's order routing system;~~
 - ~~ii) — the client must enter orders in compliance with the requirements of the Bourse with regards to the entry and trading of orders and other applicable regulatory requirements;~~
 - ~~iii) — specific parameters defining the orders that may be entered by the client are provided for, including restrictions to specific securities or size of orders;~~
 - ~~iv) — the approved participant can reject an order for any reason;~~
 - ~~v) — the approved participant can change or remove an order and has the right to cancel any trade made by the client for any reason;~~
 - ~~vi) — the approved participant can discontinue accepting orders from a client at any time without notice;~~
 - ~~vii) — the approved participant agrees to train its clients with regards to the requirements of the Bourse dealing with the entry and trading of orders and other applicable requirements of the Bourse; and~~
 - ~~viii) — the approved participant undertakes to ensure that revisions and updates to the requirements of the Bourse relating to the entry and trading of orders are promptly communicated to its clients.~~~~
- ~~e) — complied with all other conditions prescribed by the Bourse, being:~~

- ~~i) the approved participant must ensure that its clients are adequately trained in the trading rules of the Bourse, as well as the use of the order routing system. The training materials regarding the above trading rules that the approved participant proposes to use will be available to the Bourse;~~
- ~~ii) the approved participant must have the ability to receive an immediate report of the entry and execution of orders. He must have the capability of rejecting orders that do not fall within the designated parameters of authorized orders for a particular client;~~
- ~~iii) the approved participant must designate a specific person as being responsible for the order routing system. Orders executed through this routing system will be reviewed for compliance and credit purposes by such person designated by the approved participant;~~
- ~~iv) the approved participant must have procedures in place to ensure that its clients use the order routing system in compliance with the requirements of the Bourse and other applicable regulatory requirements;~~
- ~~v) the approved participant will make available for review by the Bourse, as required from time to time, copies of the Order Routing Agreements between the approved participant and its clients;~~
- ~~vi) any other condition required by the Bourse in order to protect the interests of the investors, the approved participants and the Bourse.~~

3. Responsibility

~~An approved participant who executes an agreement with a client to route orders in accordance with article 6366 B) 2) of the Rules provides an electronic access to the Bourse, pursuant to paragraph B), is remains responsible for compliance with the all applicable Bourse and regulatory requirements of the Bourse with respect to the entry and execution of orders routed to him byfrom its clients.~~

~~Furthermore, the approved participant must provide the Bourse with prior written notification of the identity of the person designated as responsible for such compliance.~~

4. Miscellaneous

4.1 An approved participant must immediately report to the Bourse, in writing, that it has terminated the electronic access of a client pursuant to paragraph B).

4.2 An approved participant must immediately report to the Bourse, in writing, if it is aware of or has reason to believe that a client has, or may have, breached a material provision of any standard established by the approved participant, or of the written agreement between the approved participant and the client, pursuant to section 2.

Section 6365- 6401
Electronic Trading of Derivatives Instruments Traded on the Bourse

6366 Access to Electronic Trading
(25.09.00, 24.09.01, 19.03.02, 03.11.04, 01.03.14)

- A) Only approved participants of the Bourse and restricted permit holders of the Bourse, through their respective clearing approved participants, will have access to the electronic trading for derivatives instruments traded on the Bourse and this, at the following conditions:
- a) certify to the Bourse that only their designated personnel approved by the Bourse and who has received the required training has access to the said system;
 - b) certify to the Bourse that only the designated personnel approved by a recognized exchange or association as described in article 7452 6) b) ii) of the Rules of the Bourse and who has received the required training has access to the said system;
 - c) put in place an internal security procedure for access to the electronic trading system; and
 - d) obtain the prior approval of the Bourse.

Each approved participant and each restricted permit holder is entirely and exclusively responsible for any unauthorized access to the said system.

The approved participant must give notice to the Bourse of the termination of employment of its designated personnel approved by the Bourse and this, within a delay of ten (10) business days from the date of termination of employment.

- B) Approved participants can authorize clients to transmit electronically orders to the Bourse through the systems of the approved participant, using the approved participant's identifier. In order to do so, the following conditions must be complied with:
- 1. Definitions
 - a) For the purposes of this article, a client is defined:
 - i) as a person, other than those registered as an investment dealer with a securities regulatory authority or approved as a foreign approved participant by the Bourse, having entered into a written agreement with an approved participant which permits to transmit electronically orders to the Bourse through the systems of an approved participant, using the approved participant's identifier;
 - ii) as an investment dealer registered with a securities regulatory authority, or a foreign approved participant of the Bourse, having entered into a written agreement with an approved participant which permits the investment dealer or foreign approved participant to transmit electronically orders to the Bourse, through the systems of the approved participant, using the approved participant's identifier.

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- b) For the purpose of this article, the terms “Electronic Trading Rules” refer to *Regulation 23-103 respecting Electronic Trading* (Chapter V-1.1, r. 7.1), as well as any applicable policy statement or notice.
- c) For the purpose of this article, the terms “Bourse and regulatory requirements” refer to the rules, policies and operational procedures of the Bourse, or to any condition imposed by the Bourse for the purpose of the electronic access provided to a client by an approved participant, as well as to applicable securities or derivatives legislation.

2. Conditions

2.1 An approved participant must:

- a) establish, maintain and apply standards that are reasonably designed to manage, in accordance with prudent business practices, the approved participant’s risks associated with providing an electronic access to a client, pursuant to paragraph B), including those set out in the Electronic Trading Rules;
- b) assess and document that a client meets the standards established by the approved participant, under subparagraph a).

