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**CIRCULAR**  
May 8, 2008

## **REQUEST FOR COMMENTS**

### **MARGIN REQUIREMENTS FOR PRECIOUS METALS**

#### **AMENDMENTS TO ARTICLE 7208 AND AMENDMENTS TO THE GENERAL NOTES AND DEFINITIONS, SCHEDULE 9 AND SCHEDULE 10 OF THE JOINT REGULATORY FINANCIAL QUESTIONNAIRE AND REPORT – POLICY C-3**

#### **Summary**

The Rules and Policies Committee of Bourse de Montréal Inc. (the Bourse) has approved amendments to amendments to article 7208 of the Rules of the Bourse as well as to the General Notes and Definitions, Schedule 9 and Schedule 10 of Policy C-3 of the Bourse, which deal mainly with margin requirements applicable to precious metal certificates and bullion. The purpose of these amendments is to add in the Bourse's Rules provisions regarding margin requirements applicable to precious metals bullion (gold and silver) that would be identical to the requirements applicable to their respective certificates. The proposed amendments are also aimed at adopting margin requirements that take into account the risks to which are exposed approved participants who make transactions on precious metal certificates and bullion.

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

Bourse de Montréal Inc. is recognized as a self-regulatory organization (SRO) by the Autorité des marchés financiers (the Autorité). In accordance with this recognition, the Bourse carries on activities as an exchange and as a SRO in Québec. 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.

Circular no.: 071-2008

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 and Policies of the Bourse governing approved participants, among which, the Rules and Policies relating to margin and capital requirements. The Board of Directors has delegated to the Rules and Policies Committee of the Bourse its powers to approve or amend these Rules and Policies with recommendation from the Special Committee. These changes are submitted to the Autorité for approval.

Comments on the proposed amendments to article 7208 of the Rules of the Bourse as well as to the General Notes and Definitions, Schedule 9 and Schedule 10 of Policy C-3 of the Bourse must be submitted within 30 days following the date of publication of the present notice in the bulletin of the Autorité. Please submit your comments to:

*Ms. Joëlle Saint-Arnault  
Vice-President, Legal Affairs and Secretary  
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  
Director – Secretariat of L'Autorité  
Autorité des marchés financiers  
800 Victoria Square, 22<sup>nd</sup> Floor  
P.O. Box 246, Tour de la Bourse  
Montréal (Quebec) H4Z 1G3  
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## **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, if applicable, with the other Canadian self-regulatory organizations following approval by the "Autorité des marchés financiers".



### **MARGIN REQUIREMENTS FOR PRECIOUS METALS**

#### **AMENDMENTS TO ARTICLE 7208 – MARGIN REQUIREMENTS APPLICABLE TO PRECIOUS METALS CERTIFICATES AND BULLION**

#### **AMENDMENTS TO THE GENERAL NOTES AND DEFINITIONS, SCHEDULE 9 AND SCHEDULE 10 OF THE JOINT REGULATORY FINANCIAL QUESTION- NAIRE AND REPORT – POLICY C-3**

### **1. SUMMARY**

#### **A CURRENT RULES**

Margin requirements currently prescribed by article 7208 of the Rules of the Bourse allow a value for margin purposes only to certificates evidencing an interest in the precious metals gold, silver and platinum. These certificates must be negotiable and issued by Canadian chartered banks and trust companies authorized to do business in Canada. The margin rates for gold, silver and platinum certificates are 10%, 15% and 15% respectively.

#### **B THE ISSUE**

The Rules of the Bourse do not contain any margin rule for precious metals bullion and, as a consequence, a margin equal to 100% of their market value must be applied by approved participants, while precious metal certificates on gold, silver and platinum, which are just another form of holding investments in precious metals, are subjected only to a margin varying between 10% and 15% of their market value.

### **C OBJECTIVES**

The objective of the proposed amendments is to incorporate into the Rules of the Bourse provisions regarding margin requirements applicable to precious metals bullion (gold and silver) that would be identical to the requirements that are applicable to their respective certificates. The proposed amendments also intend to adopt margin requirements that take into account the risks to which are exposed approved participants who make transactions on precious metals certificates and bullion.

### **D EFFECT OF PROPOSED RULES**

The Bourse considers that the proposed amendments will benefit approved participants, their clients and markets in general because the prescribed margin will correspond to the risks involved in dealing with precious metals bullion. Compliance costs will be higher for approved participants who are involved in this type of activities, because themselves and their clients are exposed to additional risks that must be covered.

