



CIRCULAR 008-22

January 21, 2022

SELF-CERTIFICATION

**AMENDMENTS TO PART 4 OF THE RULES OF BOURSE DE MONTREAL INC.
CONDUCT OF THE REGULATORY FUNCTIONS OF THE BOURSE**

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 Part 4 of the Rules of the Bourse related to the conduct of the regulatory functions of the Bourse. The proposed amendments aim to promote a robust framework to ensure the regulatory functions of the Bourse continue to be carried out efficiently and fairly. These amendments were self-certified in accordance with the self-certification process as established in the *Derivatives Act* (CQLR, Chapter I-14.01).

These amendments attached herewith will become effective on February 18, 2022, after market close. Please note that the revised articles will also be available on the Bourse’s website (www.m-x.ca).

The amendments described in the present circular were published for public comment by the Bourse on May 25, 2021 (see circular [094-21](#)). Further to the publication of this circular, the Bourse received comments. A summary of the comments received as well as responses from the Bourse to these comments is attached hereto.

For additional information, please contact Adam Allouba, Chief Legal Officer, at 514-871-3500 or by email at adam.allouba@tmx.com.

Adam Allouba
Chief Legal Officer
Bourse de Montréal Inc.

AMENDED VERSION

PART 1 - GENERAL PROVISIONS AND DEFINITIONS

Chapter B — Definitions

Article 1.101 Definitions

[...]

Defaulter (Défaillant) means an Approved Participant or an Approved Person declared as a defaulter pursuant to Article 4.406801 of the Rules.

[...]

Article 1.104 Delegation

(a) Unless otherwise specified and subject to compliance with any applicable law (including any order or requirement of a Securities Regulator), the following individuals may delegate the powers and obligations granted to them under these Rules to an employee of the Bourse:

- (i) The President of the Bourse;
- (ii) The Vice-President, Regulatory Division; and
- (iii) The Chief Legal Officer.

(b) For greater clarity:

- (i) No delegated powers or obligations may be further sub-delegated.
- (ii) The powers and obligations of the Vice-President, Regulatory Division may be delegated only to an employee of the Bourse who is a member of the Regulatory Division.

Article 1.105 Governing Law and Forum

These Rules are governed exclusively by, and are to be construed and interpreted exclusively in accordance with, the laws applicable in the Province of Quebec. Any Person subject to these Rules irrevocably attorns to the exclusive jurisdiction of the courts of the Province of Quebec, in the judicial district of Montreal.

Article 1.106 Headings

The headings and titles used in these Rules are for reference purposes only and have no legal effect.

PART 2 – GOVERNANCE

Chapter B — Regulatory Division

Article 2.100 Creation of the Regulatory Division

The Regulatory Division is created by the Board of Directors with the aim of ensuring that the regulatory functions of the Bourse are carried out efficiently and fairly. To this end, the supervision of the regulatory ~~duties~~functions and operations of the Bourse are entrusted to the Regulatory Division, which shall operate as a distinct business unit separate from the other activities of the Bourse. The Regulatory Division shall be not-for-profit and financially self-sufficient.

Article 2.101 ~~Duties~~Functions of the Regulatory Division

The Regulatory Division carries on its ~~duties~~functions in the following fields of activity :

[...]

Article 2.102 Supervision

(a) ~~The~~ Regulatory Division shall be subject to the supervisory powers of the Special Committee, which shall:

(i) ensure that the Regulatory Division has the resources it needs to carry out its ~~duties;~~ functions;

(ii) ensure that the Regulatory Division carries out its ~~duties~~functions fairly, objectively and ~~without~~ conflicts of interest; and

-[...]

Chapter C — Special Committee of the Regulatory Division

Article 2.200 Special Committee of the Regulatory Division

The Special Committee shall be appointed by the Board of Directors to perform those ~~duties~~functions and to exercise those powers provided in this Chapter. Its rules of procedure shall be the rules of procedure of the Board of Directors, subject to such changes as may be necessary to adapt them to the circumstances.

Article 2.204 Powers of the Special Committee

[...]

(h) ~~order~~ that a special examination or investigation be made pursuant to ~~Article 4.3~~Article 4.104 of the Rules;

(i) ~~order~~ a suspension for failure to provide information pursuant to ~~Article 4.5~~Article 4.102 of the Rules;

(j) ~~proceed~~ summarily in the situations mentioned in ~~Article 4.4 and Article 4.401~~Part 4, Chapter I of the Rules, as the circumstances warrant, ~~and following of the Rules;~~

(k) ~~proceed to the hearing of~~ hear appeals from decisions rendered by the ~~Disciplinary Committee in regard to complaints, pursuant to Article 4.201 and following of the Rules or from decisions rendered by any other committee or staff of the Bourse;~~ Regulatory Division;

(l) ~~_____~~ report to the Board of Directors regarding the execution by the Regulatory Division of its regulatory ~~duties~~functions; and-

[...]

Article 2.205 Decisions of the Special Committee

(a) ~~_____~~ Decisions of the Special Committee shall require the vote of the majority of those attending in Person, by telephone or by video conference. ~~In disciplinary matters or~~In summary proceedings, if a member becomes unable to act before a decision is rendered, the decision may be reached by the remaining members, provided they are at least four.-

(b) ~~_____~~ Copies of the minutes of each meeting shall be sent to all members of the Special Committee, to the ~~Chairman~~Chair of the Board of Directors, to the President of the Bourse and to the ~~Vice-President,~~Chief Legal Affairs (Derivatives)-Officer.

PART 3 - APPROVED PARTICIPANTS AND APPROVED PERSONS

Chapter B — Chapter B—Obligations of Approved Participants

Article 3.112 Market Makers – Options and Futures

[...]

