



CIRCULAR 040-21

March 1st, 2021

SELF-CERTIFICATION

**VALIDITY PERIOD FOR THE TRAINING REQUIREMENTS FOR APPROVED PERSONS
AMENDMENTS TO ARTICLES 3.400 AND 3.405 OF THE RULES OF BOURSE DE MONTREAL INC.**

The Rules and Policies Committee of Bourse de Montréal Inc. (the “**Bourse**”) and the Special Committee of the Regulatory Division of the Bourse approved amendments to Articles 3.400 and 3.405 of the Rules of the Bourse in order to add a time limit within which the training required by the Bourse for Approved Persons will remain valid. These amendments were self-certified in accordance with the self-certification process as established in the *Derivatives Act* (CQLR, Chapter I-14.01).

These amendments attached herewith will become effective on **March 5, 2021**, after market close. Please note that the revised articles will also be available on the Bourse’s website (www.m-x.ca).

The amendments described in the present circular were published for public comment by the Bourse on May 28, 2020 (see circular [099-20](#)). Further to the publication of this circular, the Bourse received comments. A summary of the comments received as well as responses from the Bourse to these comments is attached hereto.

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ANNEX 1 - PROPOSED AMENDMENTS
AMENDED VERSION

Article 3.400 Application for Approval

- (a) Any Person employed by an Approved Participant or an affiliated corporation or subsidiary of an Approved Participant who wishes to have access to the Electronic Trading System in order to act as an Approved Person in accordance with the Rules must submit an application for approval to the Bourse beforehand. Such an application for approval shall not limit the rights of Approved Participants to give access to the Electronic Trading System in accordance with Article 3.5.
- (b) The application for approval as an Approved Person must be submitted in the form prescribed by the Bourse and must be signed by both the applicant, the Approved Participant and, where applicable, the affiliated corporation or subsidiary of the Approved Participant that employs the applicant.
- (c) To be eligible for approval by the Bourse, an Approved Person must, among others, be at least eighteen (18) years old, be considered in all respects to be a suitable Person for the privilege and responsibility of trading Listed Products and have completed the training requirements prescribed by the Bourse.
- (d) The training requirements prescribed by the Bourse shall be valid for a period of twenty-four (24) months from the date the training requirements are successfully completed or from the date of termination of employment as an Approved Person, whichever occurs last.

Article 3.405 Transfers of Approved Persons

- (a) An Approved Participant or affiliated corporation or subsidiary of an Approved Participant must not employ an Approved Person formerly employed by another Approved Participant until the Bourse consents to the employment. Any application for Bourse consent must be submitted in the form prescribed by the Bourse and must be signed by both the Approved Person and the Approved Participant as well as, as the case may be, by the affiliated corporation or subsidiary of an Approved Participant proposing to employ him. An Approved Participant must not allow a person to have access to the Electronic Trading System as an Approved Person where the person was formerly acting as an Approved Person for another Approved Participant, unless the Bourse approves a transfer under this Article. Any transfer application must:
 - (i) be submitted in the form prescribed by the Bourse;
 - (ii) meet the conditions specified in paragraph (b) of Article 3.405; and

~~(a)(iii)~~ be signed by both the Approved Person and the Approved Participant as well as, as the case may be, by the affiliated corporation or subsidiary of an Approved Participant employing the Approved Person.

~~(b)~~ The Bourse will not consent if approves a transfer if the following conditions are met:

~~(i)~~ the prior Approved Participant employer has failed to notified the Bourse of the termination of employment as required under Article 3.404;

~~(i)(ii)~~ the transfer application date does not exceed ninety (90) days from the date of termination of employment.

~~(c)~~ If the period of time between termination of employment with the prior Approved Participant and commencement of employment with another Approved Participant or an affiliated corporation or subsidiary of another Approved Participant is ninety (90) days or greater, the Bourse will not give its consent under this Article and an application for approval pursuant to Article 3.400 must be submitted to the Bourse. If the conditions specified in paragraph (b) of Article 3.405 are not met:

~~(i)~~ an application for approval pursuant to Article 3.400 must be submitted to the Bourse;
and

~~(b)(ii)~~ any person acting as an Approved Person before November 1, 2019 must fulfill the training requirements prescribed by the Bourse at the time the application is submitted.