## **II. DETAILED ANALYSIS**

### **A CURRENT RULES, HISTORY AND PROPOSED AMENDMENTS**

The prescribed margin requirements for precious metal certificates are currently set in article 7208 of Rule Seven of the Bourse. This article provides that certificates evidencing an interest in the precious metals gold, silver and platinum may be carried on margin. These certificates must be negotiable and be issued by Canadian chartered banks and trust companies that are authorized to do business in Canada. The margin rates applicable to these gold, silver and platinum certificates are respectively 10%, 15% and 15%.

The purpose of the proposed amendments is to specify that the margin requirements applicable to gold and silver precious metals bullion are

identical to the requirements applicable to their respective certificates. Current margin requirements permit to give a loan value only to certificates evidencing an interest in the precious metals gold, silver and platinum. The logic of giving a loan value only to certificates has been questioned. The precious metal markets around the world for gold and silver bullion are well established and liquid and some countries, among which the United States and the United Kingdom, allow giving a loan value to precious metals bullion.

The Investment Dealers Association of Canada (IDA) has performed a risk analysis in order to determine if precious metals gold and silver bullion should be allowed to be margined like their respective certificates and concluded that they should be. The proposed amendments result from this risk analysis and from the extensive discussions of the IDA Capital Formula Subcommittee of which the Bourse is a participant. Informal discussions have also taken place with the Royal Canadian Mint and ScotiaMocatta regarding concerns about authenticity and liquidity, storage, control and segregation, margin and capital, concentration and insurance.

Furthermore, the proposed amendments would, in the short term, increase the margin rates for gold, silver and platinum certificates, the risk analysis having demonstrated that the current margin rates are not adequate to cover price volatility and liquidity risks to which is subjected each of these precious metals. In the long term, margin rates for certificates and bullion will be based on the new methodology for margining equity securities and will therefore be more dynamic and will better reflect the price volatility and liquidity risks.

### *Authenticity and Liquidity*

In order to minimize risks relating to authenticity and liquidity of gold and silver bullion carried in the securities portfolios of approved participants or in the margin accounts of their clients, the proposed amendments to article 7208 of Rule Seven provide that

approved participants must purchase the gold and silver bullion from the Royal Canadian Mint or from a Canadian chartered bank that is a full member (i.e. a market making member or an ordinary member of the London Bullion Market Association (LBMA) and that these entities must provide a written representation that the gold and silver bullion purchased are LBMA good delivery bars. Currently, the Bank of Nova Scotia (ScotiaMocatta), the Royal Bank of Canada and the Canadian Imperial Bank of Commerce are full members of the LBMA.

### *Storage, Control and Segregation*

To address the storage, control and segregation risk issues, the definition of acceptable securities location in the general notes and definitions of the “Joint Regulatory Financial Questionnaire and Report” (JRFQR) of Policy C-3 of the Bourse has been amended in order to limit the entities that can hold good delivery gold and silver bars on behalf of an approved participant (for its own account or for the accounts of its clients) without capital penalty. These entities must be full members or associate members of the LBMA and must also appear on the list of entities that are considered suitable by the self-regulatory organizations to hold these bars. This list is a new list that will be published by the IDA as a *Member Regulation Notice*. Furthermore, a written precious metals storage agreement must be entered into with the storage location and provide to the approved participant rights and protection that are equivalent to those offered in the standard securities custodial agreement.

### *Margin*

To evaluate if the current margin rates were still adequate to cover price volatility and liquidity risks relating to gold, silver and platinum certificates, and which would also apply to the underlying bullion, the IDA calculated the margin rates as if the floating margin rate methodology described in paragraph l) of article 9001 of Rule Nine of the Bourse had been applied to gold, silver and platinum during the last five years January 2, 2002 to December 29,

2006). Using the daily London Fix prices, the maximum calculated margin rates were 10.25%, 17.25% and 18.75% respectively for gold, platinum and silver and were therefore higher than their current respective margin rates of 10%, 15% and 15%. Consequently, the proposed amendments seek to increase these margin rates on precious metals so that they correspond for a short term to a fixed margin rate of 20%. In the long term, the new methodology for margining equity securities would be used to calculate their margin rates, because this new methodology incorporates much of the floating rate methodology, in addition to providing an increased risk protection through minimum margin rates (i.e. 15% for approved participants and 25% for clients).

