

MONTREAL EXCHANGE - REGULATORY DIVISION

# Newsletter

The Montreal Exchange Inc. (the “Bourse”) is recognized by the Autorité des marchés financiers (the “Autorité”) as an exchange and a self-regulatory organization. The Regulatory Division (the “Division”) is a separate business unit of the Bourse responsible for carrying out its regulatory functions and operations. The Division consists of four services: Core Regulatory Functions, Strategy and Regulatory Outreach, Enforcement and Market Regulation, and Systems and Data.

The Division publishes a bi-annual newsletter to share information of a general nature on regulatory activities, and takes advantage of this opportunity to share observed best practices in regulatory compliance.

This newsletter covers the period from July 1 to December 31, 2020 and, for certain sections, provides a summary of 2020.

**Enjoy!**

## Topics

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### Regulatory Activities

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## Events Organized by the Division

- The Division's Regulatory User Group held a meeting in Montreal on February 27, 2020 and three telephone meetings held on May 27, October 1, and December 8, 2020.

*\*Given the pandemic, in the course of 2020, most events were held by conference call and some were cancelled.*

## Publications of the Division in 2020

- **Approved Participant admissions and resignations** (circulars [012-20](#), [055-20](#), [076-20](#) and [077-20](#))
- **Position limits** (circulars [001-20](#), [013-20](#), [027-20](#), [035-20](#), [047-20](#), [048-20](#), [061-20](#), [078-20](#), [095-20](#), [103-20](#), [109-20](#), [115-20](#), [116-20](#), [124-20](#), [136-20](#), [141-20](#), [152-20](#), [153-20](#), [154-20](#), [174-20](#), [190-20](#), [203-20](#), [205-20](#), [213-20](#) and [214-20](#))
- **LOPR and the Gatekeeper portal**
  - LOPR Regulatory Requirements Guide and LOPR Portal Notification User Guide (circular [036-20](#))
  - Regulatory Division's LOPR Portal - Important Reminder (circular [104-20](#))
- **Amendments to the Rules and Policies of the Bourse**
  - Request for comment - Amendments to Article 6.208 of the Rules of the Bourse: Exchange of Futures for Related Products (circular [069-20](#))
  - Request for comments - Amendments to Part 4 of the Rules of the Bourse: Investigation Process (circular [074-20](#))
  - Request for comments - Special Committee of the Regulatory Division - Tenure Limit (circular [098-20](#))
  - Request for comments - Validity period for the training requirements for approved persons (circular [099-20](#))
  - Notice - Postponement of Self-Certification - Amendments to the Rules of Bourse de Montréal Inc. Regarding Position Limits (circular [101-20](#))
  - Self-certification - Amendments to article 6.310 (circular [105-20](#))
  - Amendments to the List of Fees of Bourse de Montréal Inc. (effective October 1st, 2020) (circular [151-20](#))
  - Request for comments - Amendments to the Rules of Bourse de Montréal Inc. regarding the introduction of an approved defined hedge for share futures contracts (circular [159-20](#))
  - Second Request for comments - Amendments to the Rules of Bourse de Montréal Inc. to accommodate the extension of its trading hours (circular [160-20](#))
- **Division's Regulatory User Group** (circular [089-20](#))
- **Disciplinary Decisions**
  - Offer of settlement - Deutsche Bank Securities Inc. (circular [005-20](#))
  - Offer of settlement - Barak Capital G.T. Ltd (circular [110-20](#))
  - Offer of settlement - RBC Dominion Securities Inc. (circular [127-20](#))
  - Offer of settlement - TradeLink L.L.C. (circular [212-20](#))
- **Other**
  - Name Change of an Approved Participant - GMP Securities L.P. (circular [003-20](#))
  - Publication of the Newsletter From the Regulatory Division (circular [016-20](#))
  - Compliance Priorities and 2020 Regulatory Division Initiatives (circular [018-20](#))