(g) Conditions specific to clients of an Approved Participant:

- ~~(i)~~(i) Under the terms of the mandatory Market Making Agreement referred to under paragraph (f) above, a client of an Approved Participant notably agrees to the following with respect to its trading activities and conduct as a Market Maker and must (i) be subject to the jurisdiction of the Bourse, acting as a self-regulatory organization, including its Regulatory Division and any of its Committee, during the term of the Market Making Assignment and thereafter in accordance with ~~Article 4.201~~Article 4.2 to the same extent and as if it was itself an Approved Participant and (ii) comply with all the Regulations of the Bourse as if it was itself an Approved Participant, with the necessary adaptations, including with Part 4, ~~Chapter C hereof of the Rules~~ (expect with respect to ~~inspection~~examinations), Articles 3.100, 3.110, ~~4.1101~~, 6.3, 6.10, 6.11, 6.114, 6.115, 6.118, 6.118(j)(k), 6.119, 6.120, 6.202, 6.203, 6.204, 6.205, 6.206, 6.207, 6.209, 6.210, 6.309 and following regarding position limits, 7.5, 7.6, 7.7 and 12. ~~7 and 7~~ and following regarding position limits, as these may be amended and/or replaced from time to time.-

Chapter D — Suspension, Revocation, Termination and Resignation of Approved Participants and Others

Article 3.300 Process for Resignation

(a) ~~_____~~ ~~No Approved Participant may resign without the prior approval of the Special Committee.~~

(a) No Approved Participant may resign without the prior approval of the Special Committee, which may be withheld until the Special Committee determines that it is satisfied that the Approved Participant will fully comply with any investigation or proceedings that are ongoing or may arise following the Approved Participant's resignation. In making that determination, the Special Committee shall take into account anything that it deems relevant, which may include an assessment of the likelihood that the Approved Participant will maintain its existence and financial resources following its resignation. To satisfy itself as to the foregoing, the Special Committee may condition its acceptance of the resignation on the provision of such things and undertakings as it sees fit, which may include undertakings to maintain the Approved Participant's existence or financial guarantees from any Person with control over the Approved Participant.

[...]

Article 3.302 Suspension and ~~Expulsion~~Revocation

(a) An Approved Participant ~~who~~that no longer complies with the conditions to be an Approved Participant ~~provided set forth~~ in the Regulations of the Bourse may be suspended or ~~expelled~~have its Bourse Approval ~~revoked~~ by the Special Committee. ~~on the recommendation of the Vice-President, Regulatory Division.~~

(b) Where a Person, other than an Approved Participant, no longer complies with the conditions of a Bourse Approval held by that Person, that Bourse Approval may be suspended or revoked. Suspension or revocation of Bourse Approval shall automatically preclude that Person from acting in the capacity for which the suspended or revoked Bourse Approval was required. No Approved Participant shall allow any Person to continue to act in the capacity, nor hold the position, for which Bourse Approval has been suspended or revoked.

(c) Any Person who may have their Bourse Approval suspended or revoked under this Article shall be notified by the Bourse and provided the opportunity to submit observations before a suspension or revocation is recommended or confirmed.

Article 3.303 Effects of Suspension or ~~Expulsion~~Revocation

[...]

(c) ~~(c)~~ An Approved Participant ~~that is~~or Person ~~who is~~ suspended shall remain subject to the jurisdiction of the Bourse. ~~An~~Where the Bourse Approval of an Approved Participant ~~that is expelled~~or Person has been ~~revoked they~~ shall remain subject to the jurisdiction of the Bourse, in accordance with paragraph ~~(c)~~of Article 4.201-2(c).

Chapter E — Approval, Requirements and Obligations Relating to Approved Persons

Article 3.406 Suspension or Revocation Of Approval

[...]

(b) In the event of a suspension or revocation of Bourse Approval of an Approved Person pursuant to this Article or pursuant to ~~Article 4.205~~Article 4.400, unless otherwise ordered by the Vice president of the Regulatory Division, the Approved Participant, the affiliated corporation or subsidiary of the Approved Participant employing this Person must immediately discontinue such Approved Person's employment, and thereafter this Person may not be employed in the same capacity by any Approved Participant, any affiliated corporation or subsidiary of an Approved Participant without permission of the Vice president of the Regulatory Division, which may be revoked at any time.

(d) An Approved Person that is suspended shall remain subject to the jurisdiction of the Bourse. An Approved Person whose Bourse Approval is revoked shall remain subject to the jurisdiction of the Bourse, in accordance with paragraph ~~(c) of Article 4.201~~4.2(c).

Appendix 6D-2 PROCESSING REQUESTS FOR EXEMPTION FROM POSITION LIMITS

[...]

(c) The Internal Consultation Committee include the following persons or their designees:

(i) ~~Vice-President, Chief Legal Affairs; Officer;~~

PART 4 ————— **INSPECTIONS AND ENFORCEMENT**

Chapter ————— **Inspections, Investigations and Summary Proceedings**

Article 6.0 ————— **Service of Documents to Regulatory Division/Definition**

~~For~~ **PART 4 - THE CONDUCT OF THE REGULATORY FUNCTIONS OF THE BOURSE**

Chapter A **Definitions and General Provisions**

Article 4.1 **Definitions**

The terms defined in this Chapter have the meanings, and the corresponding term in French, set out as follows for purposes of Part 4: of the Rules:

- ~~(Agent for Service (Mandataire aux Fins de Signification) means a) — any document required to be served on the Bourse must be addressed to the attention of the Vice-President, Legal Affairs (Derivatives), and delivered by messenger or by registered mail, in either case, with proof of receipt signed by Person whom a representative of the Bourse;~~
- ~~(b) — any document required to be served on any Person other than the Bourse must be served by delivering it directly to the Regulated Person, by messenger or by sending it by registered mail addressed to the Person to their latest residence or business address shown in the records of the Bourse;~~
- ~~(c) — any document required to be served on an Approved Person who is located outside of Canada may be served on the Approved Participant or, as the case may be, on a person who is a resident of Québec and has appointed as agent for the service of process with respect to any Notice of Proceedings or other document that the Bourse may serve on that Regulated Person.~~
- ~~(i) — If it is not possible to serve Disciplinary Complaint (Plainte Disciplinaire) means a document in accordance with the requirements of paragraph (b), the disciplinary complaint filed by the Bourse against one or more Regulated Persons.~~

~~**Document** (Document) means, without limitation, files, books, registers, accounts, data, records, whatever their storage medium and whatever the means by which they may use be accessed, including all books of accounts, securities, documents, banking and investment account records, trading and supervisory records, client files and records, accounting and financial statements, audio and video recording, minutes, notes and correspondence, whether written, electronically stored or recorded by any other manner of service means.~~

~~**Immediate Family Members** (Membres de la Famille Immédiate) means, with respect to an individual, that is likely to bring individual's spouse (including common-law spouse), parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, and anyone (other than an employee of either the document to individual or the attention individual's immediate family member) who shares the individual's home.~~

~~**Industry Representative** (Représentant du Secteur) means a Person who is, or has been, a director, Officer or partner of the Person an Approved Participant.~~

(ii) ~~— An affidavit signed by an employee or representative of the Bourse attesting that the service requirements of paragraph (b) have been complied with is sufficient proof of service.~~

(d) ~~— The term “**Member** (Membre) means an individual whom the Secretary has selected to sit on a Disciplinary Committee under Article 4.600 and who has accepted that selection.~~

Notice of Proceedings (Avis de Procédure) means a notice sent by the Bourse to a Respondent under Article 4.202.

Party (Partie) means, with respect to a given hearing, the Regulatory Division and each Respondent.

Qualified Lawyer (Avocat Qualifié) means a Person who has practiced law in the Province of Quebec for no fewer than 10 years and has relevant experience as the Bourse may determine.

Regulated Persons (Personne Réglementée) means all:

a. “**Approved Person**” also includes: Persons;

b. (i) ~~— The Approved Participants;~~

c. Designated Representatives appointed pursuant to Article 3.104;~~;~~ and

a. (ii) ~~— Partners and partners, shareholders, directors and Officers of Approved Participants and Related Firms.~~

Article 4.1900 — Obligation to Respond to Inspection

~~Approved Participants, their employees, and Approved Persons must comply with the obligation to provide information as set forth in this Chapter.~~

(a) ~~— Upon the request of the Regulatory Division or of one of its representatives, such Persons must provide without delay all information related to their business, Trades, positions or conduct as well as to the identity, business, Trades or positions of any of their customers and employees and customers of Persons for whom they provide account maintenance services. To this end, these Persons must submit and give to the Regulatory Division access to any records, registers, data, data bases, files, documents, papers and information for examination, and allow the Regulatory Division or its representative to obtain a copy thereof on demand.~~

(b) ~~— For the purposes of any investigation or examination, the Regulatory Division or its representative may obtain such information from any source whatsoever, including any of the customers of any Approved Participants.~~

(c) ~~— The Regulatory Division may at any time make available to any other exchange or securities commission or similar authority any report or information of the sort described in this Article. For that purpose, the Regulatory Division may, on behalf of the Bourse, enter into agreements with any Person or entity, in Québec or outside of Québec, for the sharing of information.~~

~~(d) — The obligation to inform extends to Officers, partners, directors, employees and auditors of any Approved Participant and also entails the obligation to appear before the Bourse and provide testimony at the time and place indicated by the Regulatory Division.~~

~~(e) — **Regulatory Division** (Division de la Réglementation), for the purposes of Part 4 of the Rules, includes employees of the Regulatory Division or agents acting on behalf of the Regulatory Division.~~

Respondent (Intimé) means a Regulated Person subject to a proceeding under Part 4 of the Rules.

Secretary (Secrétaire) means the individual appointed under Article 4.601.

Securities Regulator (Autorité en Valeurs Mobilières) means a securities commission, securities regulatory authority or similar organization.

Article 4.2 Jurisdiction

(a) The Bourse has jurisdiction over all Regulated Persons in the conduct of its regulatory functions.

(b) Part 4 of the Rules sets out the powers of the Bourse to carry out its functions pursuant to Article 2.101, and the rights and obligations of Regulated Persons with respect to such regulatory functions.

(c) A Person who has ceased to be a Regulated Person shall remain subject to the Bourse’s jurisdiction as though they were a Regulated Person, but no proceedings shall be commenced under Part 4 of the Rules against a former Regulated Person unless a Notice of Proceedings has been served upon that former Regulated Person no later than five years from the date upon which they ceased to hold that status.

Article 4.3 Meaning of “in writing”

The phrase “in writing” and similar phrases when used in this Part 4 includes transmission by electronic means.

Chapter B - Conduct of Regulatory Activities

Article 4.100 Request for Information

(a) In connection with the exercise by the Bourse of its duties pursuant to Article 2.101, the Regulatory Division may request Documents or information, in writing or otherwise, from any Person, including a client of an Approved Participant.

