



**CIRCULAR 099-20**

May 28, 2020

**REQUEST FOR COMMENTS**

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

The Rules and Policies Committee of Bourse de Montréal Inc. (the “**Bourse**”) and the Special Committee of the Regulatory Division of the Bourse approved amendments to Articles 3.400 and 3.405 of the Rules of the Bourse in order to add a time limit within which the training required by the Bourse for Approved Persons will remain valid.

Comments on the proposed amendments must be submitted at the latest on **June 28, 2020**. Please submit your comments to:

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A copy of these comments shall also be forwarded to the *Autorité des marchés financiers* (the “**Autorité**”) to:

M<sup>e</sup> Philippe Lebel  
Corporate Secretary and  
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Please note that comments received by one of these recipients will be transferred to the other recipient and that the Bourse may publish a summary of such comments as part of the self-certification process concerning this file. Unless specified otherwise, comments will be published anonymously by the Bourse.

## Appendices

You will find in the appendices an analysis as well as the text of the proposed amendments. The implementation date of the proposed amendments will be determined by the Bourse, in accordance with the self-certification process as established by the *Derivatives Act* (CQLR, chapter I-14.01).

### Process for Changes to the Rules

The Bourse is authorized to carry on business as an exchange and is recognized as a self-regulatory organization ("**SRO**") by 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 the Rules, the Policies and the Procedures, which are thereafter submitted to the Autorité in accordance with the self-certification process as determined by the *Derivatives Act* (CQLR, chapter I-14.01).

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 (the "**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.

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

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## **I. DESCRIPTION**

The Regulatory Division (the “Division”) of Bourse de Montréal Inc. (the “Bourse”) wishes to modify the Rules of the Bourse (the “Rules”) to provide for a time limit within which the training provided by the Bourse for Approved Persons will remain valid. The training consists of an online course and exam(s) (the “Training”) which an individual has to successfully complete to become an Approved Person. The Rules do not currently specify the validity period for the Training.

## **II. PROPOSED AMENDMENTS**

As per the current Rules an individual, who was formerly authorized to act as an Approved Person and intends to become an Approved Person with another Approved Participant, must submit an application to the Division to transfer the Approved Person authorization within 90 days of the employment termination date. After the 90 days period, a new Approved Person application must be filed with the Division by the new Approved Participant. As a consequence of having to submit a new application, the individual would also be required to successfully complete the Training again, including the exam(s), to be authorized by the Division to act as an Approved Person again.

While the transfer period of 90 days will remain unchanged, the Division is proposing to provide a time limit of two years during which the Training will remain valid.

In light of this amendment, the Division is also proposing amendments to several related articles to add clarity to the Rules.

Please refer to the proposed amendments described in the attached Annex 1.

## **III. ANALYSIS**

### **a. Background**

An individual, employed by an Approved Participant or an affiliated corporation or subsidiary of the Approved Participant, can access the Electronic Trading System of the Bourse on behalf of an Approved Participant if he (she) is an Approved Person in accordance with the Rules.<sup>1</sup> To become an Approved Person, an application must be submitted as per Article 3.400 of the Rules and the individual must meet eligibility requirements such as being at least 18 years old, being suitable to trade and must have completed the mandatory Training of the Bourse as further described below.

The Training consists of an online course divided into three parts: the first part outlines the general trading on the Bourse and two other parts are specific to the product types traded on the Bourse, i.e. trading Options or trading Futures and Options on Futures. The Training also includes one exam for each product type. Successful completion of one exam makes the individual eligible to trade on the Bourse as an Approved Person for the specific product type covered by the exam. In other words, an individual seeking to trade one product type (Options or Futures and Options on Futures) will have one exam to complete, or two exams if the application to become an Approved Person is for both product types.<sup>2</sup>

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<sup>1</sup> Article 3.4

<sup>2</sup> [Circular 134-19](#): New Mandatory Training for anyone interested in becoming an Approved Person

An Approved Person is only permitted to trade for a specific Approved Participant.<sup>3</sup> When an individual changes employers to act as an Approved Person for another Approved Participant, the authorization as an Approved Person is not automatically transferred.

In accordance with Article 3.103 (a) of the Rules, following the termination of employment of an Approved Person, a notice to that effect must be filed by the former Approved Participant with the Division within 10 days of the termination. The notice received by the Division confirms the revocation of the authorization of the Approved Person as of the employment termination date, as provided in Article 3.406 (c). As such, the individual identified in the notice is no longer authorized to act as an Approved Person for the Approved Participant from the date the employment has terminated. If the individual wishes to be authorized as an Approved Person with another Approved Participant, there should be either a new application (Article 3.400 of the Rules) or a transfer application (Article 3.405 of the Rules) submitted to the Division.

To allow an individual to be authorized as Approved Person with another Approved Participant through a transfer under Article 3.405, the following conditions must be met:

1. The date of the transfer application must not exceed 90 calendar days from the date of termination of the Approved Person's employment with the former employer;
2. A transfer application must be submitted by the new Approved Participant to the Division through the Regulatory Division's Participant Portal; and
3. The Division must have received a termination notice from the former Approved Participant as required under Article 3.103.