### *Concentration*

In addressing the potential concentration exposure to a particular precious metal bullion, the IDA looked at whether holding precious metals certificates should be considered as an exposure to such precious metal or to the issuer of the certificate. It was concluded that holding precious metals certificates should be considered as an exposure to the underlying precious metal and not to the issuer of these certificates and as a result, proposed amendments to Schedule 9 of the JRFQR provide for the combination of precious metal certificates and bullion for the purpose of determining the size of a position in a specific precious metal.

### *Insurance*

In order to ensure that the approved participants' calculation for determining the minimum amount of insurance to be maintained considered its exposure to customer precious metal positions in gold and silver, the net equity for each client must include more than the client's cash and securities positions as it is currently the case. Consequently, amendments to the notes and instructions of Schedule 10 of the JRFQR are proposed in order to adequately address the insurance coverage issue.

Although the IDA also proposes, in the corresponding submission for approval that it has filed with provincial securities regulators, amendments to its Regulation 400.4 (i) respecting insurance, the Bourse does not propose any amendment to article 7076 of Rule Seven that covers the same subject matter. The reason for this is that the Bourse, in a separate file has already obtained the approval of the Special Committee – Regulatory Division to abrogate this article and that this abrogation is awaiting for the approval of the Autorité des marchés financiers.

## **B ISSUES AND ALTERNATIVES CONSIDERED**

The proposed rule addresses the fact that the margin rates for precious metals certificates (margin rates of 10% and 15%) differ significantly from the margin rates applicable to the underlying precious metals bullion (margin rate of 100%). Three alternatives were considered, including the proposed one:

1. the status quo;
2. the application of a margin rate only on gold and silver precious metals bullion positions held by approved participants;
3. the application of an identical margin rate to approved participants and their clients on positions held in gold and silver precious metals bullion.

The first alternative, the status quo, has been discarded because the IDA analysis has demonstrated that the authenticity and liquidity risks involved when holding bullion positions can be mitigated by imposing limits on who the approved participants may purchase the precious metals bullion from, where they must hold them, and what standards must be met by the precious metals bullion. The second alternative, limiting the application of a loan value to gold and silver precious metals bullion positions held by approved participants only, was also discarded because the mitigating factors mentioned in the first alternative also work for client positions. It is therefore the third alternative that has been retained.

### C COMPARISON WITH SIMILAR PROVISIONS

The U.S. allows margin lending on gold and silver bullion. The initial margin required is a minimum equity of \$2,000 in the client's account and the maintenance margin is 25% of the market value of gold or silver spot commodities (10% of the market value of the spot commodities if these are hedged with futures contracts on the same commodity). Rule 4 of the U.S. Securities and Exchange Commission (SEC) requires that the firm be registered as an Option Trader Permit (OTP) Holder or an OTP Firm with the Pacific Exchange, which is now part of the New York Stock Exchange. The OTP Holder or the OTP Firm is allowed to lend on margin to clients provided that the gold or silver bullion purchased by clients are:

- within the OTO Holder's or OTP Firm's control;
- in good deliverable form; and
- covered by appropriate insurance.

Rule 4 of the SEC also sets out the capital requirements for OTP Holders and OTP Firm, and the circumstances in which the gold and silver bullion are required to be deducted from their net worth in calculating net capital. In addition, Rule 4 of the SEC contain numerous details in respect to compliance with the three above-mentioned points, including details about storage arrangements, custodial requirements, identifying client pledged bullion from fully paid bullion, utilizing foreign depositories, minimum purity requirements, acceptable refiners and acceptable assayers. Furthermore, the SEC Rule requires OTP Holders and OTP Firms to fully disclose to customers all relevant information pertaining to their transactions, names and addresses of depositories, insurance coverage, charges incidental to storage, requirements and costs related to taking delivery of the bullion (e.g. possible need for assay), applicable Federal, state and local laws (e.g. taxes), costs and commissions, special risks and unique characteristics of bullion and that the Securities Investor Protection Corporation (SIPC) coverage is not available on bullion.

One of the key aspects of Rule 4 of the SEC is that under no circumstances an OTP Holder or an OTP Firm is allowed to release the proceeds of sale of gold or silver bullion to a client unless the client's gold or silver has been assayed by an acceptable assayer or is in a form acceptable to such assayer.