- Margin Relief for S&P/TSX Index Standard Futures (“SXF”) and S&P/TSX Index Mini Futures (“SXM”) Combinations (circular [019-20](#))
- IIROC Continuing Education Credits - Bourse de Montréal Inc. Training (circular [023-20](#))
- Hearing before the Disciplinary Committee of Bourse de Montréal Inc. - Offer of Settlement - RBC Dominion Securities Inc. (circular [030-20](#))
- The Regulatory Division Participant Scorecard (circular [038-20](#))
- Approved Participants Business Continuity Plan - COVID-19 (circular [041-20](#))
- Additional Guidance to Approved Participants - COVID-19 (circular [043-20](#))
- Late Filing Fees - Additional Reporting Delay Granted (circular [049-20](#))
- Special Committee of the Regulatory Division - Call for Nominations (circular [052-20](#))
- New Features to Facilitate Accessibility to Bourse de Montreal Inc. Rules (circular [088-20](#))
- Hearing before the Disciplinary Committee of Bourse de Montréal Inc. - Offer of Settlement - TradeLink L.L.C. (circular [097-20](#))
- Extension - Alternative Measures and Reporting Delays - COVID-19 (circular [111-20](#))
- The Regulatory Division Participant Scorecard (circular [129-20](#))
- Publication of the Newsletter From the Regulatory Division (circular [132-20](#))
- Frequently Asked Questions (FAQ) - Regulation Respecting Electronic Trading and Direct Electronic Access (DEA) to Marketplaces (circular [150-20](#))
- Extension - Alternative Measures and Reporting Delays - COVID-19 (circular [156-20](#))
- The Regulatory Division Announces New Structure (circular [172-20](#))
- Name Change of an Approved Participant - BBS Securities Inc. (circular [183-20](#))
- Name Change of a Foreign Approved Participant - HRT Financial LLC (circular [193-20](#))

## The Division’s Initiatives

### Participant Portal

The Division launched the Participant Portal (the “Portal”) in the first quarter of 2019. The Portal is a secure and user-friendly single point of contact for Approved Participants. It facilitates access to regulatory documents as well as the submission of applications, reports and notices to the Division. The paper and online forms relating to the processes listed below are no longer available on the Division’s website. The Division will only process requests sent through the Portal.

As of date, the Division has made available the following functionalities:

- Administering access to the Portal;
- Approved Person module which includes the application forms, transfer forms, uniform termination notice (UTN) form, an alert listing the MX-IDs to be deleted following a UTN submission, an export feature, and access to the training courses and exams to trade on the Bourse;
- MX-ID module for requesting new MX-IDs, transfer requests, cancelling existing MX-IDs and an export feature;
- Modules allowing the filing of notices of non-compliance (Gatekeeper) and submitting corrections to the identification of orders (Order Marker Corrections);
- The secure transfer of documents (inbound & outbound) between the Division and Approved Participants;

- DEA Client module which includes a modifiable list of the Participant's clients with their unique identifiers, including a comprehensive export function;
- Designated Representative and Signatory module which allows for the nomination, update, and termination of Designated Representatives and signatories including notifications and automatic reminders.

For all these modules, training capsules are available on the [Participant Portal](#) allowing users to familiarize themselves with them.

## Participant Scorecard

On July 21, 2020 the Division published its third version of the Regulatory Division Participant Scorecard (the "Scorecard") via the Participant portal in the "File Transfer" section. The Scorecard is one way for the Division to share its observations with Approved Participants and help them track their level of compliance with certain regulatory requirements of the Bourse. The Scorecard is published bi-annually.

## COVID-19 Pandemic: Measures Taken by the Division

Following the outbreak of the global pandemic (COVID-19) in the first quarter of 2020, the Division assessed the situation and published its first circular ([041-20](#)) on March 11, 2020. The circular highlighted the Division's expectation regarding Approved Participants' business continuity plans and addressed concerns of possible restrictions associated with invoking these plans due to COVID-19. The Division also published additional guidance relating to certain regulatory requirements (circular [043-20](#)) and granting additional reporting delays (circular [049-20](#)).

On September 17, 2020, the Division extended until January 15, 2021 (circular [156-20](#)), the period for which it will deem the alternative measures described in circular [043-20](#) as reasonable, subject to meeting the minimum requirements and the additional 30-minute delay granted in circular [049-20](#), when reporting Large Open Position Reports ("LOPR") and Exchange of Futures for Related Products ("EFRP") Transactions.

## The Division's New Structure

On October 2, 2020, the Division announced a management team under a new operational structure (circular [172-20](#)). This marked the consolidation of three of the Division's core regulatory functions and the introduction of two new services. As part of the new structure, the Division staff is now grouped into one of the four following services: Strategy and Regulatory Outreach, Systems and Data, Core Regulatory Functions and Enforcement and Market Regulation.

# Profile of Approved Participants and Persons

## Approved Participants

As at December 31, 2020, following admissions and resignations of Approved Participants, the Bourse had a total of 63 Approved Participants, distributed geographically as follows:

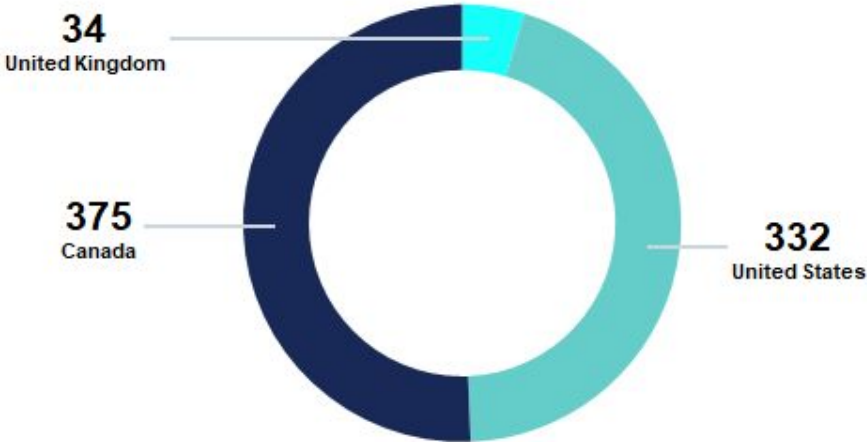
Figure 1  
**Approved Participants as at December 31, 2020**



## Approved Persons

In the third and fourth quarters of 2020, the Division processed 35 new applications for Approved Persons as well as 39 termination notices<sup>1</sup>. As of December 31, 2020 the Bourse had 741 Approved Persons, distributed geographically as follows:

Figure 2  
**Approved Persons as at December 31, 2020**



<sup>1</sup> Uniform Termination Notice (UTN)

# Regulatory Activities

## Examinations

The Examinations service manages examinations of the derivatives trading of the Approved Participants of the Bourse. The purpose of these examinations is to validate the compliance of Approved Participants of the Bourse with its Rules.

From July 1 to December 31, 2020, the Division performed 17 examinations leading to observations. Recurring observations include:

- Inadequate supervision and inaccurate policy and procedure manuals (see [article 3.100](#));
- Large Open Position Reporting (LOPR) discrepancies (see [article 6.500](#));
- Inadequate annual evaluation of clients with direct electronic access (see [article 3.5](#));
- Inadequate recordkeeping (see [article 6.118](#));
- Failing to send Notice of Termination of Employment in prescribed time (see [article 3.103](#)); and
- Inaccurate order identification (see [article 6.115](#)).

**During the period from July 1 to December 31, 2020, the Division conducted a total of 17 examinations leading to findings. In 2020, the Division performed a total of 28 examinations.**

## Market Analysis

The Market Analysis unit performs market surveillance to detect potential breaches of regulations and monitors insider trading activities on the options market of the Bourse. The Market Analysis unit also reviews trading on the Bourse to determine whether Approved Participants are complying with trading rules and principles, and whether these trades involve abusive or manipulative trading practices.

A decrease of 3.49% was observed in the average daily trading volume compared to the same period of 2019, for an average daily volume for 2020 of 459,722 contracts compared to 462,828 contracts in 2019. In the second half of the year, from July 1 to December 31, 2020, the Division monitored over 9,251,369 trades executed on the Bourse.

The Market Analysis unit is also responsible for conducting preliminary reviews of all complaints received from various sources. The Division received two complaints in the period from July 1 to December 31, 2020 from the Market Operations Department.

**In 2020, the Division received a total of nine complaints.**

# Investigations

The Investigations unit may open an investigation when a potential regulatory violation has been detected during an examination or following a market analysis.

From July 1 to December 31, 2020, the Division opened two investigations, in particular concerning access to the trading system of the Bourse by employees of Approved Participants when those employees were not Approved Persons, and market manipulation activity. During the same period, the Division completed 15 investigations.

**In 2020, the Division opened seven investigations concerning access to the trading system of the Bourse by employees of Approved Participants, reports of accumulated positions, and potential market manipulation. The Division also closed 21 investigations, concerning access to the Bourse's trading system, supervision of clients with direct electronic access, and market manipulation.**

## Enforcement

Disciplinary proceedings may be initiated when, following an investigation, the Division concludes that there has been an offence under the Rules of the Bourse or to regulation (for example, [Regulation 23-103 respecting Electronic Trading and Direct Electronic Access to Marketplaces](#)).

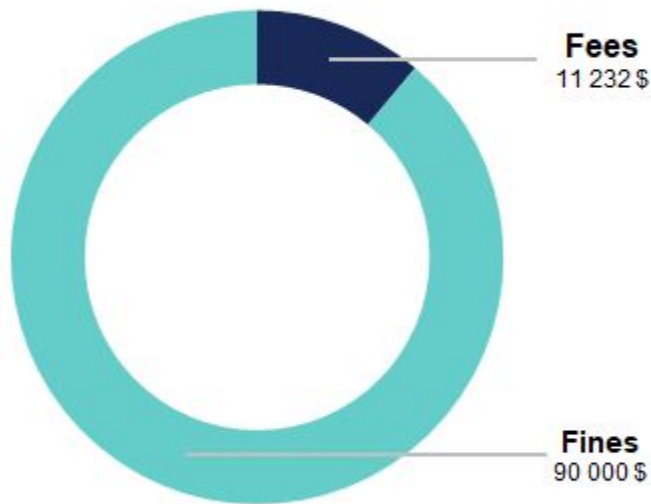
### Disciplinary Decisions

For the period from July 1 to December 31, 2020, one disciplinary decision was issued.