(b) The Regulatory Division can request Documents and information as follows:

(i) for the Regulatory Division to carry out its duties pursuant to Article 2.101 and ensuring that the supervision of the regulatory functions of the Bourse are carried out efficiently and fairly in accordance with Article 2.100;

(ii) when the Bourse receives a request in connection with an investigation being carried out by any exchange, self-regulatory organization, securities commission or any similar authority, to the jurisdiction of which the Approved Participant is subject in any manner or with which the Bourse has entered into an agreement pursuant to Article 4.105 and subject to all applicable legislation relating to the protection of personal information; or

(iii) as may otherwise be authorized or required by law.

Article 4.101 Obligation to respond and cooperate

(a) Regulated Persons shall provide Documents and information as requested under Article 4.100, and shall fully cooperate in the manner determined by the Regulatory Division.

(b) All Regulated Persons shall:

(i) promptly, fully and truthfully cooperate with the Regulatory Division, including by replying to all requests made, submitting and allowing free access to the Regulatory Division to any Document or information;

(ii) give free access to and provide any Documents and information, in their possession or under their control, that the Regulatory Division may require, regardless of the nature of the medium and the form in which such information, register, data, file, documents or exhibit can be accessed;

(iii) provide, on demand, copies of Documents and information, in the manner and form required by the Regulatory Division, including in recorded form or electronically; and

(iv) for purposes of Article 4.100(b)(ii), submit the requested information directly to the requesting exchange, self-regulatory organization, securities commission or any similar authority, in the form and manner prescribed in the request.

(c) Approved Participants must make reasonable efforts to ensure the cooperation, in connection with the exercise by the Bourse of its authority under Part 4 of the Rules, of any Person over which they have any control or direction or with which they are in a business relationship, including their clients.

(d) Compliance with the provisions of this Article shall not create any liability towards any other Approved Participant, employee of an Approved Participant, Approved Person, or client.

Article 4.1901 — Reserved

Article 4.1902 — Special Investigations

Article 4.102 Failure to respond or cooperate

Without in limitation to any way other recourse available to the Bourse under the Regulations of the Bourse or applicable law, any Regulated Person who fails to comply with their obligations under this Chapter may be subject to proceedings under this Part 4.

Article 4.103 Conduct of investigations

(a) The Regulatory Division may investigate any possible violation of any of the Regulations of the Bourse.

(b) In the course of an investigation and in accordance with Article 4.100, the Regulatory Division may require any Person to provide it with any Document or information that the Regulatory Division deems relevant to the investigation. Any such Person shall:

(i) comply, in accordance with Article 4.101, with a request under paragraph (a) within the time prescribed in the request; and

- (ii) appear in person for an interview with the Regulatory Division, or by any other means determined by the Regulatory Division, to answer questions from the Regulatory Division. This interview may be transcribed or recorded electronically, on audiotape or videotape, as determined by the Regulatory Division;
- (c) A Person whom the Regulatory Division has informed of the conduct of an investigation shall not conceal or destroy any information, record, data, file, document, exhibit or object thing that contains information that may be useful to the investigation, or request or encourage another person to do so.
- (d) Any Person responding to a request in the course of an investigation pursuant to this Article may be assisted by legal counsel. The Regulatory Division may, at its discretion, allow a representative of the Approved Participant to be present during an interview. The presence of legal counsel or a representative of the Approved Participant at an interview conducted by the Regulatory Division must not cause prejudice to the conduct of the investigation.
- (e) All requests, Documents and information pertaining to an investigation shall be treated as confidential and any Person who receives a request under this Article, who participates or assists in the course of an investigation, shall not disclose any information in relation to the investigation except:
- (i) to legal counsel providing assistance in the course of the investigation;
 - (ii) to a Person responsible for compliance or supervision with the Approved Participant;
 - (iii) to a representative of the Approved Participant for purposes of supervision or to inform a partner, director or officer of the Approved Participant;
 - (iv) as required by law; or
 - (v) where the Regulatory Division provides a written authorization to disclose following a request made.
- (f) Failure to comply with any provision of this Article shall be deemed a violation of Article 4.101.
- (g) When a Person fails to respond to a request in accordance with this Article, the Bourse may apply to the Financial Markets Administrative Tribunal constituted under the Act respecting the regulation of the financial sector (Quebec) for an order directing that person to comply with the request.

Article 4.104 Special examinations and investigations

Without limiting the powers conferred upon the ~~personnel of the Bourse by Article 4.1, Regulatory Division under this Part,~~ the Special Committee or the Vice-President of the Regulatory Division may in their absolute discretion, at any time, direct a special examination or investigation ~~to be made~~ in respect of any matter coming under the Regulatory Division's jurisdiction, including without limitation the conduct, the business or affairs of an Approved Participant or an Approvedany Regulated Person.

Article 6.200 — Summary Proceedings

~~If, following an examination or investigation or by reason of any information otherwise obtained by the Bourse, it appears that circumstances so warrant, the Special Committee may proceed by way of summary proceedings in accordance with the provisions of Article 4.401 and following.~~

Article 6.202 — Failure to Respond

~~Any Approved Participant or Approved Person who refuses or neglects to provide information in the manner prescribed in this Chapter or who fails to attend a hearing after having been given notice thereof, may be suspended without any notice, hearing or formality by the Special Committee until the required information has been provided or an attendance made as set out in the summary proceedings provided for in Article 4.401 and following.~~

Article 6.204 — Costs and Expenses

~~The costs and expenses paid or incurred by the Regulatory Division in connection with any examination or investigation instituted pursuant to the provisions of Article 4.1 or Article 4.3 and all proceedings relating thereto or steps taken as a result thereof shall be a debt owed to the Bourse by the Approved Participant or Approved Person who must pay the amount thereof upon demand.~~

Article 4.105 Information Requests by Other Authorities **sharing**

~~Upon request from~~ The Regulatory Division may, on behalf of the Bourse, enter into agreements with any exchange, central clearing counterparty, self-regulatory organization, securities commission or any similar regulator, financial intelligence or law enforcement agency or authority, to whose jurisdiction the Approved Participant is subjected in any manner or with whom the Bourse has entered into an agreement for the sharing of information, to provide information in connection with an investigation being carried out by such organization and subject in Québec or elsewhere, to collect and share information. Subject to the legislation relating to the protection of personal information, each Approved Participant must submit the requested information directly to the requesting organization, in the form and manner prescribed by that organization, including electronically. the Regulatory Division may at any time make available to such Persons any report, Document or information described in such agreements or upon request, pursuant to Article 4.100 (b).

