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**CIRCULAR 052-15**  
May 14, 2015

**SELF-CERTIFICATION**

**AMENDMENTS TO POLICY C-1**

**REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR BONA FIDE HEDGERS AND FOR RISK MANAGEMENT PURPOSES**

The Rules and Policies Committee of Bourse de Montréal Inc. (the “**Bourse**”) has approved the amendments to Policy C-1 of the Bourse which deal with requests for exemption from position limits for bona fide hedgers. The purpose of these amendments is to modernise and clarify the requirements related to requests for exemptions from position limits, and treatment and consideration of these exemption requests by the Bourse. The Bourse wishes to advise Approved Participants that such amendments were self-certified in accordance with the self-certification process as established in the *Derivatives Act* (R.S.Q., chapter I-14.01).

The amended Policy C-1, that you will find attached, will become effective on **May 15, 2015**. Please note that it will also be available on Bourse’s website ([www.m-x.ca](http://www.m-x.ca)).

For further information, please contact Giancarlo Percio, Senior Analyst, Regulatory Division, Bourse de Montréal Inc., at 514 787-6484 or at [gpercio@m-x.ca](mailto:gpercio@m-x.ca).

Brian Z. Gelfand  
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Bourse de Montréal Inc.



## REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR BONA FIDE HEDGERS AND FOR RISK MANAGEMENT PURPOSES

### – AMENDMENTS TO POLICY C-1

#### I SUMMARY

Bourse de Montréal Inc. (the Bourse) wishes to proceed with a complete revision of its Policy C-1 regarding requests for exemption from position limits for bona fide hedgers. This Policy has not been subjected to any update since 1993. A complete revision is therefore necessary not only in order that the Policy and the practices that are related to it be harmonized with the best practices that can be found on other markets including, amongst others, the U.S. market, but also to make it sufficiently clear so that approved participants and their clients clearly understand in which cases it is possible to obtain an exemption from the position limits prescribed by the Bourse. The Policy must also be as clear as possible for what regards the process that must be followed by approved participants, by their clients and by the Bourse when a request for exemption is submitted.

Furthermore, any request for exemption from position limits requires from the applicant to undertake some commitments and, when the exemption is granted, to comply with some requirements and conditions. It is therefore important that these undertakings, commitments and conditions be clearly described in the Policy.

Finally, the conditions related to the renewals of existing exemptions or modifications to such exemptions must be clearly set out.

#### II ANALYSIS

##### A) The context

The current regulations of the Bourse provide in various places for the possibility for approved participants of the Bourse and their clients to be exempted from the position limits established by the Bourse on the various derivative instruments that are listed for trading.

It is the case notably in paragraph E of article 6651 of the Rules which regards position limits applicable to options, in article 14157 which regards derivative instruments in general and in various articles of Rule Fifteen which regard futures contracts listed on the Bourse. In all cases, these articles specifically refer to Policy C-1. However, they do not detail the process that must be followed to submit an exemption request neither the handling process of such a request once it has been received by the Bourse. Approved participants and their clients must therefore necessarily refer to Policy C-1 when requesting an exemption from position limits.

##### B) Introduction of the risk management concept

It is first proposed to introduce a new concept for what regards exemption requests: risk management. Along with the introduction of this new concept, it is also proposed to arrange for allowing that position limits exemption be possible not only for bona fide hedgers but also for approved participants and clients who wish to hold important positions for risk management purposes.

Pursuant to current Policy C-1, only bona fide hedgers can request and obtain an exemption from position limits. When looking at the U.S. regulations and more specifically at the rules of the CME Group exchanges (CME, NYMEX and CBOT) and the regulations of the Commodity Futures Trading Commission, one realizes that the bona fide hedger concept is a concept that primarily targets enterprises involved in the production, purchase or sale of commodities such as agricultural products, raw materials, construction materials, energy products, etc. For example, an agricultural producer who wishes to ensure a certain selling price for his upcoming production can use futures contracts on the

commodity he produces in order to be protected against unfavourable price fluctuations. In the same manner, an air transportation company can use futures contracts on fuel in order to be protected against expected price increases for this commodity.

All these cases are characterized by a desire to be protected against risks that are related to the future production of a commodity, to future purchases or to future sales of a commodity that is not yet on hand. CFTC Regulation 1.3 (z), when defining what is a bona fide hedger, clearly refers to the fact that this concept is related to commercial services and to goods that are physically deliverable or that are, at some point in time, in a physical distribution channel. The CFTC definition also clearly refers to commodities that are subjected to a production, manufacturing or distribution process for commercial purposes. Finally, the CFTC definition sets out a time horizon limited to 12 months for what regards hedging future purchases and sales of commodities.

The bona fide hedger concept is more or less adequate for derivative instruments having financial instruments as an underlying such as equities or bonds. Although the use of derivative instruments in this case can effectively be in order to procure some protection against unfavourable market movements, the desired time horizon may very well extend much farther than the 12 months period prescribed by the CFTC. Furthermore, holding of securities by an approved participant or by a client will generally not be for commercial purposes but for investment purposes and in many instances, these investments will be for a very long period of time.

CME Group exchanges Rule 559 (*Position Limits and Exemptions*) makes a distinction between the bona fide hedger and the risk management concepts. Rule 559A provides for the possibility to obtain an exemption from position limits for bona fide hedgers while Rule 559B provides the same for positions taken for risk management purposes.

The Bourse therefore proposes to allow the same thing. The bona fide hedger concept is already

provided for and defined in articles 14226 and 14227 of the Rules of the Bourse. The Bourse therefore proposes that Policy C-1 limits itself to referring to these articles for what regards this concept. The Bourse, even though introducing the risk management concept, considers that it is necessary to retain the bona fide hedger concept because it will remain relevant if derivative instruments having commodities as their underlying are listed for trading on the Bourse. A good example of this is the crude oil futures contract that was briefly listed on the Bourse in 2010.

For what regards the risk management concept, since it is not defined in the current Rules and Policies of the Bourse, it is proposed to incorporate in Policy C-1 a definition of what the Bourse considers as being a position taken for risk management purposes. The proposed definition, which is drawn from the definition used by the CME Group, clearly refers to the fact the derivative instrument underlying can, contrarily to the underlying of a commodity futures contract, trade on an exchange.

### **C) Requests for exemption**

Up until now, neither the Rules of the Bourse nor Policy C-1 were clearly specifying that the possibility to obtain a position limit exemption was not available for any speculative account. It is proposed that this point be clearly specified in the Policy in order to avoid that requests for exemption be submitted for this type of account. None of the markets that impose position limits and that permit that exemptions be granted allow such exemptions to be granted to speculative accounts.

Also, up until now, Policy C-1 was providing that any request for exemption from position limits had to be filed at the latest before 9:30 a.m. (Montréal time) on the first business day following the day on which the prescribed limit is exceeded. Such a provision could have been considered adequate in the past when electronic tools were either not existing or not very efficient. As a result, in most cases it was difficult or even impossible for an approved participant to know or to estimate precisely his real position in a short period of time.

With the sophistication of electronic tools that are now available to approved participants and their clients, it is now possible for them to know their positions on real-time or practically real-time basis. It is also possible for them to rapidly determine what will be the impact on their current positions of an expected transaction.

Therefore, the Bourse proposes that the wording of paragraph 1.2 of Policy C-1 be amended in order to require from approved participants that they file a request for exemption as soon as they become aware that the prescribed position limit has been exceeded or as soon as they realize that an intended transaction will result in prescribed position limits being exceeded.

However, the Bourse recognizes that some circumstances can make an immediate filing impossible. Therefore, it is proposed not only to retain the current delay, until 9:30 a.m. on the next business day, but also to grant an additional five business days delay in exceptional circumstances. This additional five business days delay would however be granted by formal authorization from the Bourse.

If the Bourse sees that the delays that are prescribed to file a request for exemption have not been complied with and that no such request has been received, it will then have the authority to order the immediate liquidation of all positions that are in excess of the prescribed limit.

Also, the various articles of the Rules of the Bourse that refer to Policy C-1 provide that the request for exemption must be filed by using the prescribed form for that purpose. Such prescribed form has never existed until now. The Bourse has therefore developed such a form, copy of which is attached hereto as Appendix A. This form will be made available to approved participants on the Regulatory Division website (<http://reg.m-x.ca/en/>) when the proposed amendments to Policy C-1 will be implemented. Paragraph 1.5 of Policy C-1 and its subparagraphs summarily describe the information that must be provided to the Bourse on the proposed form when filing a request for exemption.