In 2020, there were three offences to the Rules of the Bourse that were subject to disciplinary decisions. The first involved an approved participant's failure to provide to the Bourse all the information necessary to allow the Bourse to adequately identify and classify an account subject to a positions report (more specifically failure to provide its unique identifier for said account) and the same approved participant's failure to ensure that the reports of accumulated positions transmitted to the Bourse by its delegatee was complete and accurate (circular [110-20](#)). The second involved an approved participant's failure to keep recorded telephone conversations for two approved persons in relation to the trading of derivatives listed on the Bourse and failure to establish and maintain a system to supervise the activities of each employee that is reasonably designed to achieve compliance with the Rules and Policies of the Bourse (circular [127-20](#)). The third involved an approved participant's failure to obtain prior approval of the Bourse in providing access to one of its employees to the electronic system of the Bourse (circular [212-20](#)).

Figure 3

### Fees and fines imposed as part of disciplinary matters in 2020



#### Fines for Minor Violations

In 2020, the Division did not impose fines for minor violations.

Three disciplinary matters were settled in 2020. For these disciplinary matters, the fines paid by the participants totalled \$90,000, plus \$11,232 for the reimbursement of costs. These amounts were collected by the Division and paid into the Fine Fund.

#### Imposed Late Filing Fees

The following table provides detailed information on all the fees imposed by the Division in the third and fourth quarters of 2020 for the late filing of documents.



Figure 4

<b>Late Fees</b>	<b>Occurrences</b>	<b>Participants</b>	<b>Total amount imposed</b>
Termination notice submitted more than 10 days after the termination date <sup>2</sup>	7	7	\$6,500
Late reporting of corporate amendments	0	0	\$0
Report pertaining to the accumulation of positions for derivative instruments (LOPR) <sup>3</sup>	3	3	\$750
Bi-monthly report on options over-the-counter options (Article 6.501) <sup>4</sup>	3	3	\$600
Information or document required by the Division <sup>5</sup>	1	1	\$2,500
Exchange of Futures for Related Product (EFRP) transactions not reported within the prescribed time limit (Article 6.208 (d) of the Rules of the Bourse) <sup>6</sup>	3	2	\$450

## Observed Best Practice in 2020

On April 1, 2013, the Regulatory Division launched the Large Open Position Reporting (“LOPR”) tool requiring Approved Participants to report listed derivative positions held under the same beneficial ownership once the prescribed reporting threshold is reached. Since then, the Division has published circulars reiterating the importance of reporting integrity, as well as guidance and supervision expectations specific to LOPR monitoring. With the help of participant feedback, the Division has amended various reporting requirements, and launched the LOPR Notification Portal in an effort to facilitate the transfer and accuracy of LOPR information. As a result, participants have also made several enhancements to their daily reporting process, as well as their daily monitoring and supervision.

The Division would like to share a good practice that was observed over the course of the last calendar year regarding an Approved Participant’s daily LOPR supervision and monitoring. During the LOPR reporting process, the participant’s verification of the reported positions to the back office data is performed to immediately identify any discrepancies. Any identified discrepancy is closely monitored until resolved. Shortly after resolution, the participant follows up and reports the corrected position(s) within the LOPR Notification Portal. Full position reconciliation reviews are performed on a periodic basis, helping to ensure that the reportable positions are correctly captured and that the beneficial owner aggregation is correctly performed. Account information reviews are performed when a new account is onboarded and on a periodic basis thereafter; verification of account LEI accuracy is performed on a quarterly basis. In the event that a new product or class is launched, best practice has prompted closer monitoring of the reported information for an appropriate period of time to ensure that any product aggregation is performed as per the regulatory requirement and that the positions are completely and accurately reported.

<sup>2</sup> Two Canadian participant and five foreign participants

<sup>3</sup> Two Canadian participants and one foreign participants

<sup>4</sup> Three Canadian participants

<sup>5</sup> One foreign participant

<sup>6</sup> One Canadian participant and one foreign participant

# Upcoming Events Organized by the Division

## **The Division's Regulatory User Group meetings\***

- February 18, 2021
- May 27, 2021
- October 21, 2021
- December 2, 2021

*\*Until further notice, all meetings will be held by way of conference call.*

## **Division's Compliance Forum at the Canadian Annual Derivatives Conference**

- TBD

## **"Derivatives Exchange / Parlons dérivés," organized by the Division**

- TBD

## For more information:

REGULATORY DIVISION

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