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**CIRCULAR 061-15**

June 3, 2015

**REQUEST FOR COMMENTS**

**REPORTS PERTAINING TO THE ACCUMULATION OF POSITIONS FOR  
DERIVATIVE INSTRUMENTS**

**AMENDMENTS TO ARTICLE 14102 OF RULE FOURTEEN OF  
BOURSE DE MONTRÉAL INC.**

The Rules and Policies Committee of Bourse de Montréal Inc. (the “**Bourse**”) has approved amendments to *Article 14102 of Rule Fourteen of Bourse de Montréal Inc.* (the “**Article**”) in order to (1) clarify the requirement that approved participants must submit a report confirming that there are no positions to be reported when none of the reporting thresholds prescribed by the Bourse have been exceeded for each of the concerned derivative instruments; in order to (2) extend the reporting deadline applied to approved participant report transmissions from 8:00 a.m. (Montreal Time) to 9:00 a.m. (Montreal Time), and in order to (3) specify that report transmissions must be made within the Bourse’s prescribed reporting hours.

Comments on the proposed amendments must be submitted within 45 days following the date of publication of this notice, at the latest on **July 20, 2015**. 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>c</sup> Anne-Marie Beaudoin  
Corporate Secretary  
*Autorité des marchés financiers*  
800 Victoria Square, 22<sup>nd</sup> Floor  
P.O. Box 246, Tour de la Bourse  
Montréal (Québec) H4Z 1G3  
**E-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)**

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.

## **Appendices**

For your information, you will find in the appendices an analysis of the proposed amendments as well as the amendments proposed to the Article. The implementation date of the proposed amendments will be determined by the Bourse, in accordance with the self-certification process as determined by the *Derivatives Act* (R.S.Q., 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 and Procedures. The Rules of the Bourse are submitted to the Autorité in accordance to the self-certification process as determined by the *Derivatives Act* (R.S.Q., chapter I-14.01).



**REPORTS PERTAINING TO THE ACCUMULATION OF POSITIONS FOR DERIVATIVE INSTRUMENTS  
AMENDMENTS TO ARTICLE 14102 OF RULE FOURTEEN OF BOURSE DE MONTRÉAL INC.**

**Table of Contents**

<b>I. SUMMARY .....</b>	<b>2</b>
<b>II. ANALYSIS .....</b>	<b>2</b>
a. “No Reportable Position” Reports .....	2
b. Amendment of Daily Reporting Deadlines.....	3
<b>III. AMENDMENT PROCESS.....</b>	<b>3</b>
<b>IV. IMPACTS ON TECHNOLOGICAL SYSTEMS .....</b>	<b>4</b>
<b>V. OBJECTIVES OF THE PROPOSED AMENDMENTS .....</b>	<b>4</b>
<b>VI. PUBLIC INTEREST .....</b>	<b>4</b>
<b>VII. PROCESS.....</b>	<b>4</b>
<b>VIII. REFERENCE AND ATTACHED DOCUMENTS .....</b>	<b>4</b>

## I. SUMMARY

Bourse de Montréal Inc. (the Bourse) proposes to amend the requirements found in article 14102, which apply to reports that pertain to the accumulation of positions for derivative instruments.

The Bourse proposes to clarify Article 14102 (1), that is the requirement that approved participants must submit a report confirming that there are no positions to be reported when none of the reporting thresholds prescribed by the Bourse have been exceeded for each of the concerned derivative instruments.

The Bourse also proposes to amend Article 14102 (2), in order to extend the reporting deadline applied to approved participant report transmissions from 8:00 a.m. (Montreal Time) to 9:00 a.m. (Montreal Time), and to specify that report transmissions must be made within the Bourse's prescribed reporting hours.