In addition to allow for a standardization of the information that must be provided to the Bourse when filing a request for exemption, the form will also permit, through the declarations and undertakings that it contains, to remind the applicant about the obligations and conditions he must comply with not only for the purposes of the request itself but also in case the request for exemption is accepted. The declarations and undertakings that are found in the form are essentially the same ones as the conditions and undertakings of subparagraphs 1.5.3 to 1.5.9 of Policy C-1.

#### **D) Treatment of Exemption Requests**

Generally, it is necessary that requests for exemption be processed as quickly as possible, especially when they involve a situation where an approved participant or its client intend to execute a particular transaction but that they will be unable to execute this transaction if it is not possible to obtain an exemption from position limits. It is also important to mention that these particular transactions are generally of a large size, involving thousands of contracts. Being unable to execute the intended transaction or having to delay it can therefore have significant financial consequences. It is therefore of an utmost importance that any request for exemption be processed within the shortest possible delays.

In order to ensure a rapid processing of this type of request, the Bourse proposes to provide for a specific processing delay in Policy C-1. Thus, any request for exemption received before 2:00 p.m. (Montréal time) would have to be processed within a maximum delay of three hours. For requests received after 2:00 p.m., they would have to be processed before 9:30 a.m. (Montréal time) on the next business day. Of course, the processing within the prescribed time delays would be conditional upon the receipt by the Bourse of all required information.

Also, the Bourse has always had an internal committee responsible for reviewing requests for exemption and deciding upon the approval or refusal of these requests. However, nowhere in the Rules and Policies of the Bourse is the existence of this committee mentioned.

In order to make the processing of requests for exemption from position limits as transparent as possible, it is therefore proposed to incorporate into Policy C-1 provisions mentioning the existence of this committee and how it is composed. The committee, as it is already the case, would be composed of a representative from each of the following sectors of the Bourse:

- Legal Affairs;
- Research & Development;
- Financial Markets;
- Market Operations;
- Canadian Derivatives Clearing Corporation (CDCC); and
- Regulatory Division.

It would also be provided that in case of impossibility to have a committee meeting, then the decision to approve or not the requested exemption would rest on the Vice-President of the Regulatory Division. On this matter, it has to be reminded that all requests for exemption will be transmitted to the Regulatory Division and it is the Division, as it is already the case, which will have the responsibility to collect all the information necessary to take a decision and to submit the request to the committee.

It therefore appears logical, in case of non availability of the majority of the committee members, that the decision be taken by the officer in charge of the Regulatory Division since it is the Division that holds all the necessary information and that will also be responsible for ensuring compliance with the exemption conditions if it is granted.

**E) Factors taken in consideration by the Bourse for the purpose of requests for exemption from position limits**

The Bourse considers that it would be useful for approved participants and their clients to have an idea of the factors that will be taken in consideration by the Bourse when a request for exemption from position limits will be submitted.

The proposed Policy C-1 therefore includes a section (Section 3) which enumerates briefly the main factors that will be taken in consideration.

**F) Communication of the decision**

The proposed amendments to Policy C-1 also include a provision stating that in order to have a request for exemption considered as having been approved, there must be a confirmation from the Bourse to this effect.

The Bourse considers that such a provision is necessary so that it be clear that the submission of a request for exemption from position limits is not by itself a permission to exceed the prescribed limits. Any overrun of prescribed limits must be formally approved by the Bourse.

Any decision regarding a request for exemption will be confirmed in two manners. It will be first communicated verbally as quickly as possible and will then be followed by a written confirmation in which will be specified, if the request is accepted, all the conditions and limitations applying to the granted exemption including, amongst others, the granted position limit and the exemption expiration date.

In case of partial or total refusal, the applicant will be notified in the same manner. If in such a case it appears necessary to liquidate excess positions, the Bourse will then require that such excess positions be liquidated in an orderly fashion. To this end, a reasonable delay, considering existing market conditions, will be given to the approved participant and/or his client.

Also, in case of refusal, if it appears that the client who asked for an exemption holds accounts at many approved participants and that it has not reduced its position to an acceptable level within the prescribed delay, the Bourse will have the capacity to order each approved participant with whom this client holds positions to liquidate a certain number of positions, such number being based on a prorata of positions held at each approved participant.

Finally, any exemption granted will be for a limited period of time which in no case will

exceed a three-month period from the date on which the exemption was approved.

At first look, this three-month period may look somewhat short but it can be explained by the fact that past experience has shown that generally approved participants and their clients do not need long term exemptions because their portfolio management strategies change regularly. Furthermore, it frequently happens that the need for exemption is only for a point in time resulting from a temporary portfolio situation.

There is also the fact that position limits evolve over time. It is therefore possible that a position requiring an exemption at some point in time no longer requires such an exemption a few weeks or months later because the Bourse, in reason of market conditions, increases the prescribed position limits.

We can take, for example, the Three-month Canadian Bankers' Acceptance futures contract (BAX). The position limit for this futures contract at the beginning of 2011 was 66,400 contracts. As of May 4, 2011, the limit was up at 100,375 contracts. The explanation for this sharp increase of the prescribed limit is that the formula to calculate position limits for futures contracts is based on the open interest of the contract. The open interest in the BAX futures contract having strongly increased during the period mentioned, the limit has therefore been adjusted consequently. This example means that an approved participant who would have liked to take a position of, let us say, 80,000 contracts during the month of January would have needed an exemption. However, for this same position during the month of May, no exemption would have been necessary since this position would have been below the prescribed limit.

#### **G) Exemption renewal, increase, modification or cancellation**

If an approved participant and/or its client wish to have an existing position limit exemption increased or renewed, the process to follow will be exactly the same as if it was a new request.

For what regards the renewal of an existing exemption, Policy C-1 requires that the request for

renewal be filed at least 10 business days before the expiry of the exemption.

#### **H) Public Interest**

Since the purpose of the regulatory amendments proposed in this analysis is to allow for the implementation of a position limit exemption policy which is for the use not only of approved participants but also of their clients, the Bourse considers that amendments that are proposed to Policy C-1 are of public interest.

#### **I) Impact of the proposed amendments on systems**

The purpose of the proposed regulatory amendments is to ensure that approved participants and their clients are well aware of the process related to requests for exemption from position limits for derivative instruments listed on the Bourse and of the conditions and limitations that are applicable when such exemptions are granted.

The Bourse considers that the proposed amendments will have no impact on systems used by approved participants because they do not require putting in place new computer tools.

Information that must be provided to the Bourse for the purpose of a request for exemption from position limits is already available in the systems and records of approved participants and their clients. They will only need to extract the necessary information and to transmit it to the Bourse. Also, the extraction and transmission of this information do not require approved participants and their clients to put in place automated tools because situations where there is a need to request an exemption are extremely limited, and this, mainly because existing position limits are generally sufficiently high to satisfy most of the needs.

#### **J) Financial Markets Interest**

The Bourse considers that the regulatory amendments proposed in this analysis will not affect the interests of financial markets. To the

contrary, they will allow these markets to have clear indications regarding the request for exemption from position limits process and regarding the terms and conditions that must be complied with when such exemptions are granted.

#### **K) Other Alternatives Considered**

No other alternative was considered by the Bourse.

### **III COMMENTS**

#### **A) Efficiency**

As indicated previously, the proposed amendments to Policy C-1 will allow approved participants and their clients to have clear indications on the request for exemption from position limits process and on the terms and obligations that must be complied with when such exemptions are granted.

The proposed amendments will also allow the Bourse to be more efficient when it will process requests for exemption from position limits. The implementation of a standardized form that will accompany the implementation of amended Policy C-1 should contribute to make the process more efficient by procuring some assurance that in all cases the Bourse will receive information which is complete when a request for exemption is filed, which was not the case until now. Furthermore, the proposed amendments will impose to the Bourse an obligation to process exemption requests received within prescribed time delays. Finally, the proposed amendments will formalize the existence of an internal committee of the Bourse whose mandate consists in deciding upon exemption requests that are submitted to the Bourse.

#### **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 the approval of the Rules and

Policies Committee is obtained, the project, including this document and its appendix, is 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 amendments proposal is transmitted to the Ontario Securities Commission for information.