The U.K. does allow gold and silver positions to be margined. The U.K. Financial Services Authority (FSA) regulates investment dealers and determines how these precious metals are to be margined. Their equivalent term for margin is called position risk requirement (PRR). Gold positions are included within the scope of the foreign exchange PRR and silver positions are within the scope of the commodity PRR in sections 7.4 and 7.5 of the FSA Handbook), respectively.

For gold positions including physical positions, a firm must calculate its foreign currency PRR by calculating the net open position in gold and multiplying the sum of that net open position and the net gold position by 8%. Effectively, gold is margined at 8%. For silver positions including physical positions, a firm must calculate its commodity position PRR by using either the commodity simplified approach, the commodity maturity ladder approach or the commodity extended maturity ladder approach. The commodity simplified approach is done by summing: 15% of the net silver position multiplied by the spot price for the commodity; and 3% of the gross silver position (long plus short, ignoring the sign) multiplied by the spot price for the silver. Effectively under this approach, silver is margined at 18%. In addition, a firm must treat silver positions in different grades or brands as different commodities unless they can be delivered against each other or are close substitutes and have price movements which have exhibited a stable correlation coefficient of at least 0.9 over the last 12 months.

### D SYSTEMS IMPACT OF PROPOSED AMENDMENTS

The Bourse believes that the proposed amendments will have no impact on systems. The IDA has already obtained the approval of its Board of Directors on the proposed amendments and has submitted them for approval to the interested Canadian securities regulators. The implementation of these amendments will occur once the Bourse and the IDA will have both received the approval of their respective regulatory authorities.

### E INTERESTS OF THE CAPITAL MARKETS

The Bourse has determined that the proposed amendments are not detrimental to the interests of capital markets.

### F PUBLIC INTEREST OBJECTIVE

The objectives of the proposed amendments are to facilitate the margin calling process and to promote market transparency, efficiency and fairness all the while maintaining a fair and open competition in securities in general.

The proposed amendments will not contribute to the creation of an unfair discrimination between clients, issuers, brokers/dealers, approved participants or other persons. They will not impose any unnecessary or inappropriate competitive burden in pursuit of the above-mentioned objectives. The proposed amendments are of public interest because they set margin requirements that take into account risks that are related to the holding of positions in precious metals (certificates and bullion) and that will allow approved participants and their clients to precious metals bullion in a more efficient manner from a capital standpoint.

### III. PROCESS

The first step of the approval process for the regulatory amendments proposed in the present document consists in having the proposed amendments approved by the Special Committee – Regulatory Division of the Bourse. Once the approval of the Special Committee has been obtained, the proposed amendments, if they

relate to capital and margin matters, are subsequently submitted to the Rules and Policies Committee of the Bourse for further approval. Once the approval process is completed, the proposed amendments, including this document, are simultaneously published by the Bourse for a 30-day comment period and submitted to the Autorité des marchés financiers for approval and to the Ontario Securities Commission for information.

### IV. SOURCES

- Article 7208 – Margin on Gold, Silver and Platinum – Rule Seven of Bourse de Montréal Inc.
- Subparagraph 1) of article 9001 – Definition of “Floating Margin Rate” – Rule Nine of Bourse de Montréal Inc.
- “Joint Regulatory Financial Questionnaire and Report” - Policy C-3 of Bourse de Montréal Inc.: definition of “Acceptable Securities Location”; definition of “Market Value of Securities”; Schedule 9 (Securities Concentration) and Schedule 10 (Insurance)
- Rule 4 of the United States Securities and Exchange Commission (SEC) ([http://www.sec.gov/rules/sro/pcx/34-49451\\_a4.pdf](http://www.sec.gov/rules/sro/pcx/34-49451_a4.pdf))
- Article 7.4 – Commodity PRR of the Financial Services Authority (FSA) Manual (United Kingdom) (<http://fsahandbook.info/FSA/handbook/BI/PRU.pdf>)
- Article 7.5 – Currency PRR of the Financial Services Authority (FSA) Manual (United Kingdom) (<http://fsahandbook.info/FSA/handbook/BI/PRU.pdf>)

7208 Precious Metals Certificates and Bullion Margin on Gold, Silver and Platinum  
(27.01.87, 01.03.90, 01.04.93, 13.09.05, 00.00.08)