## II. ANALYSIS

### Nature and Purpose of Proposed Changes

#### a. "No Reportable Position" Reports

The proposed amendment to Article 14102 (1), which is the addition of the requirement that the submission of reports which confirms that there are no position to be reported, is to allow the Bourse's Regulatory Division (the "Division") to determine if the absence of a position record transmission is the consequence of an oversight or the nonexistence of positions having exceeded the prescribed reporting thresholds. The transmission of a report confirming the nonexistence of reportable positions is currently outlined in various documents (see LOPR Regulatory Requirements Guide, 3.3 – Position Submission Time) concerning Large Open Position Reporting (LOPR) and is widely practiced among participants; the Bourse wishes to crystalize this practice in the rule as it is a critical component for ascertaining the completeness of the information received.

It is important to note that the purpose of the LOPR records submissions is to assist the Division in identifying potential market manipulations that are the result of excessive position concentrations (i.e. position limit excesses). Therefore, its ability to recognize reporting omissions and promptly notify participants of the oversight will enable the Division to efficiently identify and remedy these types of situations while improving and ensuring market integrity by obtaining the totality of reportable position records in a timely manner.

#### b. Amendment of Daily Reporting Deadline

Article 14102 (2) currently provides for a daily reporting deadline of 8:00 a.m. (Montreal time). The Division proposes to amend this deadline to 9:00 a.m. (Montreal time). The Division's experience with LOPR report submissions and its interaction with participants since the April 1<sup>st</sup>, 2013 modifications of article 14102 have clearly indicated that an adjustment of the reporting deadline would greatly minimize operational constraints (e.g. decrease the pressure level faced by firms' personnel in order to meet the reporting deadline, be able to apply corrective measures whenever necessary within the extended hour) on participants and would thereby significantly improve the quality of the LOPR data transmitted to the Bourse. The Division believes that allowing participants to overcome the operational constraints caused

by the 8:00 a.m. deadline by moving it forward by one hour will enable participants to provide more complete and accurate LOPR information.<sup>1</sup>

The Division is of the opinion that such a modification to the LOPR reporting deadline will significantly improve the quality of the information received from approved participants, and that it will not compromise in any way its ability to properly monitor participants' adherence to position limits. Through its experience in monitoring position limits using the LOPR tool since April 1<sup>st</sup> 2013, the Division can now assert that a 9:00 a.m. deadline leaves sufficient time for the Division to intervene on position limit breaches without negatively impacting the market.

Lastly, the Division proposes to modify Article 14102 (2) so to specify that LOPR report submissions must be made within the Bourse's prescribed LOPR reporting hours. This change is required due to the dependency of LOPR transmission on the availability of the Bourse's operating systems. The Bourse's prescribed LOPR reporting hours availability are outlined in various technical documents and are widely respected by participants. However, the LOPR reporting system availability may be subject to changes due to technical reasons such as Bourse service closures<sup>2</sup> as well as industry business continuity tests<sup>3</sup> (i.e. SIFMA and FIA). The Bourse communicates any operational systems unavailability when required. Article 14102(2) does not currently make any reference to limitations on LOPR reporting hours, thus potentially leading participants to conclude that LOPR report transmissions may be completed at all times. The capacity to specify that LOPR report transmissions are subject to the Bourse's prescribed LOPR reporting hours will enable the Division to set the expectations for participants. This would in turn ensure that participants are prepared to complete their respective LOPR report transmissions within the Bourse's prescribed LOPR reporting time window, minimizing any possible interference due to system unavailability and ensuring the reception of LOPR report transmissions by the Division.

### **III. AMENDMENT PROCESS**

The proposed modifications are intended to enhance the completeness, accuracy and timeliness of LOPR data. This will enhance the Division's ability to ensure market integrity through the effective monitoring of participant positions and the enforcement of position limits.

### **IV. IMPACTS ON TECHNOLOGICAL SYSTEMS**

The intended impacts on technological systems of both the Bourse and approved participants are considered to be minimal. Participants will not have to make any changes to their technological infrastructure.