2.2 The standards thus established by an approved participant, under subsection 2.1, shall include that a client must not have an electronic access to the Bourse, pursuant to paragraph B), unless:

- a) it has sufficient resources to meet any financial obligations that may result from the use of such electronic access by that client;
- b) it has reasonable arrangements in place to ensure that all individuals using such electronic access, on behalf of the client, have reasonable knowledge of and proficiency in the use of the order entry system that facilitates such electronic access;
- c) it has reasonable knowledge of and the ability to comply with all applicable Bourse and regulatory requirements;
- d) it has reasonable arrangements in place to monitor the entry of orders through such electronic access.

2.3 An approved participant must assess, confirm and document, at least annually, that a client continues to meet the standards established by the approved participant pursuant to subsection 2.1.

2.4 An approved participant must not allow any order to be transmitted to the Bourse, pursuant to paragraph B), unless:

- a) the approved participant is maintaining and applying the standards it has established under subsections 2.1, 2.2 and 2.3;
- b) the approved participant is satisfied that the client meets the standards established by the approved participant under subsections 2.1, 2.2 and 2.3;

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- c) the approved participant is satisfied that the client is in compliance with the written agreement entered into with the approved participant, under subsection 2.5;
 - d) the order is subject to all applicable requirements pursuant to the Electronic Trading Rules, including those pertaining to the risk management and supervisory controls, policies and procedures of the approved participant.
- 2.5 An approved participant must not provide to a client an electronic access to the Bourse, pursuant to paragraph B), unless the client has entered into a written agreement with the approved participant, which provides that:
- a) the client's trading activity shall comply with all applicable Bourse and regulatory requirements;
 - b) the client's trading activity shall comply with the product limits and credit or other financial limits specified by the approved participant;
 - c) the client shall take all reasonable steps to prevent unauthorized access to the technology that facilitates such electronic access;
 - d) the client shall not permit any person to use such electronic access provided by the approved participant, other than those authorized by a client as defined in subparagraph 1 a) (ii) or, in the case of a client as defined in subparagraph 1) a) (i), other than those authorized and named by the client under the provision of the agreement referred to in subparagraph h);
 - e) the client shall fully cooperate with the approved participant in connection with any investigation or proceeding by the Bourse with respect to trading conducted pursuant to such electronic access, including, upon request by the approved participant, providing access to the Bourse to information that is necessary for the purposes of the investigation or proceeding;
 - f) the client shall immediately inform the approved participant, if it fails or expects not to meet the standards set by the approved participant;
 - g) when trading for the accounts of another person, under subsection 2.11, the client shall ensure that the orders of the other person are transmitted through the systems of the client and shall be subject to reasonable risk management and supervisory controls, policies and procedures established and maintained by the client;
 - h) a client, as defined under subparagraph 1 a) (i), shall immediately provide to the approved participant, in writing, the names of all personnel acting on the client's behalf that it has authorized to enter an order, using the electronic access to the Bourse pursuant to paragraph B), as well as any changes thereof;
 - i) the approved participant shall have the authority, without prior notice, to reject any order, to vary or correct any order to comply with Bourse and regulatory requirements, to cancel any order entered on the Bourse and to discontinue accepting orders from the client.

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- 2.6 An approved participant must not allow a client to have, or continue to have, an electronic access to the Bourse pursuant to paragraph B), unless it is satisfied that the client has reasonable knowledge of the applicable Bourse and regulatory requirements, and of the standards established by the approved participant under subsections 2.1, 2.2 and 2.3.
- 2.7 An approved participant must ensure that a client receives any relevant amendments to the applicable Bourse and regulatory requirements, or changes or updates to the standards established by the approved participant under subsections 2.1, 2.2 and 2.3.
- 2.8 Upon providing to a client an electronic access to the Bourse, pursuant to paragraph B), an approved participant must ensure the client is assigned a client identifier in the form and manner required by the Bourse.
- 2.9 An approved participant must ensure that an order entered by a client, using such an electronic access to the Bourse, includes the appropriate client identifier.
- 2.10 An approved participant must promptly inform the Bourse if a person ceases to be a client pursuant to paragraph B).
- 2.11 An approved participant must not provide an electronic access to the Bourse, pursuant to paragraph B), to a client as defined in subparagraph 1 a) i) that is trading for the account of another person, unless the client is:
- a) registered or exempted from registration as an adviser under securities legislation; or
 - b) a person that
 - i) carries on business in a foreign jurisdiction;
 - ii) under the laws of the foreign jurisdiction, may trade for the account of another person, using such an electronic access; and
 - iii) is regulated in the foreign jurisdiction by a signatory to the International Organization of Securities Commissions' Multilateral Memorandum of Understanding.
- 2.12 If a client referred to in section 2.11 is using such an electronic access to the Bourse to trade for the account of another person, it must ensure that the orders of the other person are initially transmitted through the systems of the client.
- 2.13 An approved participant must ensure that when a client is trading for the account of another person, using an electronic access to the Bourse pursuant to paragraph B), the orders of the other person are subject to reasonable risk management and supervisory controls, policies and procedures established and maintained by the client.

3. Responsibility

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An approved participant who provides an electronic access to the Bourse, pursuant to paragraph B), remains responsible for compliance with all applicable Bourse and regulatory requirements with respect to the entry and execution of orders from its clients.

4. Miscellaneous

- 4.1 An approved participant must immediately report to the Bourse, in writing, that it has terminated the electronic access of a client pursuant to paragraph B).
- 4.2 An approved participant must immediately report to the Bourse, in writing, if it is aware of or has reason to believe that a client has, or may have, breached a material provision of any standard established by the approved participant, or of the written agreement between the approved participant and the client, pursuant to section 2.