### **IV SOURCES**

- Article 6651 of Rule Six of Bourse de Montréal Inc. – Position Limits (Options)
- Articles 14226 and 14227 of Rule Fourteen of de Bourse de Montréal Inc. – Definition of bona fide hedge and bona fide hedgers accounts
- Article 14157 of Rule Fourteen of Bourse de Montréal Inc. – Position Limits for Derivative Instruments
- Rule Fifteen of Bourse de Montréal Inc. — Futures Contracts Specifications
- Policy C-1 of Bourse de Montréal Inc. – Requests for Exemptions to Position Limits for Bona Fide Hedgers
- Regulation 1.3 (z) of the Commodity Futures Trading Commission – Bona Fide Hedging Transactions and Positions
- Rule 559 of the CME Group Exchanges (CME, CBOT and NYMEX) – Position Limits and Exemptions

**POLICY C-1**

**REQUESTS FOR EXEMPTION REQUEST FROM  
A POSITION LIMITS FOR  
BONA FIDE HEDGERS AND RISK MANAGEMENT PURPOSES  
LIMIT  
 (08.09.89, 30.12.93, 00.00.00)**

**INTRODUCTION**

The purpose of this Policy is to explain the mechanism allowing approved participants and their qualified clients to obtain an exemption from the position limits on derivative instruments prescribed in the Rules of the Bourse in order to manage their business more effectively.

**1. REQUEST**

1.1 — Any approved participant, on its own behalf This policy explains the filing procedure for an exemption request from a position limit and describes how the application is processed.

**I.REQUEST**

1. An Approved Participant or on behalf of its a client, or any client can may file with the Bourse a request for an exemption from position limits on derivative instruments prescribed by the Bourse. However, in order for such a request to be submitted and taken into consideration by the Bourse, the account for which it is submitted must qualify as that of from a bona fide hedger, as defined in articles 14226 and 14227. The Bourse will also consider requests for position limit with the Bourse.

An exemption which are submitted request must be addressed to the Regulatory Division of the Bourse in writing, and sent electronically.

2. An exemption request is made by filling out the appropriate form and shall include the following information:

1° a statement to the effect that the request is either a new request, a request for increasing a limit under an existing exemption or a request for the renewal of an existing exemption;

2° a detailed statement of the open positions and a description of upcoming positions in the Derivative. The statement shall include the number of contracts, the expected maturity of the positions and the direction (long or short) of the positions. In the case of options, the statement must indicate the Exercise Price and the type of option. The description of upcoming positions must contain the same information if it is available;

3° the requested position limit and desired duration of the exemption;



4° a statement to the effect that the positions are bona fide hedging transactions or that they were taken or will be taken for risk management purposes.~~In no case will;~~

This statement must be accompanied by a complete and accurate description of the positions taken in the Underlying Interest or in a security related to the Underlying Interest of the Derivative for which the exemption is sought. The existence and ownership of the Underlying Interest or of the security related to the Underlying Interest must be demonstrated;

5° an undertaking to provide any information or document which the Bourse may deem relevant, including any information which allows the Bourse to assess the financial situation of the applicant;

6° an undertaking to provide the Bourse with a daily statement of open positions in the Derivative for which the exemption is sought and in any Underlying Interest or security related to the Underlying Interest;

7° an undertaking to comply with the Rules, policies and procedures of the Bourse ~~consider or accept any request for~~ as well as with the terms and restrictions of the exemption;

8° an undertaking to notify the Bourse without delay of any material change in the information provided with the exemption request;

9° an undertaking to liquidate the positions in an orderly fashion upon maturity or at any other time; and

10° an acknowledgement that the Bourse may at any time, for valid reasons, modify or revoke an exemption from a position ~~limits for any account of a speculative nature~~ limit.

3. ~~For the To be admissible, an exemption request shall serve a risk management purpose of this Policy, will be considered or shall relate to a Bona Fide Hedger account, as defined in section 14226 and 14227 of the Rules.~~

An exemption from a position limit shall not be granted for a speculative account.

4. The following positions ~~undertaken~~ qualify as positions taken for risk management purposes ~~and therefore eligible to be the subject of a request for exemption to position limits, those undertaken in a derivative instrument;~~

1° a position taken by a person or entity ~~Person~~ Person who regularly buys, sells or holds ~~carries~~ positions in the underlying cash market ~~for this derivative instrument or in a~~ underlying a Derivative; and

2° a position taken by a Person who regularly buys, sells or carries positions in a Derivative on the stock market related to this position, whether on an exchange or OTC market or on the over-the-counter. This market, provided this underlying or related market shows ~~must be~~ sufficiently elevated liquidity with regards ~~liquid relative~~ to the size of the position held ~~in the derivative instrument.~~

~~5. 1.2 In order to ensure compliance with article 14157 of the Rules of the Bourse, any request for an exemption request from a position limits must limit shall be filed as soon as the approved participant or its client notices that the prescribed the moment the position limit for a given derivative instrument is attained or is about to be attained due to a specific Derivative is reached or the moment the Approved Participant or client realizes that the limit will be breached as a result of an anticipated transaction that the approved participant or its client has completed or intends to complete. If, for any reason, it is impossible to submit the request for.~~

~~Where an exemption request cannot be filed immediately, the application must be submitted no it shall be filed not later than 9:30 a.m. (Montréal A.M. (Montreal time) on the first business day following the day where the limit was exceeded on which the limit is reached and shall provide justification for the late filing of the request.~~

~~6. Exceptionally and with its explicit authorization, the Bourse may allot more The Approved Participant or the client may file an application with the Vice-President, Regulatory Division of the Bourse, or his or her designee, to obtain an extension of the exemption request filing period. This application shall be filed before the Approved Participant or the client fails to file an exemption request within the prescribed time for the submission of.~~

~~1.3 The time extension granted by the Vice-President, Regulatory Division of the Bourse, or his or her designee, to file a request for exemption, but this period may in no case shall not exceed five (5) business days following after the day on which the prescribed position limit was attained or exceeded is reached.~~

~~1.4 If the Bourse notices that an approved participant has exceeded the permitted position limit for a given derivative instrument and that no request for exemption from the position limits has been submitted for this exceedance, the Bourse may order the immediate liquidation of all positions exceeding the prescribed limit.~~

~~7. The request must be submitted in writing to the An Approved Participant or client who fails to comply with the prescribed time period for filing an exemption request must immediately liquidate the positions who excess the prescribed limit.~~

## II. PROCESSING REQUESTS FOR EXEMPTION FROM POSITION LIMITS

~~8. If all the required information is included in an exemption request, the applicant shall be notified of the approval or refusal as soon as possible after the request is received by the Regulatory Division of the Bourse.~~

~~9. Only the Vice-President, Regulatory Division of the Bourse, or his or her designee, may decide to accept or refuse a request for exemption from a position limit.~~

The designee of the Vice-President, Regulatory Division of the Bourse using the shall come from the Regulatory Division of the Bourse.

Before making a decision, the Vice-President, Regulatory Division of the Bourse, or his or her designee, shall submit each exemption request to the Internal Consultation Committee.

10. The Internal Consultation Committee include the following persons or their designees:

- (1) Vice-President, Legal Affairs;
- (2) Vice-President, CDCC Risk Management;
- (3) Vice-President, Financial Markets; and
- (4) Vice-President, Research and Development.

11. The Internal Consultation Committee may be consulted in person, by phone or by electronic messaging.

12. Each member of the Internal Consultation Committee, or his or her designee, shall be provided with the exemption request form, all information provided with the exemption request and any other document on which the Vice-President, Regulatory Division of the Bourse, or his or her designee, intends to base his or her decision.

13. The Vice-President, Regulatory Division of the Bourse, or his or her designee, may issue a decision if the opinion of the members of the Internal Consultation Committee cannot be obtained within a reasonable time.

### **III. CONSIDERED FACTORS IN ASSESSING AN EXEMPTION REQUEST FROM A POSITION LIMIT**

14. The following factors shall be considered by the Vice-President, Regulatory Division of the Bourse, or his or her designee, when assessing an exemption request from a position limit:

- 1° the reputation and financial capacity of the Approved Participant or the client;
- 2° the level of the Approved Participant's or the client's inventory in the Underlying Interest or in securities related to such Underlying Interest relative to the limit sought by the Approved Participant or the client;
- 3° the Approved Participant's or the client's recent activity in the market for which the request is made;
- 4° the regular activity in the market for which the request is made (liquidity, open interest, etc.);
- 5° the proposed strategy by the Approved Participant or the client; and
- 6° any other factor deemed relevant by the Vice-President, Regulatory Division of the Bourse or his or her designee.

15. The Vice-President, Regulatory Division of the *Bourse*, or his or her designee, may at any time require additional information from an *Approved Participant* or a client.

#### IV. COMMUNICATION AND EFFECTS OF THE DECISION

16. The decision of the Vice-President, Regulatory Division of the *Bourse*, or of his or her designee, shall be communicated to the applicant as soon as possible, followed by written confirmation.

When the exemption request is approved, the written confirmation shall set forth the terms and restrictions of the exemption.

17. The exemption shall be effective when the applicant receives the decision.

1.5 18. Where the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, refuses an exemption request, the applicant shall have a reasonable time to liquidate, in an orderly fashion the positions that are in excess of the prescribed form and must include the following information: limit.