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<sup>1</sup> The phrase "Montreal time" was deleted from article 14102(2) because article 5002 of the Rules of the Bourse already provides that "[t]he Bourse shall conform to local Montréal time."

<sup>2</sup> « Technical document – LOPR Regulatory Requirements Guide – v.1.3 », Page 7, Section 3.3  
[http://www.m-x.ca/f\\_avis\\_tech\\_en/14-004\\_en.pdf](http://www.m-x.ca/f_avis_tech_en/14-004_en.pdf)

<sup>3</sup> « Avis technique : « MX Participation in the SIFMA and FIA Business Continuity (BC) 2014 Test Details »  
[http://www.m-x.ca/f\\_avis\\_tech\\_en/14-010\\_en.pdf](http://www.m-x.ca/f_avis_tech_en/14-010_en.pdf)

## V. OBJECTIVES OF THE PROPOSED AMENDMENTS

Amendment to Article 14102 (1) is being proposed to facilitate the Division's ability to determine if the absence of position records is the consequence of an oversight or the nonexistence of positions that exceeds the prescribed reporting thresholds. Amendments to Article 14102 (2) are being proposed in order to minimize participant's operational constraints (time) and thereby improve the quality of the data that is transmitted to the Bourse. Furthermore, it will address instances where MX service closures<sup>4</sup> as well as industry business continuity tests<sup>5</sup> (i.e. SIFMA and FIA) may interfere with LOPR report submissions.

## VI. PUBLIC INTEREST

The proposed amendments are in the public's interest since they will permit for an environment that facilitates and ensure the complete and accurate transmission of LOPR reports, which in turn will assist the Division in its ability to identify potential market manipulations that are the result of excessive position concentrations (i.e. position limit excesses).

## VII. PROCESS

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

## VIII. ATTACHED DOCUMENTS

- Article 14102 of *Rule Fourteen* of Bourse de Montréal Inc.

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<sup>4</sup> «MX Services closed on Sunday, March 9th, 2014 due to Daylight Saving Time»

[http://www.m-x.ca/f\\_avis\\_tech\\_en/14-004\\_en.pdf](http://www.m-x.ca/f_avis_tech_en/14-004_en.pdf)

<sup>5</sup> «MX Participation in the SIFMA and FIA Business Continuity (BC) 2014 Tests details»

[http://www.m-x.ca/f\\_avis\\_tech\\_en/14-010\\_en.pdf](http://www.m-x.ca/f_avis_tech_en/14-010_en.pdf)

**RULE FOURTEEN  
DERIVATIVE INSTRUMENTS – MISCELLANEOUS RULES**

(11.03.80, 13.09.05, 04.03.08, 01.04.13, 09.06.14, 00.00.00)

**Section 14101 – 14150  
(04.03.08, 01.04.13, 09.06.14, 00.00.00)  
Reports for Derivative Instruments**

**14102 Reports Pertaining to the Accumulation of Positions for Derivative Instruments**  
(24.04.84, 01.06.84, 13.09.05, 04.03.08, 01.04.13, 09.06.14, 00.00.00)

- 1) Each approved participant must file daily with the Bourse, in the prescribed manner, a report detailing all gross positions held for its own account or for an account or group of accounts which are all owned by the same beneficial owner in derivative instruments listed on the Bourse when these gross positions exceed the reporting thresholds prescribed by the Bourse for each of these derivative instruments or a report confirming that there are no positions to be reported when none of the reporting thresholds prescribed by the Bourse have been exceeded for each of these derivative instruments.
- 2) Any report transmitted to the Bourse pursuant to this Rule must be transmitted within the reporting hours prescribed by the Bourse and not later than 89:00 a.m. ~~(Montreal time)~~ on the business day following the one for which positions must be reported.
- 3) For each account subject to a positions report to the Bourse, each approved participant must provide to the Bourse all the information necessary to the Bourse to allow it to adequately identify and classify this account. The information that must be provided to the Bourse is the following:
  - a) the name and complete coordinates of the account beneficial owner;
  - b) the full account number as it appears in the approved participant records;
  - c) the account type (client, firm, market-maker, professional or omnibus);
  - d) the beneficial account owner classification according to the typology established by the Bourse; and
  - e) the identification of the nature of transactions made by the account (speculation or hedging). If it is impossible to clearly determine if the account is used for speculative or hedging purposes, it must then, by default, be identified as being a speculative account.
- 4) In addition to providing the above-mentioned information to the Bourse, each approved participant must provide, for each account being reported, a unique identifier complying with the following requirements;