If those conditions are met, the Approved Person will not have to complete the Training again and will be exempted from paying the administration fee of \$125 usually charged for a new application.

#### **b. Objectives**

The purpose of the requirement to complete the Training of the Bourse under Article 3.400 is to ensure the individual trading on the Bourse has the required proficiency. As such, this mandatory Training of the Bourse provides Approved Persons information on how derivatives instruments are traded on the Bourse and reviews the trading rules applicable to Options and Futures contracts specific to the Bourse. Hence, by successfully completing the exam(s) as part of the Training, an applicant meets the training requirement of the Bourse under Article 3.400 to become an Approved Person.

The Division recognizes that the proficiency of an individual should not end upon revocation of the Approved Person status. However, this validity cannot be indefinite as it is crucial to ensure that such knowledge does not become obsolete after a certain period of time. Thus, the Rules should prescribe a period after which an individual is expected to complete the course and exam(s) again to ascertain the required proficiency level.

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<sup>3</sup> Article 3.401 (a)

### **Amendments to Article 3.400**

Currently, the validity of the Training is tied to the validity period to apply for a transfer under Article 3.405, which is 90 calendar days from the time the Approved Person's employment is terminated. Following comments received by the Division and based on a comparative analysis, the Division is proposing to prescribe a period of two years within which a successfully completed Training remains valid.

In other words, an individual can submit an application to become an Approved Person without the requirement to complete the Training again if the application is submitted within two years of the date the Training was completed (being the date on which the exam(s) were successfully completed). However, if the individual was previously acting as an Approved Person with another Approved Participant, he (she) will not have to complete the Training again if the application is submitted within two years from the employment termination date, if such date is later than the date the Training was successfully completed.

If an individual was previously acting as Approved Person with another Approved Participant, the application can either be in the form of a transfer, if submitted within 90 calendar days of the termination of employment (Article 3.405), or a new application (Article 3.400), if it exceeds 90 calendar days.

For individuals who were already authorized as an Approved Person prior to November 1, 2019, when the new Training came into effect, to the extent the conditions for a transfer under Article 3.405 are met, the individual will not be required to complete the current Training and exam(s). However, any application filed after the 90 calendar days period will require the individual to successfully complete the Training that came into effect in November 2019, which includes the exam(s).

### **Amendments to Article 3.405**

As previously mentioned, the period within which a transfer can be approved by the Bourse under Article 3.405 will remain 90 calendar days. However, according to the current language in the Rules this period expires on the 89<sup>th</sup> day. For the purpose of harmonizing the article with other prescribed time limits in the Rules, where the last day for a specified period is inclusive, the Division proposes to amend Article 3.405, so that the period for a transfer is 90 calendar days from the date of the termination of employment, including the 90<sup>th</sup> day. Any application after the 90<sup>th</sup> day must be submitted as a new application under Article 3.400.

#### **c. Comparative Analysis**

The Division has performed a benchmarking exercise with other regulatory authorities (AMF, IIROC, NFA, FINRA, FCA and ASIC) and other exchanges (CME, ICE, ASX, EUREX, LSE) to compare the validity period of training or prerequisite courses commonly established. These periods vary from two to three years and the process for the reinstatement or transfer of a licence or approval is between 30 to 90 days. The present proposal is aligned with the results of the comparative analysis.

**d. Analysis of Impacts**

**i. Impacts on Market**

The proposed amendments will have no impact on the derivatives market.

**ii. Impacts on Technology**

The proposed amendments will have no impact on the technological systems of the Bourse, its Approved Participants or the Canadian Derivatives Clearing Corporation.

**iii. Impacts on regulatory functions**

The proposed amendments are initiated by the Division to provide a validity period of two years for the Bourse's training that goes beyond the 90 days period allowed for a transfer application.

**iv. Impacts on clearing functions and on trading functions**

The proposed amendments will have no impact on the trading and clearing functions.

**v. Public Interest**

The Bourse is of the view that the proposed amendments are not contrary to the public interest. In fact, the public and market participants generally request clear rules that are consistent with the best practices of other international derivatives exchanges and, when applicable, other self-regulatory organizations.

**IV. PROCESS**

The proposed amendments are subject to the Special Committee and the Rules and Policies Committee of the Bourse for approval purposes. They will also be submitted to the Autorité des marchés financiers in accordance with the self-certification procedure and to the Ontario Securities Commission for information.

**V. ATTACHED DOCUMENTS**

Annex 1 - Proposed amendments.

**ANNEX 1 - PROPOSED AMENDMENTS**  
**AMENDED VERSION**

**Article 3.400 Application for Approval**

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

**Article 3.405 Transfers of Approved Persons**

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



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

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

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

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

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

## CLEAN VERSION

### **Article 3.400 Application for Approval**

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

### **Article 3.405 Transfers of Approved Persons**

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

- (ii) the transfer application date does not exceed ninety (90) days from the date of termination of employment.
- (c) If a transfer under this Article is not approved by the Bourse, an application for approval pursuant to Article 3.400 must be submitted to the Bourse.