~~1.5.1 a description of the type of positions which have been or will be taken by the approved participant or its client in the given derivative instrument. This description shall include, among other things, the number, expected duration and direction (buyer or seller) of the open positions at the time of the request, as well as the number, expected duration and direction of additional positions which the approved participant or its client intends to take. If the positions are in options, an indication of their strike price(s) and their type (calls or puts);~~

~~1.5.2 the desired limit and duration of the period (three (3) months maximum) for which the approved participant or its client wishes the exemption to be in effect;~~

~~1.5.3 a statement that these positions are bona fide hedges or that they have been or will be taken for risk management purposes. This statement must also include a complete and exact description of the position taken in the underlying interest of the derivative instrument for which the request for exemption is filed or in a value related to that underlying interest and, in the case where the applicant already holds this underlying interest or related value, a copy of any document which demonstrates the existence and ownership of this underlying interest or related value;~~

~~1.5.4 an undertaking to provide the Bourse with any information or document it may deem pertinent to request, including any information enabling the Bourse to know and evaluate the financial situation of the applicant;~~

~~1.5.5 an undertaking to provide the Bourse with a daily report of open positions in the derivative instrument subjected to 19. Where the Vice-President, Regulatory Division of the Bourse, or his or her designee, refuses an exemption request from a client and the positions in excess of the prescribed limit are not liquidated in a reasonable time, the Vice-President, Regulatory Division of the Bourse may order each Approved Participant with whom the client carries a position to reduce such position proportionately.~~

20. All exemptions from position limits are temporary.

The duration of an exemption is determined by the Vice-President, Regulatory Division of the Bourse, or his or her designee, and shall not exceed three (3) months from the filing of the request.

21. The Vice-President, Regulatory Division of the Bourse, or his or her designee, may review, amend or terminate an exemption.

#### **V. RENEWING, AMENDING, REVOKING OR INCREASING AN EXEMPTION**

22. An Approved Participant or a client wishing to increase or renew the limit under an exemption from a position limit must file an exemption request using the appropriate form.

~~23. An Approved Participant or a client wishing to increase the limit under an exemption from a position limit exemption and of any underlying interest or related value for the entire duration of the exemption;~~

~~1.5.6 an undertaking to comply with all the Rules, Policies and Procedures of the Bourse as well as with all the conditions or limitations which the Bourse could impose in relation to the requested exemption;~~

~~1.5.7 an undertaking to promptly submit to the Bourse any important modification to the information provided at the time of the must file a request for exemption;~~

~~1.5.8 an undertaking to orderly liquidate all positions held at their expiry or at any other time deemed appropriate by the applicant or the Bourse to liquidate these positions in whole or in part; and~~

~~1.5.9 recognition of the fact that the Bourse may, at any time and for any motive it deems valid, modify or revoke any granted exemption from position limits.~~

#### **2. PROCESSING OF REQUESTS FOR EXEMPTION FROM POSITION LIMITS**

~~— To accelerate the processing of requests for exemption from position limits, such requests must be sent electronically and in the prescribed form to the attention of the Regulatory Division of the Bourse.~~

~~— For exemption requests received by the Bourse before 2:00 p.m. (Montréal time), the acceptance or refusal of the exemption request will be communicated to the applicant within 3 hours of the request reception on condition that all information deemed necessary by the Bourse to take its decision has been provided.~~

~~For exemption requests received after 2:00 p.m. (Montréal time), the acceptance or refusal of the exemption request will be communicated to the applicant no~~The exemption request shall be filed the moment it becomes obvious that the limit is insufficient, but not later than 9:30 a.m.A.M. (Montréal time) on the next business day following reception of the request on condition that all information deemed necessary by the Bourse to take its decision has been provided~~the day on which the limit is breached.~~

~~— The decision to accept~~24. An Approved Participant ~~or reject the request for a client wishing to renew an exemption will be submitted to an internal Committee of the Bourse which is made up of a representative of the Risk Management Department of the clearing corporation and of each of the following departments of the Bourse:~~

- ~~— Regulatory Division;~~
- ~~— Financial Markets— Market Operations;~~
- ~~— Research and Development;~~
- ~~— Legal Affairs~~

~~— Should it be impossible to set from a meeting of this Committee sufficiently rapidly to decide upon position limit must file a request for exemption within the prescribed time frame, with the Vice-President of the Regulatory Division or, in his absence, a person designated by him for this purpose will decide and communicate the decision to the applicant., Regulatory Division of the Bourse.~~

### ~~3. CRITERIA TAKEN INTO CONSIDERATION BY THE BOURSE IN REVIEWING AN APPLICATION FOR EXEMPTION FROM POSITION LIMITS~~

~~— The following factors will be taken into consideration by the Bourse in reviewing requests for exemptions from position limits:~~

- ~~3.1 the reputation and financial capacity of the approved participant or its client;~~
- ~~3.2 the level of the client's inventory position in the underlying interest or in values related to the underlying interest in relation to the limit he is seeking;~~
- ~~3.3 recent activity of the approved participant or client in the appropriate market;~~
- ~~3.4 the regular activity in the appropriate market (liquidity, open interest, etc.);~~
- ~~3.5 the proposed strategy of the approved participant or client;~~
- ~~3.6 any other criteria the Bourse, in its discretion, considers appropriate.~~

#### ~~4. COMMUNICATION OF THE DECISION~~

~~4.1 No The exemption request shall be deemed as having been approved and being in effect until the Bourse has issued a confirmation of its approval.~~

~~4.2 If the Bourse approves the exemption, the approved participant or the client will be informed as soon as possible. Any decision will first be communicated verbally by the Regulatory Division and will immediately be followed by a written confirmation which will set out the conditions and limitations applicable to the exemption including, among other things, the approved position limit, filed not later than ten (10) business days before the expiration date of the exemption and any other relevant condition or limitation.~~

~~4.3 If the Bourse refuses to approve an exemption request, in whole or in part, the Bourse will inform the applicant accordingly and will give him a reasonable period of time, according to market conditions and the risk, to liquidate positions that are in excess of the permitted limit.~~

~~If, in the case of an exemption request submitted by a client, the client fails to reduce his position below the prescribed limit within the time prescribed by the Bourse, the Bourse may then instruct each approved participant with whom such client holds a position to reduce the client's position on a pro rata basis.~~

~~4.4 Any approved exemption will have a limited duration. The duration of this period will be established on the basis of the information provided to the Bourse by the applicant at the time of the request for exemption filing but in no case will exceed a period of three (3) months as of the date on which the exemption was approved by the Bourse.~~

#### ~~5. RENEWAL, INCREASE, MODIFICATION OR REVOCATION OF EXEMPTIONS~~

~~5.1 If an approved participant or a client of an approved participant already benefits from an exemption from position limits and if this participant or client wishes for the limit provided by such exemption to be increased and/or renewed, an application to this effect shall be submitted to the Bourse and shall be completed as described in the provisions of paragraph 1.4 of this Policy.~~

~~5.2 In the case of a request to increase the position limit, this one shall be submitted as soon as the approved participant or the client notices that the granted limit is or will be insufficient, but in no case such request shall be submitted later than 9:30 a.m. (Montréal time) on the first business day following the day where the limit was exceeded.~~

~~5.3 Any request for renewal of an exemption from position limits must be submitted to the Bourse at least ten (10) business days prior to its expiration date.~~

~~5.4 In order for the Bourse to ascertain itself that it disposes of up to date information, any request for increase of the position limit permitted by the exemption and any request for renewal of this exemption shall be subject to the same application and evaluation process as that of a new request.~~

~~5.5 The Bourse may, at any time, request additional information from the approved participant or from a client and may, if deemed appropriate, review, modify or revoke any exemptions previously granted.~~25. The decision-making process set forth in Parts II, III and IV of this Policy shall apply when an *Approved Participant* or a client requests an increase or renewal of a limit under an exemption from a position limit.



**ANNEXE A**

**STANDARDIZED FORM**

**EXEMPTION REQUEST FOR POSITION LIMITS ON DERIVATIVES TRADED ON THE BOURSE DE MONTRÉAL**

Indicate if this is

- A new request  
 or  
 An increase or a renewal of an existing exemption

1. Name of the beneficiary owner(s) of the account for whom this request is submitted:

\_\_\_\_\_

2. Address : \_\_\_\_\_

City : \_\_\_\_\_ Province or State : \_\_\_\_\_

Postal or Zip Code : \_\_\_\_\_ Country : \_\_\_\_\_

Name and title of the person responsible for the account :

\_\_\_\_\_

Phone : ( \_\_\_\_\_ ) \_\_\_\_\_ Fax : ( \_\_\_\_\_ ) \_\_\_\_\_

E-mail : \_\_\_\_\_

3. Attach an appendix which provides the following information for each approved participant with whom the applicant holds one or more accounts ~~are held by the applicant~~.