Chapter B — Reserved

Article 4.106 Costs and expenses

The following shall constitute a debt owed to the Bourse by the Regulated Person, who must pay the amount thereof upon demand:

- (a) all costs and expenses paid or incurred by the Regulatory Division, including professional fees, in connection with any investigation carried out or any proceedings initiated under Part 4 of the Rules; and
- (b) any amount charged by the Regulatory Division in accordance with the fee schedule of the Bourse in effect from time to time.

Chapter C — Disciplinary Proceedings

Article 4.200 Disciplinary Proceedings

~~Article 6.200~~ — Reserved

~~Article 6.201~~ — Complaints

The Bourse, ~~in accordance with the procedures provided in this Chapter,~~ may file a complaint can initiate proceedings against an Approved Participant or an Approved Regulated Person under Part 4 of the Rules for violation of:

~~(a) (a) any of the Regulations of the Bourse, including as provided under Article 7.2 (a), any act, conduct, practice or proceeding unbecoming an Approved Participant or an Approved Person of the Bourse, inconsistent with just and equitable principles of trade, or detrimental to the reputation of the Bourse or to the interests or the welfare of the public or of the Bourse, whether or not such act, conduct or proceeding is related to dealings or Transactions on the Bourse.~~

~~(b) — The Bourse may also file a complaint described in paragraph (a) against a former Approved Participant or Approved Person provided an originating notice is served on such Person within thirty six (36) months from the date upon which the Person ceased to be an Approved Participant or Approved Person.~~

~~(b) (c) — The Bourse shall commence and administer a disciplinary proceeding in accordance with the provisions under this Chapter.~~

~~(c) This provision is in addition to the powers that the Bourse may hold and choose to exercise pursuant to any powers that may be delegated by a securities commission.~~

~~Composition~~ Sub-part 1: Proceedings

Article 4.201 Service of documents

~~Article 6.202~~ — Any document required to be served on the Disciplinary Committee

~~(a) — A committee known as the Disciplinary Committee is constituted pursuant to the provisions of this Article to hear complaints brought under Article 4.201, as well as to accept or reject offers of settlement pursuant to Article 4.301 and following.~~

~~(b) — The Disciplinary Committee is comprised of three Persons named by the Vice President, Legal Affairs (Derivatives), who shall select two of them among the Persons mentioned in sub-paragraph (a) of Article 4.203 or among the members of the Special Committee, and one among Persons mentioned in sub-paragraph (b) of Article 4.203.~~

~~Article 6.203~~ — Members of the Disciplinary Committee

The Bourse maintains a list of persons eligible to sit on a Disciplinary Committee. This list and any change thereto must be approved by addressed to the Special Committee.

The list shall consist attention of:

~~(a) — Individuals:~~

- ~~(i) Who are directors, officers or partners of Approved Participants; or~~
- ~~(ii) Who are retired from the securities industry Chief Legal Officer, and who were previously directors, officers or partners of an Approved Participant.~~
- ~~(b) At least two (2) individuals who are related neither to an Approved Participant, nor delivered to the Bourse.~~

~~Article 6.204~~ — Conflict of Interest

~~(a) Before a hearing, each Person email address designated to hear the case must make a solemn affirmation to the effect that: by the Bourse.~~

- ~~(a) to the person's knowledge, there is no legitimate grounds for that person's recusal as provided in paragraphs 1 to 6 of Article 202 or in Article 203 of the *Code of Civil Procedure*; and~~
- ~~(b) that person will not reveal or make known, without being authorized by law, anything whatsoever of which he or she takes cognizance in the performance of the person's duties.~~

~~Article 3.0~~ — Penalties

~~(b) (a) In finding any Any document required to be served on any Person other than the Bourse must be served by:~~

- ~~(i) delivering it directly to the Person or their legal counsel;~~
- ~~(ii) in the case of an individual, delivery to an adult person at the individual's residence, place of employment or place of business or the place of business of the party's legal counsel or agent;~~
- ~~(iii) in the case of a Person that is not an individual, delivery to a director or officer, or other person holding or exercising, or appearing to hold or exercise, managerial authority at the Person's place of business; or~~
- ~~(iv) in all cases, either :~~
 - ~~(i) by registered mail addressed to the Person to their last known address; or~~
 - ~~(ii) by electronic means to the Person's last known email address;~~
- ~~(v) If none of the foregoing methods are possible, the Bourse may effect service by any other means that is likely to bring the document to the attention of the Person.~~

~~(c) An affidavit signed by an employee or representative of the Bourse attesting that the foregoing service requirements have been complied with is sufficient proof of service.~~

~~(d) A Foreign Approved Participant shall ensure that the appointment of an agent for the service of process under Article 3.3 remains valid for so long as the Foreign Approved Participant maintains that status and for a period of no fewer than five years thereafter. A Foreign Approved Participant ~~or shall~~ immediately notify the Bourse of any change in their Agent for Service or the Agent for Service's contact information.~~

(e) Any document required to be served on a Foreign Approved Participant may be served on the Foreign Approved Person guilty pursuant to a complaint therein Participant or on its Agent for Service.