- a) for any account opened in the name of a natural person or of a corporation or other type of commercial entity wholly-owned by this natural person:
  - i) a unique identifier allowing to link together all the accounts having the same beneficial owner. The unique identifier used in such a case must be created by the approved participant in a format that it deems to be appropriate. This unique identifier, once created and used, must not be modified or replaced by a new identifier without having provided prior notice to the Bourse.
- b) for any account owned by many natural persons such as a joint account, an investment club account, partnership or holding company:
  - i) if one of the natural persons owning this account has an ownership interest of more than 50% in the account, the unique identifier used must be the identifier of this person and must be set as specified in subparagraph 3) a) i) above ;
  - ii) if none of the persons owning the account has an ownership interest of more than 50%, the unique identifier must be the account name.
- c) for any account opened in the name of a corporation other than a corporation wholly-owned by a natural person:
  - i) if one of the natural persons owning shares of this corporation holds an ownership interest of more than 50% in the account, the unique identifier used must be the identifier of this person and must be set as specified in subparagraph 3) a) i) above;
  - ii) if more than 50% of the corporation shares are owned by another corporation, the unique identifier must be the Legal Entity Identifier of this other corporation as attributed by the organization responsible for the attribution of such an identifier;
  - iii) in all other cases, the unique identifier must be the Legal Entity Identifier of the corporation in whose name the account has been opened;
  - iv) if, for corporations mentioned in subparagraphs c) ii) and c) iii), no Legal Entity identifier is available, the identifier to be used shall be the incorporation number of the corporation as attributed by the government authority having issued the incorporation certificate of such corporation.

In the case where neither the Legal Entity Identifier nor the incorporation number of a corporation are available or can be obtained or communicated by the approved participant in reason of legal or regulatory restrictions, the approved participant shall use a unique identifier that permits to link together all the accounts having the same corporation as beneficial owner. The unique identifier used in such a case can be either the name of the corporation owning the account or be created by the approved participant in a format that it deems appropriate.

Any unique identifier, be it or not created by the approved participant, must not be changed or replaced by a new identifier without prior notice having been given to the Bourse.



For the purposes of this paragraph c), the term “Legal Entity identifier” means the unique identification number attributed to a legal entity by any organization accredited to this effect pursuant to the ISO 17442 standard of the International Standardization Organization, as approved by the Financial Stability Board and the G-20 and aiming at implementing a universal and mandatory identification system for legal entities trading any type of derivative instrument.

- 5) In order to determine if the reporting thresholds are attained, approved participants must aggregate positions held or controlled by the same account beneficial owner.

For the purposes of this article, the term “control” means a beneficial ownership interest greater than 50%.

- 6) The reporting thresholds established by the Bourse are as follows:

- a) For each options class other than options on futures contracts:

- i) 250 contracts, in the case of stock and trust units options;
- ii) 500 contracts, in the case of options on Exchange Traded Fund unit options;
- iii) 500 contracts, in the case of currency options;
- iv) 15,000 contracts, in the case of index options;

- b) For futures contracts and the related options on futures contracts:

- i) 300 contracts, in the case of futures contracts and options on futures contracts on Three-Month Canadian Bankers’ Acceptance Futures (BAX and OBX), by aggregating positions on options on futures contracts and positions in the underlying futures contract. In this case, one options contract (OBX) is equal to one futures contract (BAX);
- ii) 250 contracts, in the case of 30-Year Government of Canada Bond Futures (LGB);
- iii) 250 contracts, in the case of futures and options on futures contracts on Ten-Year Government of Canada Bond Futures (CGB and OGB), by aggregating positions on options on futures contracts and positions in the underlying futures contract. For the purposes of aggregating positions, one options contract (OGB) is equal to one futures contract (CGB);
- iv) 250 contracts, in the case of Five-Year Government of Canada Bond Futures (CGF);
- v) 250 contracts, in the case of Two-Year Government of Canada Bond Futures (CGZ);

- vi) 1,000 contracts, in the case of S&P/TSX 60 Index Standard Futures (SXF) and S&P/TSX 60 Index Mini Futures (SXM), by aggregating positions on both futures contracts. For the purposes of aggregating positions, one standard contract (SXF) is equal to one mini contract (SXM);
- vii) 1,000 contracts, in the case of S&P/TSX Composite Index Mini Futures (SCF);
- viii) 300 contracts, in the case of 30-Day Overnight Repo Rate Futures (ONX) and Overnight Index Swap Futures (OIS);
- ix) 500 contracts, in the case of Sector Index Futures (SXA, SXB, SXH, SXY);
- x) 250 contracts, in the case of futures contracts on Canada carbon dioxide equivalent (CO<sub>2</sub>e) units with physical settlement (MCX);
- xi) 1,000 contracts, in the case of futures contracts on the FTSE Emerging Markets Index;

The Bourse may, at its discretion, impose the application of any other reporting threshold that is more severe and lower than those provided in this Rule.

- 7) in addition to the reports required under the provisions of the present article, each approved participant must report immediately to the Vice-President of the Regulatory Division of the Bourse any situation in which the approved participant has reason to believe that itself or a client, acting alone or in concert with others, has exceeded or is attempting to exceed the position limits established by the Bourse;
- 8) An approved participant of the Bourse which does not trade or does not hold or manage any trading accounts for its clients or itself for the purposes of transactions in any of the derivative instruments listed on the Bourse may be exempted from complying with the requirements as provided for in paragraph 1) of the present article, under the following conditions:
  - i) the approved participant must submit an exemption request in writing to the Regulatory Division, confirming that it has not traded any of the derivative instruments listed on the Bourse in the last calendar year and that it does not plan to trade any of them in a foreseeable future;
  - ii) all exemptions granted will be valid as long as all conditions relative to such exemptions are complied with;
  - iii) any exemption can be cancelled by the Regulatory Division at any time and, in any case, ends when an approved participant executes a transaction on any of the derivative instruments listed on the Bourse;
- 9) An approved participant may, with prior approval of the Bourse, delegate to a third party the transmission of position reports required under the provisions of paragraph 1) of the present Rule. In order for such an exemption to be granted, the following conditions must be met:

- i) the approved participant which wishes to delegate the task of producing and submitting position reports to a third party rather than doing so by itself must divulge to this third party all information necessary for the production of such reports, as is required by the Bourse;
- ii) any delegation established in accordance with the present paragraph must first be approved in writing by the Regulatory Division. An approved participant wishing to delegate the submission of positions reports required by the Bourse to a third party must therefore submit a request for approval in writing to the Regulatory Division;
- iii) all approvals of delegation granted by the Regulatory Division will be valid as long as all conditions relative to such approvals are complied with;
- iv) any approval of delegation can be cancelled by the Regulatory Division at any time and, in any case, ends when the third party delegate ceases to produce reports or is no longer able to submit position reports on behalf of the approved participant having delegated such task, pursuant to the requirements of the Bourse;
- v) an approved participant having chosen to delegate the submission position reports to a third party nevertheless remains responsible for the obligations provided in the present article and must ensure that all the information transmitted to the Bourse by the delegate is complete and accurate.