- 1) Name of the approved participant;
- 2) Name(s) of the person(s) responsible for the account;
- 3) Account number(s);
- 4) Phone number(s) of the responsible person(s) at the approved participant;
- 5) Fax number (s) of the responsible person(s) at the approved participant;
- 6) E-mail address(s) of the responsible person(s) at the approved participant.

4. If an approved participant ~~stated identified~~ in section 3 ~~does not or will not~~ clear the positions ~~at with the~~ CDCC, attach an appendix which provides the following information for each clearing broker ~~who-s has or will undertake the~~ clearing of the applicant's positions ~~of the applicant~~.

- 1) Name of the clearing broker;
- 2) Name(s) of the person(s) responsible for the account;
- 3) Account number(s);
- 4) Phone number(s) of the responsible person(s) at the clearing broker;
- 5) Fax number(s) of the responsible person(s) at the clearing broker;
- 6) E-mail address(s) of the responsible person(s) at the clearing broker.

5. Indicate ~~the Bourse traded derivative~~ for which ~~an exemption from position limits is being requested~~~~derivative traded on the Bourse an exemption from position limits is requested~~, what is the requested limit, the desired length of the exemption and ~~the side (long or short) of whether the positions~~~~positions are long or short~~.

Product (Symbol): \_\_\_\_\_

Requested limit (number of contracts): \_\_\_\_\_

Long : \_\_\_\_\_ Short: \_\_\_\_\_

Length of the exemption (maximum of 3 months) : \_\_\_\_\_

6. Include a detailed statement of current open positions ~~in this derivative~~ ~~in this derivative~~ as well as a detailed description of upcoming positions in the derivative, if they are known. ~~This~~ ~~The~~ statement and description shall especially mention the following information :

- 1) the number of ~~positions~~ ~~contracts~~;
- 2) the expiration date;
- 3) whether the positions are long or short;
- 4) the strike price if it's an option.

7. Exemption type :
- Hedger (Bona fide hedger – see definitions in articles 14226 and ~~14227~~ ~~of~~ ~~14227~~ of the Rules of the Bourse)
- Risk management (see definition in section 4 of Policy C-1)

8. Include a detailed statement of current positions in the underlying ~~interest~~ ~~of~~ ~~interest of~~ the above-mentioned derivative or in securities related to this underlying interest.

This statement shall demonstrate the existence and ownership of this underlying interest or of the securities related to this underlying interest.

9. Include any other information considered useful for the purpose of this request.

### **DECLARATIONS AND UNDERTAKINGS**

1. The undersigned declares that positions declared in this request are real bona fide hedges or that they have been taken or will be taken for risk management purposes and that their description is complete and accurate.
2. The undersigned promises to provide any other information or document that the Bourse could deem relevant to request, including any information allowing the Bourse to know and assess the financial situation of the applicant.
3. If the requested exemption is granted, the undersigned undertakes to provide the Bourse with a daily statement not only of open positions in the derivative instrument subjected to such exemption

but also in the underlying interest or in the security related to such underlying interest and this as long as the exemption will be in force.

4. The undersigned undertakes to comply with all the Rules, Policies and Procedures of the Bourse as well as with all the conditions and limitations that could be imposed by the Bourse in connection with the granted exemption.
5. The undersigned undertakes to communicate promptly to the Bourse any significant change in the information provided in this request for exemption.
6. The undersigned undertakes to liquidate in an orderly fashion all positions held in the relevant derivative instrument on expiry or at any other time where it is determined by the undersigned or by the Bourse that it is necessary to liquidate these positions in whole or in part.
7. The undersigned acknowledges that the Bourse may at any time and for any valid reason, amend or withdraw any position limit exemption it has granted.

No exemption and no increase or renewal of such exemption shall be considered as having been approved or in force as long as the approval of such has been confirmed verbally and in writing by the Regulatory Division of the Bourse. Any exemption, increase or renewal of such exemption shall be for a limited period of time and in no case shall such exemption, increase or renewal be valid for a period of time exceeding three (3) months from the date on which it has been granted.

The approval of this request does not in any way limit the authority of the Bourse to take any emergency measures or to take any discretionary decision if taking such measures or such decision is necessary to ensure market integrity. The Bourse can also improve additional conditions to any exemption already granted or withdraw such exemption if it deems it necessary in reason of operational regulatory or financial problems of the exemption beneficiary or in reason of matters related to market integrity, lack of market liquidity or depth or any other situation that may be causing a risk for the Bourse, for the clearing corporation and for market participants.

The undersigned certifies that he/she is authorized to sign and submit this request.

Name of applicant (client or approved participant for the account of whom the exemption request is submitted):

\_\_\_\_\_

Submitted by (complete name) : \_\_\_\_\_

Position/Title: \_\_\_\_\_ Phone : \_\_\_\_\_

E-mail : \_\_\_\_\_

Date : \_\_\_\_\_

**POLICY C-1****EXEMPTION REQUEST FROM A POSITION LIMIT  
(08.09.89, 30.12.93, 15.05.15)**

This policy explains the filing procedure for an exemption request from a position limit and describes how the application is processed.

**I. REQUEST**

1. An *Approved Participant* or a client may file an exemption request from a position limit with the *Bourse*.

An exemption request must be addressed to the Regulatory Division of the *Bourse* in writing, and sent electronically.

2. An exemption request is made by filling out the appropriate form and shall include the following information:

- 1° a statement to the effect that the request is either a new request, a request for increasing a limit under an existing exemption or a request for the renewal of an existing exemption;
- 2° a detailed statement of the open positions and a description of upcoming positions in the *Derivative*. The statement shall include the number of contracts, the expected maturity of the positions and the direction (long or short) of the positions. In the case of options, the statement must indicate the *Exercise Price* and the type of option. The description of upcoming positions must contain the same information if it is available;
- 3° the requested position limit and desired duration of the exemption;
- 4° a statement to the effect that the positions are bona fide hedging transactions or that they were taken or will be taken for risk management purposes;

This statement must be accompanied by a complete and accurate description of the positions taken in the *Underlying Interest* or in a security related to the *Underlying Interest* of the *Derivative* for which the exemption is sought. The existence and ownership of the *Underlying Interest* or of the security related to the *Underlying Interest* must be demonstrated;

- 5° an undertaking to provide any information or document which the *Bourse* may deem relevant, including any information which allows the *Bourse* to assess the financial situation of the applicant;

- 6° an undertaking to provide the *Bourse* with a daily statement of open positions in the *Derivative* for which the exemption is sought and in any *Underlying Interest* or security related to the *Underlying Interest*;
  - 7° an undertaking to comply with the *Rules*, policies and procedures of the *Bourse* as well as with the terms and restrictions of the exemption;
  - 8° an undertaking to notify the *Bourse* without delay of any material change in the information provided with the exemption request;
  - 9° an undertaking to liquidate the positions in an orderly fashion upon maturity or at any other time; and
  - 10° an acknowledgement that the *Bourse* may at any time, for valid reasons, modify or revoke an exemption from a position limit.
3. To be admissible, an exemption request shall serve a risk management purpose or shall relate to a *Bona Fide Hedger* account, as defined in section 14226 and 14227 of the *Rules*.

An exemption from a position limit shall not be granted for a speculative account.

4. The following positions qualify as positions taken for risk management purposes:
- 1° a position taken by a *Person* who regularly buys, sells or carries positions in the cash market underlying a *Derivative*; and
  - 2° a position taken by a *Person* who regularly buys, sells or carries positions in a *Derivative* on the stock market or OTC market. This market must be sufficiently liquid relative to the size of the position held.
5. An exemption request from a position limit shall be filed the moment the position limit for a specific *Derivative* is reached or the moment the *Approved Participant* or client realizes that the limit will be breached as a result of an anticipated transaction.

Where an exemption request cannot be filed immediately, it shall be filed not later than 10:30 A.M. (Montreal time) on the first business day following the day on which the limit is reached and shall provide justification for the late filing of the request.

6. The *Approved Participant* or the client may file an application with the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, to obtain an extension of the exemption request filing period. This application shall be filed before the *Approved Participant* or the client fails to file an exemption request within the prescribed time.

The time extension granted by the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, to file a request for exemption shall not exceed five (5) business days after the day on which the position limit is reached.

7. An *Approved Participant* or client who fails to comply with the prescribed time period for filing an exemption request must immediately liquidate the positions who exceed the prescribed limit.