(f) Service made, or at the address of a Regulated Person or an Agent for Service (as the case may be) most recently provided for that purpose to the Chief Legal Officer shall be deemed to be valid.

Article 4.202 Notice of Proceedings

(a) The Bourse shall serve a Notice of ~~some lesser~~ Proceedings to any Regulated Person against whom it has initiated disciplinary proceedings in accordance with Article 4.200. The Notice of Proceedings shall include the following, as applicable:

(i) a reference (which may be in the form of an excerpt) to any Rule that the Bourse alleges that the recipient of the Notice of Proceedings has violated, along with an indication of the URL address (Web address) where the full text of the Rules may be consulted;

(ii) an indication that the date, time, and location of the hearing will follow in a notice of hearing;

(iii) a statement to the effect that a Party at a hearing is entitled to:

a. represent themselves or be represented by legal counsel, as per Article 4.103(d);

b. a pre-hearing conference, as per Article 4.303; and

c. seek to negotiate a settlement with the Bourse, as per Article 4.210 and following;

(iv) a warning that failure to file a reply by the prescribed deadline may result in foreclosure from producing any evidence or witness at the hearing; and

(v) an indication that the evidence that will be presented at the hearing will be provided to the Respondent in accordance with the Regulations of the Bourse;

(vi) any other information or content that the Regulatory Division deems appropriate.

(b) Except when a Notice of Proceedings is being sent in connection with a summary proceeding under Chapter I, a Disciplinary Complaint shall be attached to the Notice of Proceedings and include:

(i) a summary statement of the facts alleged and intended to be relied upon by the Regulatory Division and the conclusions drawn by the Regulatory Division based on the alleged facts; and

(ii) the potential sanction(s) that may be imposed as a result of the allegations.

(c) This provision in no way affects the Bourse's ability to exercise any powers that a competent Securities Regulator may have delegated to it.

Article 4.203 Reply

(a) A Regulated Person having received a Notice of Proceedings shall reply thereto within 20 Business Days of such receipt. The reply, which shall be signed by the Regulated Person or an individual authorized to sign on the Regulated Person's behalf, shall contain the following:

- (i) individually, for each fact alleged in the Notice of Proceedings, an indication as to whether that fact is admitted or denied, and if denied, a summary of grounds for the denial;
 - (ii) a statement of the Person's position with regard to the conclusions drawn by the Bourse in the Disciplinary Complaint and a statement of any additional facts relied on by the Person;
 - (iii) a preliminary list of the witnesses that the Person intends to call at the hearing.
- (b) A Disciplinary Committee may accept as proven each fact alleged that is neither specifically admitted nor denied, or which are denied without the grounds being specified, under paragraph (a).
- (c) Failure to file a reply by the prescribed deadline shall result in:
 - (i) the Regulated Person being foreclosed from producing any witnesses or evidence at the hearing; and
 - (ii) the Regulatory Division holding a hearing without further notice.
- (d) Notwithstanding the foregoing, the Regulatory Division may halt the calculation of the deadline to reply set forth at paragraph (a) above if it determines, in its sole discretion:
 - (i) that a Regulated Person having received a Notice of Proceedings is engaged in good-faith negotiations with the Regulatory Division in view of concluding a settlement agreement;
or
 - (ii) that, for reasons of procedural fairness, there exist sufficient grounds to do so with respect to any Regulated Person that has received a Notice of Proceedings.

Article 4.204 Disclosure of evidence

- (a) As soon as is reasonably practicable, and no later than 20 Business Days before the commencement of the hearing on the merits, the Regulatory Division must disclose to, and make available for inspection by a Respondent any evidence in the Regulatory Division's possession or control that are relevant to the proceedings.
- (b) No later than 20 Business Days before the commencement of the hearing, each Party must, unless otherwise agreed to by the Parties or decided by the chair of the Disciplinary Committee, provide each other Party with:
 - (i) any evidence that the Party intends to produce at the hearing on the merits; and
 - (ii) a final list of all witnesses that they intend to call at the hearing.
- (c) The final list of witnesses, provided under subparagraph (b) (ii), shall include a summary of the evidence that the witness is expected to give at the hearing and in the case of an expert witness, a signed copy of the expert's report.
- (d) At a hearing, a Party may not produce any evidence or call any witnesses that were not disclosed in accordance with paragraph (b) above except with the authorization of the Disciplinary Committee.

(e) Notwithstanding the foregoing, a written report prepared by the Regulatory Division will only be disclosed in accordance with this Article if the Regulatory Division proposes to table that report at the hearing.

Sub-part 2: Settlement Agreements

Article 4.210 General Principles

(a) The Regulatory Division may, at any time after service of a Notice of Proceedings, negotiate a settlement agreement with any or all of the Respondents. All discussions in relation with an offer of settlement are without prejudice. No part of such a discussion must be used as evidence or referred to in any proceedings whatsoever.

