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**CIRCULAR 048-18**

April 11, 2018

(Updated January 15, 2019)<sup>1</sup>

**FREQUENTLY ASKED QUESTIONS  
IDENTIFICATION OF ORDERS (ARTICLE 6.115<sup>2</sup>)**

The Division often receives questions on how to identify orders. This circular is intended to provide regulatory guidance to approved participants of the Bourse de Montréal Inc. (the “Bourse”) by answering a series of frequently asked questions on regulatory requirements under Part 6<sup>3</sup>, in particular, article **6.115 Order Identification**. This information is presented in the form of frequently asked questions (“FAQ”) about various situations related to the identification of orders when trading derivative instruments listed on the Bourse.

**1- What is the identification of orders?**

In accordance with article 6.115 of the Rules of the Bourse, each approved participant must ensure the proper identification of orders when they are entered into the trading system in order to ensure, among other things, compliance with the provisions of article 6.114<sup>4</sup> regarding order priorities. The four possible identifiers are:

1. “Order for the account of a customer” (“Client”)
2. “Order for the account of a professional” (“Pro”)
3. “Order for the account of the firm” (“Firm”)
4. “Order for an insider or significant shareholder” (“Insider”)

Each approved participant is responsible for appropriately identifying the orders sent through its systems.

**2- What are the consequences for an approved participant that does not identify its orders appropriately?**

Incorrectly identified orders may constitute an infraction under the Rules of the Bourse and therefore lead to disciplinary action. However, the Division takes all circumstances into account before opening an investigation, if appropriate, or initiating disciplinary procedures.

<sup>1</sup> Updated to modify references to the Rules of the Bourse following the publication of the new version of the Rules, effective January 1, 2019

<sup>2</sup> Formerly Article 6376

<sup>3</sup> Formerly Rule Six

<sup>4</sup> Formerly Article 6374

### **3- Is the identification of orders covered by the Division's examination program?**

Yes. The Division verifies how orders are identified when it examines the derivative instruments trading desks of approved participants. Should inappropriately identified orders be observed during the scope of an examination, this will be reported by the examiners in their examination report. The Division encourages approved participants to implement practices and procedures that will ensure compliance with article 6.115 of the Rules of the Bourse. If a potential violation of article 6.115 is found, the Division's Examinations service may transfer the file so that the Division can take other action.

### **4- What type of order must be identified as an order for the account of a professional ("Pro") within the meaning of article 6.115 of the Rules of the Bourse?**

An order received for an account in which a director, officer, partner, employee or agent of an approved participant or of a related firm of the approved participant or a person approved by the Bourse has a direct or indirect interest, other than an interest in a commission charged, must be identified as an order for the account of a professional ("Pro").

### **5- An approved participant receives an order from an approved participant for its own account. How should this order be identified?**

When an approved participant receives an order from another approved participant of the Bourse for its own account, this order must be identified as "Firm". Article 6.115 (a) (iii)<sup>5</sup> of the Rules of the Bourse states: "*Order for the account of the firm' means an order for [...] a Derivative Instrument for an account in which the Approved Participant [...] has a direct or indirect interest, other than an interest in a commission charged.*" So an approved participant that executes the order of another approved participant must ask the latter whether the order is placed for its own account or for the account of one of its clients.

For example, let us say that the institutional client trading desk at ABC Inc., an approved participant, has received an order from a trader working at XYZ Inc., another approved participant. The employee of ABC Inc. must ask the employee of XYZ Inc. for which account the order is for. If the order was placed for the account of XYZ Inc., under the definition in article 6.115 (a) (iii), the employee of ABC Inc. must identify this as a "Firm" order.

### **6- An approved participant receives an order from another approved participant for the account of one of its clients. How should this order be identified?**

An approved participant that receives an order from another approved participant for the account of one of its clients must identify this as a "Client" order. So an approved participant that executes an order for another approved participant must ask whether the order is being placed for its own account or for the account of one of its clients.

For example, let us say that the institutional client trading desk at ABC Inc., an approved participant, has received an order from a trader working at XYZ Inc., another approved participant. The employee of ABC Inc. must ask the employee of XYZ Inc. for which account the order is for. If the order was placed for

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<sup>5</sup> Formerly Article 6376 c)

the account of a client of XYZ Inc., under the definition in article 6.115 (a) (i)<sup>6</sup>, the employee of ABC Inc. must identify this as a "Client" order.

## **7- How should an order for the account of a related firm be identified?**

When an approved participant receives an order for an account owned by a related firm, the order must be identified as a "Firm" order. The approved participant is responsible for ensuring that the orders sent by its systems are appropriately identified, even when the related firm can send its orders directly, without the approved participant intervening.

Article 1.101<sup>7</sup> of the Rules of the Bourse states that the term "related firm" means:

*"A sole proprietorship, Partnership or corporation which is related with an Approved Participant in that either of them, together with the partners and directors, officers, shareholders and employees of it, collectively have at least a 20% ownership interest in the other of them, including an interest as a partner or shareholder, directly or indirectly, and whether or not through Holding Companies; which carries on as a substantial part of its business that of a broker, dealer or adviser in Securities or Futures Contracts; which deals with or has obligations to any Person other than such Approved Participant or for obligations to any Person incurred through such Approved Participant; and which is under the audit jurisdiction of a self-regulatory organization which is a participant to the Canadian Investor Protection Fund."*

Consequently, based on this article, the U.S. affiliate of a Canadian approved participant is not considered a related firm. In such cases, the U.S. affiliate of a Canadian approved participant that places an order for its own account must not identify this order as a "Firm" order, but rather as a "Client" order (assuming that the U.S. affiliate is not itself an approved participant of the Bourse).

## **8- How should an order for the account of a client of a related firm of an approved participant be identified?**

When an approved participant receives an order from a related firm for the account of a client of the related firm, the order must be identified as a "Client" order. For example, when an approved participant that is a Canadian corporate entity receives an order for the account of a client of a related firm, it must identify this order as a "Client" order (assuming that the client is not itself an approved participant of the Bourse).

## **9- Does the method used to enter an order affect its identification?**

No. Whether the order is given by telephone to an approved participant or entered directly in the participant's trading platform, or even when the person entering the order has direct electronic access ("DEA"), the order must be identified in accordance with the Rules of the Bourse when it is entered.

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<sup>6</sup> Formerly Article 6376 a)

<sup>7</sup> Formerly Article 1102



For more information on the identification of orders, contact the Regulatory Division by telephone at 514-787-6530, toll-free at 1-800-361-5353, ext. 46530, or by email at [info.mxr@tmx.com](mailto:info.mxr@tmx.com).

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