The minimum amounts of margin which is applicable~~must be obtained from customers~~ (and which must be maintained)~~on~~ :

i) ~~precious metals and~~ On negotiable certificates on precious metals issued by Canadian chartered banks and trust companies authorized to do business in Canada evidencing interest in precious metals ~~is~~ are:

Gold : ~~10~~20% of market value

Platinum ~~and~~ ~~15~~20% of market value

~~S~~silver : 20% of market value.

ii) On bullion purchased by an approved participant, for its inventory or on behalf of a client, from the Royal Canadian Mint or a Canadian chartered bank that is a market making member or ordinary member of the London Bullion Market Association (LBMA); and a written representation from them stating that the bullion purchased are LBMA good delivery bars:

Gold: 20% of market value

Silver 20% of market value

“Precious metal” includes:

A) long positions in certificates evidencing an interest in gold, platinum or silver that are acceptable for margin purposes as defined in subparagraph i) above; and

B) long positions in London Bullion Market Association (LBMA) gold or silver good delivery bars that are acceptable for margin purposes as defined in subparagraph ii) above.



Subsequent to the implementation of the new methodology for margining equity securities, article 7208 will read as follows :

**7208 Precious Metals Certificates and Bullion**

(27.01.87, 01.03.90, 01.04.93, 13.09.05, ~~00.00.08~~)

The minimum amount of margin which is applicable and which must be maintained :

- i) On negotiable certificates issued by Canadian chartered banks and trust companies authorized to do business in Canada evidencing interest in precious metals is:

Gold, ~~platinum and silver~~ : ~~20% of market value~~ the published long position basic margin rate for the metal as approved by a recognized self-regulatory organization, multiplied by the market value of the metal certificate position.

~~Platinum~~ — 20% of market value

~~Silver~~ : — 20% of market value.

- ii) On bullion purchased by an approved participant, for its inventory or on behalf of a client, from the Royal Canadian Mint or a Canadian chartered bank that is a market making member or ordinary member of the London Bullion Market Association (LBMA); and a written representation from them stating that the bullion purchased are LBMA good delivery bars:

Gold ~~and silver~~: — ~~20% of market value~~ the published long position basic margin rate for the metal as approved by a recognized self-regulatory organization, multiplied by the market value of the metal bullion position.

~~Silver~~ — 20% of market value

“**Precious metal**” includes:

- (A) long positions in certificates evidencing an interest in gold, platinum or silver that are acceptable for margin purposes as defined in subparagraph i) above; and
- (B) long positions in London Bullion Market Association (LBMA) gold or silver good delivery bars that are acceptable for margin purposes as defined in subparagraph ii) above.

## AMENDMENTS TO THE JRFQR – POLICY C-3

**General Instructions and Definitions of the JRFQR – Amendments to the definitions of “Acceptable Securities Locations” (paragraph d) and of “Market Value of Securities” (paragraph f)**

(d) "acceptable securities locations" means those entities considered suitable to hold securities on behalf of a Member, for both inventory and client positions, without capital penalty, given that the locations meet the requirements outlined in the segregation bylaws, rules or regulations of the Joint Regulatory Bodies including, but not limited to, the requirement for a written custody agreement outlining the terms upon which such securities are deposited and including provisions that no use or disposition of the securities shall be made without the prior written consent of the Member and the securities can be delivered to the Member promptly on demand.

For London Bullion Market Association (LBMA) gold and silver good delivery bars, means those entities considered suitable to hold these bars on behalf of a Member, for both inventory and client positions, without capital penalty. These entities must:

- be a market making member, ordinary member or associate member of the LBMA;
- be on the SROs list of entities considered suitable to hold LBMA gold and silver good delivery bars; and
- have executed a written precious metals storage agreement with the Member, outlining the terms upon which such LBMA good delivery bars are deposited. The terms must include provisions that no use or disposition of these bars shall be made without the written prior consent of the Member, and these bars can be delivered to the Member promptly on demand. The precious metals storage agreement must provide equivalent rights and protection to the Member as the standard securities custodial agreement.

The entities are as follows:

1. Depositories or Clearing Agencies

Securities depositories or clearing agencies incorporated or organized under the laws of Canada, the United States or other foreign country and operating a central system for handling securities or equivalent book-based entries in that country and subject to enabling legislation by a central government authority in the country of operation that provides for compliance and powers of enforcement over its members.

The SROs will maintain and regularly update a list of those depositories or clearing agencies that comply with these criteria.