(b) ~~included offence,~~A settlement agreement must be in writing, in the form prescribed by the Regulatory Division, signed by the Parties, and contain the following:

(i) the provisions of the Regulations of the Bourse that the Respondent acknowledges having breached;

(ii) a statement of the facts;

(iii) the disposition of the matter, including any sanction to be imposed and the amount of costs and expenses of the Bourse to be paid by the Respondent;

(iv) the Respondent's consent to the settlement;

(v) a provision that the settlement agreement and its terms are confidential, unless and until it has been accepted by the Disciplinary Committee;

(vi) a provision that the Respondent will not make any public statement that is inconsistent with the settlement agreement;

(vii) a provision that the Regulatory Division will not initiate any further action against the Respondent in relation to the matter addressed in the settlement agreement;

(viii) a statement that the settlement must be accepted by the Disciplinary Committee or the Vice-President, Regulatory Division, as the case may be, failing which it shall not bind the Parties involved and the Bourse shall proceed with the hearing of the matter;

(ix) a waiver by the Respondent of all rights under the Regulations of the Bourse to a hearing or to an appeal should the settlement agreement be accepted in accordance with Article 4.211; and

(x) any other provisions not inconsistent with the Regulations of the Bourse that the Parties agree to include in the settlement agreement.

(c) A settlement agreement may impose any obligations on a Respondent to which the Respondent agrees, whether or not they could be imposed by a Disciplinary Committee.

Article 4.211 Submission of Settlement Agreements

- (a) Each settlement agreement shall be submitted for acceptance to the Disciplinary Committee, which shall proceed with a hearing to accept or reject a settlement agreement.
- (b) Notwithstanding the foregoing, a settlement agreement may be accepted by the Vice-President, Regulatory Division, without a hearing, if the sanction to be imposed is a reprimand, the sanction provided in subparagraph 4.400 (a) (viii), a fine not exceeding \$5,000 in the aggregate, or a combination of the three.
- (c) If a settlement agreement is accepted under this Article 4.211:
- (i) the matter becomes final and the settlement constitutes a decision;
 - (ii) there can be no appeal of the matter;
 - (iii) the Secretary shall distribute a copy of the decision to the Respondents, file it in the records of the Bourse and make it available to the public on the website of the Bourse;
 - (iv) the Disciplinary Committee or the Vice-President, Regulatory Division (as the case may be) must give written reasons supporting the decision; and
 - (v) the decision accepting the settlement agreement shall refer to the existence of any previous, rejected settlement agreement entered into between the Regulatory Division and that Respondent related to the same proceedings, without describing the reasons for which it was rejected.
- (d) If a settlement agreement is rejected, the Bourse must proceed with the hearing of the matter unless the Parties agree to negotiate a new settlement agreement. Any subsequent settlement agreement shall be submitted to a Disciplinary Committee that includes no Member who was a Member of the Disciplinary Committee that rejected the previous settlement agreement.

Chapter D — Hearing

Article 4.300 General Principles

- (a) Part 4 shall be interpreted and applied to secure a fair hearing and just determination of a proceeding on its merits as well as the most expeditious and least expensive conduct of the proceeding.
- (b) No proceeding, document, decision or hearing in a proceeding is invalid by reason of a defect or other irregularity in form.
- (c) Subject to a requirement under Part 4 of the Rules, a Disciplinary Committee has authority to control the process of a proceeding before it and may exercise any of its powers on its own initiative or at the request of a Party.
- (d) At the request of a Party, a Disciplinary Committee may provide for any procedural or evidentiary matter that is not provided for under Part 4 of the Rules by analogy thereto or by reference to the rules of procedure of another self-regulatory organization or professional association, or to the provisions of the *Code of Civil Procedure (Quebec)* or the *Civil Code of Québec*.

(e) The Secretary shall be responsible for the administration of a hearing in accordance with the provisions in this Chapter and Article 4.601.

Article 4.301 Notice of Hearing

(a) When the Regulatory Division determines that a hearing is required, the Bourse shall, at least 30 Business Days before the hearing, serve a notice of hearing on the Persons to whom the Notice of Proceedings was served.

(b) The notice of hearing shall include:

(i) the date, time and place of the hearing; and

(ii) a statement requiring the Person to attend the hearing, failing which the Disciplinary Committee may proceed with the hearing of the matter in that Person's absence.

~~or the Special~~ **Article 4.302 Public hearing**

(a) All hearings are held in public, except for those pertaining to settlement agreements and pre-hearing conferences.

(b) Notwithstanding the foregoing, the Disciplinary Committee hearing a matter may, on its own initiative or upon request by a Party, order that a hearing be held *in camera*, in part or in whole, or prohibit the publication or disclosure of specific information or documents, in the interest of good morals or public order, particularly to preserve confidential business information or privileged communications or to preserve an individual's privacy or reputation.

(c) The Secretary shall publish an announcement of a hearing on the website of the Bourse.

Article 4.303 Pre-hearing conference

(a) The chair of the Disciplinary Committee may, either on his own initiative or at the request of a Party, order a pre-hearing conference. The purpose of such a conference shall be to seek agreement between the Parties on any matter related to the proceedings such that their advancement or outcome be more just, harmonious or expeditious.

(b) The pre-hearing conference shall be chaired by the chair of the Disciplinary Committee formed to hear the matter, who may make any order related to the proceedings or the hearing to which the Parties both consent and that is not inconsistent with these Rules. The chair shall circulate the text of any such order for comment to both Parties before signing it, upon which it shall have binding effect and be filed with the Disciplinary Committee.

(c) The Secretary shall draft minutes of the pre-hearing conference, which the chair of the Disciplinary Committee shall sign.

Article 4.304 Hearing procedure

(a) A hearing may be held either in person or, if the chair of the Disciplinary Committee deems it more appropriate in the circumstances, by videoconference. In determining whether it is more appropriate that a hearing be held by videoconference, the chair of the Disciplinary Committee shall consider any representations made by any Party.