## II. PROCESSING REQUESTS FOR EXEMPTION FROM POSITION LIMITS

8. If all the required information is included in an exemption request, the applicant shall be notified of the approval or refusal as soon as possible after the request is received by the Regulatory Division of the *Bourse*.
9. Only the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, may decide to accept or refuse a request for exemption from a position limit.

The designee of the Vice-President, Regulatory Division of the *Bourse* shall come from the Regulatory Division of the *Bourse*.

Before making a decision, the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, shall submit each exemption request to the Internal Consultation Committee.

10. The Internal Consultation Committee include the following persons or their designees:
  - 1) Vice-President, Legal Affairs;
  - 2) Vice-President, CDCC Risk Management;
  - 3) Vice-President, Financial Markets; and
  - 4) Vice-President, Research and Development.
11. The Internal Consultation Committee may be consulted in person, by phone or by electronic messaging.
12. Each member of the Internal Consultation Committee, or his or her designee, shall be provided with the exemption request form, all information provided with the exemption request and any other document on which the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, intends to base his or her decision.
13. The Vice-President, Regulatory Division of the *Bourse*, or his or her designee, may issue a decision if the opinion of the members of the Internal Consultation Committee cannot be obtained within a reasonable time.

### III. CONSIDERED FACTORS IN ASSESSING AN EXEMPTION REQUEST FROM A POSITION LIMIT

14. The following factors shall be considered by the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, when assessing an exemption request from a position limit:
  - 1° the reputation and financial capacity of the *Approved Participant* or the client;
  - 2° the level of the *Approved Participant's* or the client's inventory in the *Underlying Interest* or in securities related to such *Underlying Interest* relative to the limit sought by the *Approved Participant* or the client;
  - 3° the *Approved Participant's* or the client's recent activity in the market for which the request is made;
  - 4° the regular activity in the market for which the request is made (liquidity, open interest, etc.);
  - 5° the proposed strategy by the *Approved Participant* or the client; and
  - 6° any other factor deemed relevant by the Vice-President, Regulatory Division of the *Bourse* or his or her designee.
15. The Vice-President, Regulatory Division of the *Bourse*, or his or her designee, may at any time require additional information from an *Approved Participant* or a client.

### IV. COMMUNICATION AND EFFECTS OF THE DECISION

16. The decision of the Vice-President, Regulatory Division of the *Bourse*, or of his or her designee, shall be communicated to the applicant as soon as possible, followed by written confirmation.

When the exemption request is approved, the written confirmation shall set forth the terms and restrictions of the exemption.
17. The exemption shall be effective when the applicant receives the decision.
18. Where the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, refuses an exemption request, the applicant shall have a reasonable time to liquidate, in an orderly fashion the positions that are in excess of the prescribed limit.
19. Where the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, refuses an exemption request from a client and the positions in excess of the prescribed limit are not liquidated in a reasonable time, the Vice-President, Regulatory Division of the *Bourse* may order each *Approved Participant* with whom the client carries a position to reduce such position proportionately.

20. All exemptions from position limits are temporary.

The duration of an exemption is determined by the Vice-President, Regulatory Division of the *Bourse*, or his or her designee, and shall not exceed three (3) months from the filing of the request.

21. The Vice-President, Regulatory Division of the *Bourse*, or his or her designee, may review, amend or terminate an exemption.

#### **V. RENEWING, AMENDING, REVOKING OR INCREASING AN EXEMPTION**

22. An *Approved Participant* or a client wishing to increase or renew the limit under an exemption from a position limit must file an exemption request using the appropriate form.

23. An *Approved Participant* or a client wishing to increase the limit under an exemption from a position limit must file a request for exemption.

The exemption request shall be filed the moment it becomes obvious that the limit is insufficient, but not later than 10:30 A.M. (Montréal time) on the business day following the day on which the limit is breached.

24. An *Approved Participant* or a client wishing to renew an exemption from a position limit must file a request for exemption with the Vice-President, Regulatory Division of the *Bourse*.

The exemption request shall be filed not later than ten (10) business days before the expiration date of the exemption.

25. The decision-making process set forth in Parts II, III and IV of this Policy shall apply when an *Approved Participant* or a client requests an increase or renewal of a limit under an exemption from a position limit.



## ANNEXE A

**STANDARDIZED FORM  
EXEMPTION REQUEST FOR POSITION LIMITS ON DERIVATIVES TRADED  
ON BOURSE DE MONTRÉAL INC.**

Indicate if this is:

A new request

or

An increase or a renewal of an existing exemption

1. Name of the beneficiary owner(s) of the account for whom this request is submitted:

\_\_\_\_\_

2. Address: \_\_\_\_\_

City: \_\_\_\_\_ Province or State: \_\_\_\_\_

Postal or Zip Code: \_\_\_\_\_ Country: \_\_\_\_\_

Name and title of the person responsible for the account:

\_\_\_\_\_

\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

3. Attach an appendix which provides the following information for each approved participant with whom the applicant holds one or more accounts.

- 1) Name of the approved participant;
- 2) Name(s) of the person(s) responsible for the account;
- 3) Account number(s);
- 4) Phone number(s) of the responsible person(s) at the approved participant;
- 5) Fax number (s) of the responsible person(s) at the approved participant;
- 6) E-mail address(s) of the responsible person(s) at the approved participant.

4. If an approved participant identified in section 3 has not or will not clear the positions with the CDCC, attach an appendix which provides the following information for each clearing broker who has or will undertake the clearing of the applicant's positions.

- 1) Name of the clearing broker;
- 2) Name(s) of the person(s) responsible for the account;
- 3) Account number(s);
- 4) Phone number(s) of the responsible person(s) at the clearing broker;
- 5) Fax number(s) of the responsible person(s) at the clearing broker;
- 6) E-mail address(s) of the responsible person(s) at the clearing broker.

## ANNEXE A

**STANDARDIZED FORM  
EXEMPTION REQUEST FOR POSITION LIMITS ON DERIVATIVES TRADED  
ON BOURSE DE MONTRÉAL INC.**

5. Indicate the *Bourse* traded *derivative* for which an exemption from position limits is being requested, the requested limit, the desired length of the exemption and the side (long or short) of positions.

Product (Symbol): \_\_\_\_\_

Requested limit (number of contracts): \_\_\_\_\_

Long: \_\_\_\_\_

Short: \_\_\_\_\_

Length of the exemption (maximum of 3 months): \_\_\_\_\_

6. Include a detailed statement of current open positions in this *derivative* as well as a detailed description of upcoming positions in the *derivative*, if they are known. The statement and description shall especially mention the following information :

- 1) the number of contracts;
- 2) the expiration date;
- 3) whether the positions are long or short;
- 4) the strike price if it's an option.

7. Exemption type:

- Hedger (*Bona Fide Hedger* – see definitions in articles 14226 and 14227 of the Rules of the *Bourse*)
- Risk management (see definition in section 4 of Policy C-1)

8. Include a detailed statement of current positions in the *Underlying Interest* of the above-mentioned *derivative* or in securities related to this *Underlying Interest*.

This statement shall demonstrate the existence and ownership of this *Underlying Interest* or of the securities related to this *Underlying Interest*.

9. Include any other information considered useful for the purpose of this request.

## ANNEXE A

**STANDARDIZED FORM  
EXEMPTION REQUEST FOR POSITION LIMITS ON DERIVATIVES TRADED  
ON BOURSE DE MONTRÉAL INC.**

**DECLARATIONS AND UNDERTAKINGS**

1. The undersigned declares that positions declared in this request are real bona fide hedges or that they have been taken or will be taken for risk management purposes and that their description is complete and accurate.
2. The undersigned promises to provide any other information or document that the Bourse could deem relevant to request, including any information allowing the *Bourse* to know and assess the financial situation of the applicant.
3. If the requested exemption is granted, the undersigned undertakes to provide the *Bourse* with a daily statement not only of open positions in the *derivative* instrument subjected to such exemption but also in the *Underlying Interest* or in the security related to such *Underlying Interest* and this as long as the exemption will be in force.
4. The undersigned undertakes to comply with all the Rules, Policies and Procedures of the *Bourse* as well as with all the conditions and limitations that could be imposed by the *Bourse* in connection with the granted exemption.
5. The undersigned undertakes to communicate promptly to the *Bourse* any significant change in the information provided in this request for exemption.
6. The undersigned undertakes to liquidate in an orderly fashion all positions held in the relevant *derivative* instrument on expiry or at any other time where it is determined by the undersigned or by the *Bourse* that it is necessary to liquidate these positions in whole or in part.
7. The undersigned acknowledges that the *Bourse* may at any time and for any valid reason, amend or withdraw any position limit exemption it has granted.