2. (a) Acceptable Institutions which in their normal course of business offer custodial security services; or
- (b) Subsidiaries of Acceptable Institutions provided that each such subsidiary, together with the Acceptable Institution, has entered into a custodial agreement with the member containing a legally enforceable indemnity by the Acceptable Institution in favour of the Member covering all losses, claims, damages, costs and liabilities in respect of securities and other property held for the Member and its clients at the subsidiary's location.
3. Acceptable Counterparties - with respect to security positions maintained as a book entry of securities issued by the Acceptable Counterparty and for which the Acceptable Counterparty is unconditionally responsible.
4. Banks and Trust Companies otherwise classified as Acceptable Counterparties - with respect to securities for which they act as transfer agent and for which custody services are not being provided (in such case, a written custody agreement is not required).

5. Mutual Funds or their Agents - with respect to security positions maintained as a book entry of securities issued by the mutual fund and for which the mutual fund is unconditionally responsible.
6. Regulated entities.
7. Foreign institutions and securities dealers that satisfy the following criteria:
  - (a) the paid-up capital and surplus according to its most recent audited balance sheet is in excess of Cdn. \$150 million as evidenced by the audited financial statements of such entity;
  - (b) in respect of which a foreign custodian certificate has been completed and signed in the prescribed form by the Member's board of directors or authorized committee thereof;

provided that:

  - (c) a formal application in respect of each such foreign location is made by the Member to the relevant joint regulatory authority in the form of a letter enclosing the financial statements and certificate described above; and
  - (d) the Member reviews each such foreign location annually and files a foreign custodian certificate with the appropriate joint regulatory authority annually.

and such other locations which have been approved as acceptable securities locations by the Joint Regulatory Body having prime jurisdiction over the Member.

..

(f) “market value of securities” means:

1. for listed securities, the last bid price of a long security and, correspondingly, the last ask price of a short security, as shown on the exchange quotation sheets as of the close of business on the relevant date or last trading date prior to the relevant date, as the case may be, subject to an appropriate adjustment where an unusually large or unusually small quantity of securities is being valued. If not available, the last sale price of a board lot may be used. Where not readily marketable, no market value shall be assigned.
2. for unlisted and debt securities and precious metals bullion, a value determined as reasonable from published market reports or inter-dealer quotation sheets on the relevant date or last trading day prior to the relevant date, or based on a reasonable yield rate. Where not readily marketable, no market value shall be assigned.
3. for commodity futures contracts, the settlement price on the relevant date or last trading day prior to the relevant date.
4. for money market fixed date repurchases (no borrower call feature), the market price is the price determined by applying the current yield for the security to the term of maturity from the repurchase date. This will permit calculation of any profit or loss based on the market conditions at the reporting date. Exposure due to future changes in market conditions is covered by the margin rate.
5. for money market open repurchases (no borrower call feature), prices are to be determined as of the reporting date or the date the commitment first becomes open, whichever is the later. Market price is to be determined as in 4. and commitment price is to be determined in the same manner using the yield stated in the repurchase commitment.
6. for money market repurchases with borrower call features, the market price is the borrower call price.

## Amendments to the Notes and Instructions to Schedule 9 of the JRFQR

### SCHEDULE 9

#### NOTES AND INSTRUCTIONS

##### General

1. The purpose of this schedule is to disclose the largest ten issuer positions and precious metal positions that are being relied upon for loan value whether or not a concentration charge applies. If there are more than ten issuer positions and precious metal positions where a concentration exposure exists, then all such ~~issuer~~ positions must be listed on the schedule.
2. For the purpose of this schedule, an issuer position must include all classes of securities for an issuer (i.e. all long and short positions in equity, convertibles, debt or other securities of an issuer other than debt securities with a normal margin requirement of 10% or less), a precious metal position must include all certificates and bullion of the particular precious metal (gold, platinum or silver) where:
  - loan value is being extended in a margin account, cash account, delivery against payment account, receipt against payment account; or
  - an inventory position is being held.
3. Securities and precious metals that are required to be in segregation or safekeeping should not be included in the issuer position or precious metal position. Securities and precious metals that have been segregated but are not required to be can still be relied on by the Member for loan value and must be included in the issuer position and precious metals position.
4. For the purpose of this schedule only, stripped coupons and residuals, [if they are held on a book based system, and are in respect of federal and provincial debt instruments], should be margined at the same rate as the underlying security.
5. For short positions, the loan value is the market value of the short position.

