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CIRCULAR
May 2, 2011

**LARGE DERIVATIVE INSTRUMENTS OPEN POSITIONS REPORTING
TOOL PROJECT (LOPR PROJECT)**

REQUIREMENTS CHANGES AND CLARIFICATIONS

Following some concerns raised by approved participants regarding the LOPR project, Bourse de Montréal Inc. (the Bourse) wishes to inform its approved participants of the following requirement changes and to provide them with some clarifications.

CHANGES

1. Requirement to provide Clients’ Social Insurance Number (SIN)

Some approved participants have expressed privacy concerns regarding the requirement to provide clients’ SIN numbers as the unique identifier to populate the “Account Owner ID” field of the LOPR tool.

In order to address these concerns, the Regulatory Division of the Bourse (the Division) sought an external legal opinion on various privacy issues including, among other things, whether asking for the last 4 digits of the SIN would be reasonable and acceptable in lieu of asking for a full SIN.

To be considered as private information, an identification number has to be unique to the person. Thus, a complete SIN is unique to the person to whom such number has been assigned and this effectively raises privacy issues. However, based on the legal opinion received, the last 4 digits of a SIN should not be considered as being private information because these 4 digits alone are not unique to a specific individual and do not permit to identify this person (a quick mathematical calculation indicates that there could theoretically be as many as 80,000 SIN numbers in Canada ending with the same last four digits).

Therefore, the Division is of the opinion that asking for only the last 4 digits of the SIN should not be considered as constituting a breach of privacy. Furthermore, this information will help the Regulatory Division to fulfill its regulatory mandate as prescribed by the Autorité des marchés financiers (AMF) in its recognition decision and as defined in the Rules of the Bourse regarding the Regulatory Division. These Rules require, among other things in Section 3.1.2, that the Division review and analyze position reports filed on a regular basis by approved participants. In order to comply with this requirement and to ensure that such reviews and analyses are adequate and efficient, it is necessary for the Division to receive information that is as complete as possible.

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Position reports that are required to be filed pursuant to the Rules of the Bourse are part of the market regulation mandate of the Division, which has an ongoing obligation to demonstrate not only to the AMF but also to other regulators, if they request it, that the Division ensures compliance with the Rules of the Bourse and takes all necessary measures (including implementation of specific purposes reporting tools such as LOPR) to ensure that the Bourse's market is not subjected to unfair practices.

The Division therefore believes that replacing the full SIN requirement by a requirement to provide only the last 4 digits of this number properly addresses concerns raised on this specific issue.

2. Position and Account Submission Time Extensions

It is the Division understanding that the 9:30 p.m. Eastern Time (ET) same day submission time deadline that had originally been established for filing position reports cannot be met by some approved participants by reason of technological constraints. This is particularly an issue for approved participants who use Independent Service Vendors (ISV) to provide them with position data following an overnight batch processing.

In order to address this specific concern, an extended time slot will be added and the current day submission time will also be extended from 9:30 p.m. to 10:00 p.m. (ET).

Therefore, for each trading day, the submission times available will be as follows:

- Current day submission – from 9:00 a.m. to 10:00 p.m. (ET);
- Restricted time – from 10:00 p.m. to 1:00 a.m. (systems closed - no submissions will be accepted);
- Extended Time – from 1:00am to 8:00am (for the previous trading day submission).

Example: The position report for July 25, which must include all open positions as of the close of the trading session for that day may be submitted either on July 25 before 10:00 p.m. (ET) or on July 26 between 1:00 a.m. and 8:00 a.m.

Note: The extended time functionality is expected to be implemented toward the end of June. Until then, both the test and the production environments will only allow submission on the same day until 9:30 p.m. (ET).

CLARIFICATIONS

1. Account Ownership

For the purposes of the LOPR project, the account ownership shall be determined by applying the following subsequent steps:

- A) Person or entity with more than 50% ownership interest in the account;
- B) Name of the account (e.g. Mr. and Mrs. Smith, ABC Investment club).

It is the approved participants' responsibility to determine account ownership based on the information that has been or can be provided by the account owner(s). In case of doubt, approved participants should not hesitate to communicate with the Division for assistance in determining whether or not accounts should be considered as having the same owner(s).

Please note that the Account Owner "Name" field can accommodate up to 25 characters. If the full account owner name should exceed 25 characters, use abbreviations which best describe the entity. (Do not hesitate to contact the Regulatory Division for guidance).

2. Account Owner ID

The Account Owner ID field will allow the Division to assign a unique identifier to an **account beneficial owner** in order to aggregate positions through different account numbers across all approved participants for each said account owner.