CLEAN VERSION

Article 3.400 Application for Approval

- (a) Any Person employed by an Approved Participant or an affiliated corporation or subsidiary of an Approved Participant who wishes to have access to the Electronic Trading System in order to act as an Approved Person in accordance with the Rules must submit an application for approval to the Bourse beforehand. Such an application for approval shall not limit the rights of Approved Participants to give access to the Electronic Trading System in accordance with Article 3.5.
- (b) The application for approval as an Approved Person must be submitted in the form prescribed by the Bourse and must be signed by both the applicant, the Approved Participant and, where applicable, the affiliated corporation or subsidiary of the Approved Participant that employs the applicant.
- (c) To be eligible for approval by the Bourse, an Approved Person must, among others, be at least eighteen (18) years old, be considered in all respects to be a suitable Person for the privilege and responsibility of trading Listed Products and have completed the training requirements prescribed by the Bourse.
- (d) The training requirements prescribed by the Bourse shall be valid for a period of twenty-four (24) months from the date the training requirements are successfully completed or from the date of termination of employment as an Approved Person, whichever occurs last.

Article 3.405 Transfers of Approved Persons

- (a) An Approved Participant must not allow a person to have access to the Electronic Trading System as an Approved Person where the person was formerly acting as an Approved Person for another Approved Participant, unless the Bourse approves a transfer under this Article. Any transfer application must:
 - (i) be submitted in the form prescribed by the Bourse;
 - (ii) meet the conditions specified in paragraph (b) of Article 3.405; and
 - (iii) be signed by both the Approved Person and the Approved Participant as well as, as the case may be, by the affiliated corporation or subsidiary of an Approved Participant employing the Approved Person.
- (b) The Bourse approves a transfer if the following conditions are met:
 - (i) the prior Approved Participant has notified the Bourse of the termination of employment as required under Article 3.404;

- (ii) the transfer application date does not exceed ninety (90) days from the date of termination of employment.

- (c) If the conditions specified in paragraph (b) of Article 3.405 are not met:
 - (i) an application for approval pursuant to Article 3.400 must be submitted to the Bourse;
and
 - (ii) any person acting as an Approved Person before November 1, 2019 must fulfill the training requirements prescribed by the Bourse at the time the application is submitted.

Circular 099-20: Summarized comments and responses
“Amendments to Articles 3.400 and 3.405 of the Rules of Bourse de Montréal Inc.”

| No. | Date comments received | Participant Category | Subject | Summary of comments | Summary of responses |
|-----|------------------------|----------------------|-------------------|---|--|
| 1. | June 23, 2020 | IIAC | Confusing Wording | <p>The Proposal states it:</p> <p>“wishes to modify the Rules of the Bourse (the “Rules”) to provide for a time limit within which the training provided by the Bourse for Approved Persons will remain valid.”</p> <p>We believe the wording above to be confusing. We believe the sentence should read:</p> <p>“wishes to modify the Rules of the Bourse (the “Rules”) to provide for a time limit within which the training provided by the Bourse for Approved Persons will remain valid following an Approved Person’s departure from his/her firm.”</p> | <p>The objective of this proposal is to make the new training (courses and exams) valid for a period of 2 years. As prescribed under the proposed article 3.400 the period of validity applies from the time the training is</p> <p>(i) successfully completed or (ii) from the date of termination of employment.</p> <p>As such the proposal offers a much wider application than the termination of an employment with a Participant.</p> <p>In other words an employee of a firm who is not an Approved Person can also benefit from the validity of the training, notwithstanding the employment status.</p> <p>To maintain the objective above mentioned, this statement in this proposal will not be modified.</p> |