##### Client position

6. (a) Client positions are to be reported on a settlement date basis for client accounts including positions in margin accounts, regular cash accounts [when any transaction in the account is outstanding after settlement date] and delivery against payment and receipt against payment accounts [when any transaction in the account is outstanding after settlement date]. Within each client account, security positions and precious metal positions that qualify for a margin offset may be eliminated.
- (b) Positions in delivery against payment and receipt against payment accounts with Acceptable Institutions, Acceptable Counterparties, or Regulated Entities resulting from transactions that are outstanding less than ten business days past settlement date are not to be included in the positions reported. If the transaction has been outstanding ten business days or more past settlement and is not confirmed for clearing through an Acceptable Clearing Corporation or not confirmed by the Acceptable Institution, Acceptable Counterparty or Regulated Entity, then the position must be included in the position reported.

##### Firm's own position

7. (a) Firm's own inventory positions are to be reported on a trade date basis, including new issue positions carried in inventory twenty business days after new issue settlement date. All security positions and precious metal positions that qualify for a margin offset may be eliminated.
- (b) The amount reported must include uncovered stock positions in market-maker accounts.

##### Amount Loaned

8. The client and firm's own positions reported are to be determined based on the combined client/firm's own long or short position that results in the largest amount loaned exposure.
- (a) To calculate the combined amount loaned on the long position exposure, combine:
- the loan value of the gross long client position (if any) contained within client margin accounts;
  - the weighted market value (calculated pursuant to the weighted market value calculation set out in Schedule 4, Note 9, Cash Accounts Instruction (a)) and/or loan value (calculated pursuant to the loan value calculation set out in Schedule 4, Note 9, Cash Accounts Instruction (b)) of the gross long client position (if any) contained within client cash accounts;
  - the market value (calculated pursuant to the market value calculation set out in Schedule 4, Note 9, DAP and RAP Accounts Instruction (a)) and/or loan value (calculated pursuant to the loan value calculation set out in Schedule 4, Note 9, DAP and RAP Accounts Instruction (b)) of the gross long client position (if any) contained within client delivery against payment accounts; and
  - the loan value (calculated pursuant to the Notes and Instructions to Schedule 2) of the net long firm's own position (if any).
- (b) To calculate the combined amount loaned on the short position exposure, combine
- the market value of the gross short client position (if any) contained within client margin, cash and receipt against payment accounts; and
  - the market value of the net short firm's own position (if any).
- (c) If the loan value of an issuer position or a precious metal position (net of issuer securities or a precious metal position required to be in segregation/safekeeping) does not exceed one-half (one-third in the case of an issuer position or a precious metal position which qualifies under either Note 9(a) or 9(b) below) of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) as most recently calculated, the completion of the column titled "Adjustments in arriving at Amount Loaned" is optional. However, nil should be reflected for the concentration charge.
- (d) In determining the amount loaned on either a long, or short position exposure, the following adjustments may be made:
- (i) Security positions and precious metal positions that qualify for a margin offset may be excluded, as previously discussed in notes 6(a) and 7(a);
  - (ii) Security positions and precious metal positions that represent excess margin in the client's account may be excluded. (Note if the starting point of the calculations is securities or precious metal positions not required to be in segregation/safekeeping, this deduction has already been included in the loan value calculation of Column 6.);
  - (iii) In the case of margin accounts, 25% of the market value of long positions in any: (a) non-marginable securities or, (b) securities with a margin rate of 100%, in the account may be deducted from the amount loaned calculation, provided that such securities are carried in readily saleable quantities only;
  - (iv) In the case of cash accounts, 25% of the market value of long positions in any securities whose market value weighting is 0.000 (pursuant to Schedule 4, Note 9, Cash Accounts Instruction (a)) in the account may be deducted from the amount loaned calculation, provided that such securities are carried in readily saleable quantities only;
  - (v) The amount loaned values of trades made with financial institutions that are not Acceptable Institutions, Acceptable Counterparties or Regulated Entities, if the trades are outstanding less than 10 business days past settlement date, and the trades were confirmed on or before settlement date with a settlement agent that is an Acceptable Institution may be deducted from the amount loaned calculation; and

- (vi) Any security positions or precious metal positions in the client's (the "Guarantor") account which are used to reduce the margin required in another account pursuant to the terms of a guarantee agreement shall be included in calculating the amount loaned on each security for the purposes of the Guarantor's account.
- (e) Amount Loaned is the position exposure (either long or short) with the largest calculated amount loaned.