The following guidelines are to be used when populating the Account Owner ID field for LOPR with possible escalation when there is a legitimate unavailability of the required information:

A) For an account in the name of an individual or of a registered¹ or corporate entity owned exclusively² by this individual:

The Account Owner ID unique identifier which must be used is determined as follows:

- For Canadian residents: last 4 digits of the Social Insurance Number (SIN);
- For U.S. residents: Social Security Number (SSN);
- For residents of other countries: similar number such as, for example, tax identification number.

If, **and only if**, the above identifiers are unavailable, approved participants will be allowed to use one of the following identifiers:

- 1) Internal identifier used by the approved participant to link accounts belonging to the same beneficial account owner within the firm;
- 2) Account owner's last name.

B) For an account belonging to multiple individuals (partnerships, joint accounts, investment clubs, registered entities other than corporations, etc.):

- 1) If one of the account owners holds an ownership interest of more than 50% in the account, then use the succession of identifiers found in A) above related to this account owner.

¹ The term "registered" means a business name that has been registered by an individual in order to reserve that name. A registered entity is not a corporation.

² An example of a corporation exclusively owned by an individual is a personal holding company created for tax or estate planning purposes.

- 2) For all other circumstances, populate field with the account name (e.g. Mr. & Mrs. Smith, ABC Investment club etc.). Please note that the Account Owner ID field can accommodate up to 24 characters. Should the full account name exceed 24 characters, create an acronym from the entity's legal name. (Do not hesitate to contact the Regulatory Division for guidance on this matter).
- C) For an account belonging to a corporation other than a corporation 100% owned by an individual (see A above):**
- 1) If the corporation is more than 50% owned by an individual, use the succession of identifiers found in A) above related to this account owner;
 - 2) If the corporation is more than 50% owned by another corporation, use the incorporation number of the controlling corporation;
 - 3) For other cases, the Account Owner unique identifier that must be used is the incorporation number of the corporation in whose name the account is opened.

If, **and only if**, the above identifiers are not available, approved participants will be allowed to use one of the following identifiers:

- 1) Internal identifier used by the approved participant to link accounts belonging to the same beneficial account owner within the firm.
- 2) Account owner corporate legal name. Please note that the Account Owner ID field can accommodate up to 24 characters. If the full account owner corporate legal name should exceed 24 characters create an acronym from the legal name. (Do not hesitate to contact the Regulatory Division for guidance).

D) For any account not covered in sections A), B) or C)

- 1) Registration number (e.g.: charitable organization);
- 2) Internal identifier used by the approved participant to link accounts belonging to the same beneficial account owner within the firm;
- 3) Account owner legal name. Please note that the Account Owner ID field can accommodate up to 24 characters. If the full account owner legal name should exceed 24 characters create an acronym from the legal name. (Do not hesitate to contact the Regulatory Division for guidance).

3. Account Aggregation

In order to determine if the reporting threshold is attained, approved participants must aggregate positions belonging to the same account beneficial owner as previously defined in sections 1 and 2 above.

The following guidelines are to be used when aggregating by beneficial Account Owner for LOPR:

- A) Aggregate positions for all accounts in the name of an individual and for all registered or corporate entities owned exclusively by that single individual;
- B) For accounts belonging to multiple individuals (partnerships, joint accounts, investment clubs, registered entities other than corporations, etc), aggregate positions to the account owner who holds an ownership interest of more than 50% in the account;
- C) For accounts belonging to a corporation, other than 100% owned by one individual, or any other entity, aggregation of positions shall be done by beneficial ownership of the account.

In all cases, aggregation of positions shall be done by beneficial account owner as determined by the approved participant and/or its clients and/or its account owners directly. Accounts traded by registered persons pursuant to some discretionary trading authorization such as managed accounts and discretionary (carte blanche) accounts must not be aggregated except for those accounts that have a common beneficial owner.

Once it has been determined that the reporting threshold has been attained for a beneficial account owner after aggregating all positions held in his accounts, each of these accounts containing positions must be reported separately in LOPR.

Example: same account owner (Mr. X) may have multiple accounts

RRSP: Long 50 CALL RIM @ 50 JUN 11

TFSA : Long 200 PUT RIM @ 52 SEP 11

Margin CDN: Long 50 CALL RIM @ 60 JAN 12

Although the accounts taken individually do not meet the reporting threshold, once aggregated by account owner (Mr. X) the cumulative open position exceeds the reporting threshold (300 total open contracts on same underlying). Therefore, each of the three accounts above must be reported and this in a separate manner.