No exemption and no increase or renewal of such exemption shall be considered as having been approved or in force as long as the approval of such has been confirmed verbally and in writing by the Regulatory Division of the *Bourse*. Any exemption, increase or renewal of such exemption shall be for a limited period of time and in no case shall such exemption, increase or renewal be valid for a period of time exceeding three (3) months from the date on which it has been granted.

The approval of this request does not in any way limit the authority of the *Bourse* to take any emergency measures or to take any discretionary decision if taking such measures or such decision is necessary to ensure market integrity. The *Bourse* can also improve additional conditions to any exemption already granted or withdraw such exemption if it deems it necessary in reason of operational regulatory or financial problems of the exemption beneficiary or in reason of matters related to market integrity, lack of market liquidity or depth or any other situation that may be causing a risk for the *Bourse*, for the learning corporation and for market participants.

## ANNEXE A

**STANDARDIZED FORM  
EXEMPTION REQUEST FOR POSITION LIMITS ON DERIVATIVES TRADED  
ON BOURSE DE MONTRÉAL INC.**

The undersigned certifies that he/she is authorized to sign and submit this request.

Name of applicant (client or approved participant for the account of whom the exemption request is submitted):

\_\_\_\_\_

Submitted by (complete name): \_\_\_\_\_

Position/Title: \_\_\_\_\_ Phone: \_\_\_\_\_

E-mail : \_\_\_\_\_

Date : \_\_\_\_\_



<input checked="" type="checkbox"/>	Trading – Interest Rate Derivatives	<input type="checkbox"/>	Back-office - Options
<input type="checkbox"/>	Trading – Equity and Index Derivatives	<input checked="" type="checkbox"/>	Technology
<input checked="" type="checkbox"/>	Back-office – Futures	<input checked="" type="checkbox"/>	Regulation
		<input type="checkbox"/>	MCeX

**CIRCULAR**  
June 16, 2011

## REQUEST FOR COMMENTS

### REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR BONA FIDE HEDGERS AND FOR RISK MANAGEMENT PURPOSES

#### AMENDMENTS TO POLICY C-1

The Rules and Policies Committee of Bourse de Montréal Inc. (the Bourse) has approved amendments to Policy C-1 of the Bourse, which deal with requests for exemption from position limits for bona fide hedgers. The purpose of these amendments is to provide for the approved participants the obligation to file a request for exemption as soon as they become aware that the prescribed position limit has been exceeded or as soon as they realize that an intended transaction will result in prescribed position limits being exceeded.

Comments on the proposed amendments to Policy C-1 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.: 110-2011

## **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.

**AMENDMENTS TO POLICY C-1 OF BOURSE DE MONTRÉAL INC. (THE BOURSE)**

**REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR  
BONA FIDE HEDGERS AND RISK MANAGEMENT PURPOSES**

**Summary of comments received and responses from the Bourse**

Comments	Response from the Bourse
<p><b><u>Required Details of Request for Exemption from Position Limits - Section 1.5 of Policy C-1</u></b></p> <p>The commenter is concerned with the changes within Section 1.5 of the proposed amended C-1 Policy. Specifically, sub-sections 1.5.3 through 1.5.5 state that an approved participant or applicant must provide a detailed summary of information concerning underlying interests held in the account(s) of an applicant in concert with the derivative instrument the position limit exemption is sought for.</p> <p>Section 1.5.3 seeks documentation to demonstrate the ownership and existence of underlying instruments related to the derivative that the position limit exemption is sought for. The commenter believes that doing so is contrary to the best interests of its clients and itself, as such documentation may contain information that is not in the realm of the Bourse's regulatory scope. For instance, such documentation may contain details of clients or counterparties to OTC transactions, where consent to share such information may not have been granted, nor is required from a regulatory standpoint.</p>	<p>Since position limit exemptions imply that the applicant actually holds or is expecting to hold a very large position in a specific derivative instrument representing a huge notional amount and/or a significant percentage of the open interest, it is essential that before granting the requested exemption, the Bourse ensures that the sought limit is legitimate and that there is a valid hedge in place.</p> <p>It is therefore absolutely essential that complete information be provided to the Bourse so that it can take an enlightened decision.</p> <p>The first objective of the Bourse when evaluating whether or not a position limit exemption should be granted is not to know who is(are) the counterparty(ies) to a transaction or a position, but rather to determine if the position in the derivative instrument is a proper and acceptable hedge for the position held in the underlying and/or in a related security or instrument or vice-versa. In the vast majority of instances, the identity of the counterparty(ies) is not necessary and will not be a relevant factor in the decision to grant or refuse an exemption request.</p> <p>Approved participants and their clients should therefore submit their exemption requests and supporting documentation by assuming that the Bourse is primarily interested to get satisfactory evidence of the existence of a legitimate hedge and not to know who is(are) the counterparty(ies) to a transaction or a position. This means that if the documentation includes information (e.g.: identification of a counterparty) that is not relevant for the purpose of the requested exemption, then such information can be deleted or hidden.</p>

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	<p>It has however to be kept in mind that if ever the Bourse considers that such information is absolutely essential to take a decision, then it must have the capacity of obtaining it upon request.</p> <p>Refusal to provide information that is deemed necessary by the Bourse will result in a refusal to grant the requested exemption.</p>
<p>Section 1.5.4 of proposed Policy C-1 seeks documentation that the Bourse “deems” appropriate at its discretion so as to evaluate the financial situation of the applicant. The commenter believes that doing so is contrary to the Bourse’s stated mandate as being responsible for carrying out the regulatory functions for the Bourse’s markets. Furthermore, the Bourse’s rules which regulated the know-your-client, suitability, and account documentation processes of approved participants have been abrogated.</p> <p>Therefore, the Bourse’s request to seek information in order to evaluate the financial situation of an applicant to a position limit exemption is contrary to the Bourse’s current mandate and jurisdiction. It is noteworthy to mention that the CDCC is responsible for risk management of the derivatives products traded on the Bourse, thus the CDCC would be in a better position for reviewing such documentation or reports as they pertain to the clearing requirements for such products.</p>	<p>First, if the exemption requestor is an approved participant of the Bourse, the Bourse will not ask for information on the financial situation of the approved participant because it already has access to all the information needed through IIROC with whom the Bourse has an information sharing MOU. This MOU was put in place at the request of regulators and allows the respective organizations to share information not only on financial capital matters but also on business and trading conduct.</p> <p>It is also important to make a distinction between regulating the financial situation of an approved participant, which is IIROC responsibility, and having access to its financial information. The objective of the Bourse when accessing or requesting this type of information is not to exercise regulatory oversight on the capital situation of the approved participant, but to have a view of the approved participant financial situation in order to make a better decision.</p> <p>When the Bourse transferred its regulatory oversight responsibilities to IIROC for financial and sales compliance matters in January 2005, it did not renounce to its right to have access to information related to these matters. Even though the primary mandate of the Bourse is now to regulate its market, it still has the obligation, when deemed necessary, to ask for and have access to any information related to the financial or operational situation of its approved participants. The information sharing MOU with IIROC supports this obligation.</p>



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**REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR  
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Comments	Response from the Bourse
	<p>When a position limit exemption is requested for a client of an approved participant, in most cases it is for a large institution or corporation for which the financial information is publicly available through annual and quarterly financial reports as well as periodic filings into the SEDAR system. Here again, the Bourse will generally not ask for any additional financial information other than information about the hedge for which a position limit exemption is requested.</p> <p>Also, if the position limit exemption is requested for the account of an entity that is unknown to the Bourse's staff, the Bourse considers that it has an obligation to inquire about this entity in order to be able to determine if it has sufficient financial and operational resources to support the financial and other risks related to the derivative instruments position it holds or intend to hold. The Bourse must also have enough information to be able to assess that the intended hedge is in line with the normal course of activities of the applicant.</p> <p>Finally, when a decision has to be taken on a position limit exemption request, CDCC is part of the Committee that reviews the request and therefore has the opportunity to give its input on any matter that relates to its risk management process and that can have an impact on the decision to grant or not the requested exemption.</p> <p>As is the case for all exchanges that impose position limits, these limits are set in the Rules of the Bourse and not in the rules of the clearing corporation, CDCC. It is therefore only normal that exemption requests be managed by the Bourse, through its Regulatory Division. Position limits are not a clearing requirement and the Bourse cannot transfer the responsibility of managing and applying its Rules or part thereof to CDCC.</p>

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### REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR BONA FIDE HEDGERS AND RISK MANAGEMENT PURPOSES