**Concentration Charge**

- 9. (a) Where the Amount Loaned reported relates to securities issued by
  - (i) the Member, or
  - (ii) a company, where the accounts of a Member are included in the consolidated financial statements and where the assets and revenue of the Member constitute more than 50% of the consolidated assets and 50% of the consolidated revenue, respectively, of the company, based on the amounts shown in the audited consolidated financial statements of the company and the Member for the preceding fiscal year and the total Amount Loaned by a Member on such issuer securities exceeds one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) for which such charge is incurred.
- (b) Where the Amount Loaned reported relates to non-marginable securities of an issuer held in a cash account(s), where loan value has been extended pursuant to the weighted market value calculation set out in Schedule 4, Note 9, and the total Amount Loaned by a Member on such issuer securities exceeds one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over one-third of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) for which such charge is incurred.
- (c) Where the Amount Loaned reported relates to arm's length marginable securities of an issuer (i.e., securities other than those described in note 9(a), or 9(b)) or a precious metal position, and the total Amount Loaned by a Member on such issuer securities or precious metal position exceeds two-thirds of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated, a concentration charge of an amount equal to 150% of the excess of the Amount Loaned over two-thirds of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the issuer security(ies) or precious metal position for which such charge is incurred.
- (d) Where:
  - (i) The Member has incurred a concentration charge for an issuer position under either note 9(a) or 9(b) or 9(c); or
  - (ii) The Amount Loaned by a Member on any one issuer (other than issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) or a precious metal position exceeds one-half of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4), as most recently calculated; and

- (iii) The Amount Loaned on any other issuer or precious metal position exceeds one-half (one-third in the case of issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) of the sum of Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) ; then
- (iv) A concentration charge on such other issuer position or precious metal position of an amount equal to 150% of the excess of the Amount Loaned on the other issuer or precious metal position over one-half (one-third in the case of issuers whose securities may be subject to a concentration charge under either Note 9(a) or 9(b) above) of the sum of the Member's Risk Adjusted Capital before securities concentration charge and minimum capital (Stmt. B, line 4) is required unless the excess is cleared within five business days of the date it first occurs. For long positions, the concentration charge as calculated herein shall not exceed the loan value of the security(ies) or precious metal position for which such charge is incurred.
- (e) For the purpose of calculating the concentration charges as required by notes 9(a), 9(b), 9(c) and 9(d) above, such calculations shall be performed for the largest five issuer positions and precious metal positions by Amount Loaned in which there is a concentration exposure.

**Other**

- 10. (a) Where there is an over exposure in a security or a precious metal position and the concentration charge as referred to above would produce either a capital deficiency or a violation of the Early Warning Rule, the Member must report the over exposure situation to the appropriate Joint Regulatory Body on the date the over exposure first occurs.
- (b) A measure of discretion is left with the Joint Regulatory Bodies in dealing with the resolution of concentration situations, particularly as regards to time requirements for correcting any over exposure, as well as whether securities or precious metal position are carried in "readily saleable quantities".

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**Amendments to Note 3 of the Notes and Instructions to Schedule 10 of the JRFQR**

- 3. Net equity for each client is the total value of cash, ~~and~~ securities, and other acceptable property owed to the client by the Member less the value of cash, ~~and~~ securities, and other acceptable property owed by the client to the Member. In determining net equity, accounts of a client such as cash, margin, short sale, options, futures, foreign currency and Quebec Stock Savings Plans are combined and treated as one account. Accounts such as RRSP, RRIF, RESP, Joint accounts are not combined with other accounts and are treated as separate accounts. Other acceptable property means London Bullion Market Association good delivery bars of gold and silver bullion that are acceptable for margin purposes as defined in the Rules of the Joint Regulatory Body.

Net equity is determined on a client by client basis on either a settlement date basis or trade date basis. Schedule 10 Part A line 1(a) is the aggregate net equity for each client. Negative client net equity, (i.e. total deficiency in net equity owed to the Member by the client) is not included in the aggregate.

For Schedule 10, guarantee/guarantor agreements should not be considered in the calculation of net equity.

The Client Net Equity calculation should include all retail and institutional client accounts, as well as accounts of broker dealers, repos, loan post, broker syndicates, affiliates and other similar accounts.