4. LOPR Exemption

All approved participants will be obligated to comply with the reporting requirements of LOPR (refer to: http://reg.m-x.ca/f_circulaires_en/020-11_en.pdf). Exemptions may be granted in the following cases:

- A) A **Full LOPR Exemption** may be granted if an approved participant has not traded in the last calendar year and does not intend or plan to trade in the near future derivative instruments listed on the Bourse.

Such an exemption will relieve the inactive approved participant from the obligation of submitting a “no reportable positions” report on a daily basis.

The exemption request must confirm that the applicant has been inactive on the Bourse's market during the last calendar year and that it does not have any intention of trading any of the Bourse's listed products in the near future. Exemption requests must be sent to LOPR@m-x.ca and will be processed by the Division.

- B) A LOPR Exemption due to delegation of reporting obligations may be granted to approved participants who wish to delegate the LOPR reporting obligation to a third party (e.g.: Clearing Broker, another approved participant or Independent Service Vendor (ISV)). Such an exemption may be granted only if the delegate is able to report accounts on a fully disclosed basis. The exemption request must confirm that reportable accounts will be fully disclosed (no undisclosed customer omnibus accounts in the name of the approved participant will be accepted) and must indicate the identity of the third party delegate along with a confirmation from the delegate agreeing to undertake the LOPR reporting obligation on behalf of the applicant. Exemption requests must be sent to LOPR@m-x.ca and will be processed by the Division.

The third party delegate will need to establish connectivity on behalf of the approved participant. Upon connection, the delegate will request a UserID and password that belong to the approved participant in order for them to properly submit positions on behalf of the applicant. (Note: UserIDs and passwords will not be provided to APs that are delegating the task to a third party – only to the delegate. Also, APs who delegate the reporting will not have access to LOPR production environment.)

Delegates who will report on behalf of one or many approved participants shall do so on a per approved participant basis. A third party delegate must therefore obtain different UserIDs and passwords for each approved participant on whose behalf it reports positions. Additionally, it is important to mention that the delegation of the LOPR reporting obligation does not relieve the approved participant choosing to delegate the reporting to a third party from its responsibilities to ensure that position reports filed on its behalf are filed in a timely manner and that they are accurate and complete.

All exemptions discussed in sections A) and B) above will be valid until December 31 of each year and will require to be renewed every year.

5. Hedger or Speculator Clarification

Some approved participants have indicated that in some instances, it may difficult to determine if an account is a speculative or hedging account. When such determination cannot be made at the price of a reasonable effort, the Speculator designation should be used.

6. Snap Shot of Positions

Some participants have indicated concerns in their ability to submit fully reconciled position reports within the LOPR submission time frame. A snap shot of open positions for a given trading day may be taken at any time after the close of business of the CDCC. Unreconciled positions will be accepted in order to meet the LOPR submission time deadline.

7. LOPR May 2 , 2011 Deployment

It is expected that the production environment for LOPR will be available on May 2, 2011. However, the extended submission time which is discussed in part 2 of the “Changes” section of this circular will not be available on that date. Therefore, approved participants will not be obligated to start submitting their position reports on that date (see technical notice 10-016) http://reg.m-x.ca/f_technotices_en/016-10_en.pdf. The production environment will nevertheless be ready to accommodate participants who wish to begin submitting account profiles and who are able to submit positions on a same day basis by 9:30 p.m..

8. Readiness of Service Providers

It has also been brought to the Division’s attention that some service providers may not be ready to provide participants with the information, file format, technical effort and support required in order for firms to effectively comply with the LOPR requirements on time for the **July 25, 2011** deadline.

As the Division is not a client of these service providers and has no regulatory jurisdiction on any of them, its only recourse is to urge all approved participants who are clients of these service providers to contact them in order to pressure them to consider the LOPR tool project as a high priority regulatory development and to provide all the resources and support necessary to ensure that all firms are LOPR compliant by the above-mentioned deadline.

It is important to remember that the reporting of large open positions is required by the Rules of the Bourse and that the information collected is necessary for regulatory purposes. Furthermore, as such reporting will be required to be made on a daily basis, it is essential that all service providers fully collaborate to implement the LOPR tool.

All approved participants (including foreign approved participants) will be responsible for transmitting information and position reports in the manner and frequency prescribed by the Division in order to be LOPR compliant as of July 25, 2011.

9. Virtual Private Network (VPN) connection availability

Following multiple requests from our participants regarding the possibility of using a VPN connection for LOPR data transmission to the production environment, the Bourse is in the process of taking the necessary measures in order to provide this solution as an alternative.

For any further clarification or questions not covered in this document, please contact lopr@mx.ca.

Please, feel free to circulate this message to the appropriate persons in your organization.

Jacques Tanguay
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