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| 2. | | IIAC | Confusing Wording | <p>We believe that the following sentence should also be amended to provide further clarity:</p> <p>“While the transfer period of 90 days will remain unchanged, the Division is proposing to provide a time limit of two years during which the Training will remain valid.”</p> <p>The wording should be changed to:</p> <p>“While the transfer period of 90 days will remain unchanged, the Division is proposing to provide a time limit of two years during which the Training will remain valid following an Approved Person’s departure from his/her firm.”</p> | Refer to the above response. |
| 3. | | IIAC | Confusing Wording | <p>We further believe that a similar amendment (“following departure”) should be made to the sentence below:</p> <p>“Following comments received by the Division and based on a comparative analysis, the Division is proposing to prescribe a period of two years within which a successfully completed Training remains valid.”</p> <p>The additional wording makes it clear that an Approved Person would not have</p> | <p>As detailed above, the proposed amendments are intended to be wider in scope. The paragraph that follows the sentence quoted explicitly explains the two situations from which the 2 years validity will start running.</p> <p><i>“In other words, an individual can submit an application to become an Approved Person without the requirement to complete the Training again if the application is submitted <u>within two years of the date the Training was</u></i></p> |

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| | | | | <p>to successfully complete the course(s) and exam(s) two years following a successful completion. The validity of the training can therefore extend beyond two years if the Approved Person remains at the same firm. We believe that the Proposal should have made it clear that the two-year validity period only applies to an Approved Person leaving his/her firm.</p> <p>The wording in the proposed rules (Annex 1) is accurate. However, we believe it could be made clearer if simplified.</p> | <p><u>completed</u> (being the date on which the exam(s) were successfully completed). However, <u>if the individual was previously acting as an Approved Person with another Approved Participant, he (she) will not have to complete the Training again if the application is submitted within two years from the employment termination date, if such date is later than the date the Training was successfully completed.</u>"</p> |
| 4. | | IIAC | Approved Persons prior to November 1, 2019 – Consistency Needed | <p>The circular mentions the following:</p> <p><i>"For individuals who were already authorized as an Approved Person prior to November 1, 2019, when the new Training came into effect, to the extent the conditions for a transfer under Article 3.405 are met, the individual will not be required to complete the current Training and exam(s). However, any application filed after the 90 calendar days period will require the individual to successfully complete the Training that came into effect in November 2019, which includes the exam(s)."</i></p> | <p>The proposed amendments are consistent with the circular 134-19 published on October 17, 2019.</p> <p>Both the above-mentioned circular and the proposed amendments provide that any person having the Approved Person status prior to November 1, 2019 do not have to complete the new training and exams, unless they are seeking to trade a product not approved under their existing status or, if the individual is leaving a Participating firm for another, in as long as the transfer is done within 90 days of the termination.</p> <p>Therefore consistent with the circular 134-19,</p> |

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| | | | <p>When the Bourse implemented the current format, with exam(s), in November 2019, existing Approved Persons were not required to pass the new exam(s). The Bourse believed that the Approved Persons authorized prior to November 1, 2019 maintained the same qualifications as a new Approved Person authorized after November 1, 2019. The IIAC and its members agree with this reasoning.</p> <p>We would suggest amending the wording to the following:</p> <p><i>“For individuals who were already authorized as an Approved Person prior to November 1, 2019, when the new Training came into effect, to the extent the conditions for a transfer under Article 3.405 are met, the individual will not be required to complete the current Training and exam(s) for two years following departure from his/her firm.”</i></p> <p>Since Approved Persons did not have to pass the new exam(s) when the new training requirements were implemented, we do not believe that Approved Persons, authorized prior to or after November 1, 2019, should be treated differently after a</p> | <p>if a person had the Approved Person status prior to November 1, 2019 and leaves the Participant that person is employed by, he/she will have to complete the new training and successfully complete the exam(s) if he/she applies for status of Approved Person with another Participant after the 90 days from the date of termination.</p> <p>The validity of the 2 years in the proposed amendments applies to the new training and exams.</p> <p>The wording in the proposed amendments will not be modified.</p> |
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