#### Summary of comments received and responses from the Bourse

Comments	Response from the Bourse
<p>Section 1.5.5 seeks a “<i>daily report of open positions in the derivative instrument subjected to a position limit exemption...</i>” for the entire duration of the exemption period. The commenter is of the opinion that daily and detailed submissions on underlying and related positions to the derivative instrument the position limit exemption is requested for is unnecessary and not in scope of the Bourse’s mandate. Reason being is that not only would the process be impractical to meet, it also may violate the confidentiality of client’s information, as well as not being regulatory requirement stated in the Bourse’s current rules.</p>	<p>If the Bourse accepts to grant a position limit exemption that involves holding a derivative instrument position that significantly exceeds the permitted limit, it is fully entitled to require all the information deemed necessary to adequately monitor the situation and ensure that the conditions based on which the exemption was granted are complied with. Therefore, since the exemption is granted on the premise that it is for hedging or risk management purposes, it is necessary that such information be provided in the form and at the frequency deemed necessary by the Bourse.</p> <p>If an applicant for exemption is not willing to provide the information required by the Bourse to allow it to properly monitor the situation, the Bourse will have no other choice than refusing to grant the exemption or, as the case may be, to withdraw it.</p>
<p>The commenter notes that the published mandate of the Bourse’s Regulatory Division as per the website <a href="http://reg.m-x.ca/en/about/overview/">http://reg.m-x.ca/en/about/overview/</a> is “<i>The Regulatory Division carries on the regulatory functions for the Montréal Exchange’s markets</i>”. As a result, the commenter does not believe this mandate would extend to the regulation of over-the-counter or listed markets other than products of the Montréal Exchange. Therefore, the commenter disagrees with providing detailed information with regards to its own and/or its clients’ underlying positions and subsequent strategies. Though the Bourse does not possess the authority to regulate markets other than the Montréal Exchange, the commenter is willing to share the information requested of such underlying positions under certain conditions (i.e. Ad hoc requests pertaining to suspected market manipulation or market conduct investigations). Therefore, the commenter does not believe that such documentation is a requirement for the Bourse’s granting of an exemption to a position limit by an applicant.</p>	<p>The Bourse disagrees with this comment. The purpose of requiring information on the position held in the underlying of a derivative instrument for which a position limit exemption is sought or in a security or instrument related thereto is not to regulate the market of such underlying or related security or instrument but to collect information that permits to obtain valid evidence that there is effectively a hedge in place and that such hedge is an acceptable one for the purpose of the requested exemption.</p> <p>The Bourse therefore believes that it does not exceed its mandate by asking for information that is absolutely necessary to take a fully enlightened decision.</p>

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<p>The commenter recommends amending sub-sections 1.5.3 – 1.5.5 to remove reference to an applicant’s documentation pertaining to underlying positions as noted for the reasons above.</p>	<p>For all the reasons mentioned in the Bourse’s answers above, the Bourse will maintain all the information requirements outlined in sections 1.5.3 to 1.5.5 of Policy C-1 as originally proposed.</p>
<p><b><u>Processing of Requests for Exemption from Position Limits – Section 2 of Policy C-1</u></b></p> <p>With regards to this section of Circular 110-2011, the commenter seeks clarity concerning the cited “<i>processing delay</i>”. The Bourse refers to a maximum prescribed processing delay of 3 hours for exemption requests received prior to 2 p.m. EST, and a delay up to 9:30 a.m. EST the next trading day for exemption requests received after 2 p.m. EST. Commenter would like to confirm if a sender of an exemption request would still be able to transact under normal conditions during the processing delay, or if it would be required to cease trading activities.</p>	<p>For options, paragraph A of article 6551 of the Rules of the Bourse reads as follows:</p> <p><i>“Except as provided in paragraph D) of this article, no approved participant or restricted permit holder shall make for any account in which it has an interest, or for the account of any client, an opening transaction if the approved participant or the restricted permit holder has reason to believe that as a result of such transaction the approved participant or its client, or the restricted permit holder would, acting alone or in concert with others, directly or indirectly, hold, control or be obligated with respect to a position on the same side of the market relating to the same underlying interest (whether long or short) in excess of the position limits established by the Bourse.”</i></p> <p>For all derivative instruments listed on the Bourse, the first paragraph of article 14157 of the Rules of the Bourse reads as follows:</p> <p><i>“No approved participant shall make, for any account in which it has an interest or for the account of any client, a transaction in a specific derivative instrument listed on the Bourse if the approved participant has reason to believe that as a result of such transaction the approved participant or its client would, acting alone or in concert with others, directly or indirectly, hold or control a position in excess of the position limit established by the Bourse.”</i></p>

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	<p>The Rules are therefore very clear to the effect that no transaction must be executed if such transaction results in the prescribed position limits being exceeded.</p> <p>This prohibition remains in force as long as an exemption has not been granted. The fact that an exemption request has been submitted does not in any way release approved participants and/or their clients from this prohibition and no transaction resulting in the prescribed position limit being exceeded should be undertaken as long as the exemption has not been confirmed.</p>
<p><b><u>Standardized exemption request Form</u></b></p> <p>The commenter also had some specific suggestions concerning the proposed standardized form within Circular 110-2011. Part 5 of the form asks the sender to “<i>Indicate for which derivative instrument listed on the Bourse an exemption from position limits is requested, what is the requested limit, and for how long (maximum of 3 months)</i>”. It was unclear to commenter where to include the exemption time limit portion of the request. The commenter proposes that the Bourse add a new line under the ‘<i>Long/Short</i>’ line that specifically seeks the sender’s intended length of the exemption request, subject to the 3-month maximum.</p>	<p>The Bourse has amended the form as proposed adding a new line to Part 5 to indicate the intended length of the exemption sought.</p>
<p>Similar to concerns with sub-sections 1.5.3 – 1.5.5 of proposed Policy C-1, Part 8 of the form once again refers to the applicant including a “detailed statement of current positions in the underlying interest of the above-mentioned derivative instrument...” Again, as previously indicated in other areas of his comment letter, the commenter prefers scrutiny concerning the granting of an exemption</p>	<p>See the Bourse’s responses above for what regards Sections 1.5.3 to 1.5.5.</p> <p>As already explained, the review of a position limit exemption cannot be restricted to looking only at the derivative instrument for which an exemption is requested. The Bourse must also ensure that there is an effective and acceptable hedge in place and to do this, it is necessary to</p>

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<p>be restricted to the specific derivative instrument in question.</p> <p>Furthermore, the commenter has a larger contention with the continuation of the form's part 8 request, "<i>...or in securities related to this underlying interest</i>". The commenter's view is that this expands the scope of the Bourse's review even wider than as stated in sub-sections 1.5.3 – 1.5.5 and the commenter reiterates his belief that this information falls outside of the Bourse's regulatory mandate and restates his strong preference to limit the basis of any exemption decision to a review of the derivative instrument in question only.</p>	<p>have information on the position in the underlying security or in a related security or instrument for which the derivative instrument is used as a hedge or vice-versa.</p> <p>The Bourse has modified the wording of Part 8 so that the language be uniform with the one found in paragraph 1.5.3. Part 8 now reads "<i>... or in values related to this underlying interest</i>". It is to be noted however that this does not change the intent of the requirement to the effect that if the hedge position does not involve the underlying itself but some other security or financial instrument that is related to the underlying, then all necessary information regarding such other related security or financial instrument must be provided.</p>
<p>Lastly, with regards to the standardized form, Part 2 within the "<i>Declarations and Undertakings</i>" section provides for the undersigned promising "to provide any other information or document that the Bourse could deem relevant to request, including any information allowing the Bourse to know and assess the financial situation of the applicant". The commenter contends that this is a blanket statement that is too broad in scope. While he understands the nature of this requirement, the commenter would prefer a more specific description of information the Bourse would deem relevant to request. The commenter believes this would be mutually beneficial to the process, as it would serve to help both parties avoid the pitfalls of a discussion of privacy or confidentiality implications surrounding what information is requested, as an example.</p>	<p>Each exemption request has to be treated on a case by case basis. Some elements of information may be necessary in one case while they are not in another case. For example, if financial information regarding an applicant is available to the Bourse through public source or through some kind of information sharing arrangement, it would be pointless to require that such information be provided when an exemption request is submitted. This is why the Bourse needs to have the needed flexibility to ask for any type of information it deems relevant in each particular case.</p> <p>Enumerating in detail what information must be provided would not only render the Policy too cumbersome but it would force applicants to provide unnecessary information in some cases. Furthermore, it would be practically impossible to have a list of required information that is entirely exhaustive. This could result in situation where a particular element of information not mentioned in the enumeration is needed by the Bourse and gets contested in reason of the fact that it is not mentioned in the enumeration.</p>

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<b>Comments</b>	<b>Response from the Bourse</b>
	In any event, even if the Policy was providing a detailed list of the information that must be provided, such list would certainly contain a provision stipulating that the Bourse can request any other information it deems necessary for the purpose of deciding upon the exemption request.