- (b) Each Respondent is entitled to be represented by legal counsel eligible to undertake such representation under the Act respecting the Barreau du Québec.
- (c) The Regulatory Division may call and question a Regulated Person who is alleged to have breached a provision of the Regulations of the Bourse, as well as any other witnesses it or another Party considers useful to have them give an account of the facts of which they have personal knowledge or produce any document relating to the matter, and that Person shall be obliged to answer all questions.
- (d) Prior to testifying before the Disciplinary Committee, an individual must make a solemn declaration to tell the truth, the whole truth and nothing but the truth.
- (e) At each hearing, the sequence of events shall be as follows:
- (i) the Regulatory Division shall make an opening address;
 - (ii) each Respondent may make an opening address;
 - (iii) the Regulatory Division shall present its evidence and call its witnesses;
 - (iv) each Respondent may cross-examine any witness called by the Regulatory Division;
 - (v) each Respondent may present its evidence and call its witnesses;
 - (vi) the Regulatory Division may cross-examine any witness called by a Respondent;
 - (vii) the Regulatory Division shall make a closing address; and
 - (viii) each Respondent may make a closing address.
- (f) The Secretary shall draft minutes of the hearing, which the chair of the Disciplinary Committee shall sign.
- (g) The Disciplinary Committee may admit as evidence any documentary proof without a witness if the Disciplinary Committee is of the opinion that the rights of cross-examination would not be affected.

Article 4.305 Failure to Appear

If a Respondent fails to appear at a hearing as specified in the notice of hearing, then with respect to that Respondent the Disciplinary Committee shall proceed with the hearing and disposition of the matter on the date and at the time and place set out in the Notice of Proceedings without further notice and in the absence of that Respondent, even if that Respondent has served a reply.

Chapter E — Decision

Article 4.400 Sanctions

- (a) Upon finding a Respondent guilty of one or more offences, the Disciplinary Committee may, with respect to each offence, impose any one or more of the following ~~penalties~~sanctions or Rulings:
- (i) ~~(i)~~ — a reprimand;
 - (ii) ~~(ii)~~ — disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the offence;

- (iii) a fine not exceeding ~~the greatest of~~ (a) \$5,000,000, (b) four times the profit realized, or (c) four times the amounts invested in the transaction or series of transactions;
- (iv) ~~(iii)~~—suspension or revocation of the Respondent's rights or privileges as an Approved Participant or Approved Person for such period and upon such conditions, including conditions of reinstatement, as the Disciplinary Committee may determine;
- (v) ~~(iv)~~—a prohibition ~~to obtain an~~ obtaining or surrendering any approval required under these Rules for the time and upon such conditions determined by the Disciplinary Committee, including the conditions for the release of such a prohibition. The Disciplinary Committee may also impose such a prohibition on any affiliated corporations or subsidiaries of the Respondent;
- (vi) ~~(v)~~—~~expulsion~~revocation of ~~the Respondent's Bourse Approval as an~~ Approved Participant;
- (vii) ~~(vi)~~—making restitution to any Person who has suffered a loss as a result of the Respondent's acts or omissions;
- (viii) ~~appointment of a Person under the jurisdiction of the Bourse~~monitor to exercise powers granted by the Disciplinary Committee, which may include monitoring an Approved Participant's business and affairs;
- (ix) ~~(vii)~~—an obligation, for an Approved Person, to take one or more courses ~~given by the CSI Global Education Inc. or to receive any other course~~training or education deemed appropriate; or
- (x) ~~(viii)~~—reimbursement in whole or in part of the costs and expenses (including professional fees) paid or incurred by the Bourse in connection with the ~~complaint~~Disciplinary Complaint and the matters out of which it arose including all investigations, hearings, appeals and other proceedings before or after the ~~complaint~~Disciplinary Complaint.

(b) ~~(b)~~—These ~~penalties~~sanctions and Rulings shall be in addition to such other action as the Bourse may take pursuant to any other provision of the Regulations of the Bourse.

Article 6.205—Costs and Expenses

~~Where the Regulatory Division conducts an investigation following a complaint that was made, or information that was provided by a Person under its jurisdiction and determines that the complaint or information was frivolous or unfounded, the Bourse may recover the costs of the investigation from that Person.~~

Article 4.207-4.250 Reserved **401 - Deliberations**

Article 4.251 — Notice of Proceeding

- (a) — The Bourse must serve an originating notice to any Person who is directly concerned whenever, as a result of an investigation or otherwise, it:
 - (i) — decides to initiate disciplinary proceedings pursuant to Article 4.201 and following;
 - (ii) — intends to deny granting an unconditional approval to a partnership or corporation as an Approved Participant or an unconditional approval of a Person;
 - (iii) — proposes to revoke, suspend or amend any of the rights or privileges of an Approved Participant, or of an Approved Person;
 - (iv) — proposes to exercise the powers delegated to it by a securities commission or other regulatory organization.
- (b) — The originating notice must contain:
 - (i) — a reference to the regulatory provisions governing the matter;
 - (ii) — a summary statement of the facts alleged and intended to be relied upon by the Regulatory Division and the conclusions drawn by the Regulatory Division based on the alleged facts;
 - (iii) — a statement of the intent of the Bourse to conduct a hearing of the matter on a date and at a place to be determined in the originating notice or, subsequently, in the notice of hearing;
 - (iv) — a reminder of the existence of Article 4.301 and following;
 - (v) — a warning that failure to file a reply within the prescribed delay may result in foreclosure from producing any witness at the hearing.
- (c) — A copy of the originating notice, together with proof of service, shall be filed with the Vice-President, Legal Affairs (Derivatives).

Article 4.252 — Reply

- (a) — A Person served with an originating notice must, within ten (10) business days from the date of service, serve to the Vice-President, Legal Affairs (Derivatives), a reply signed by such Person or by an individual authorized to sign on behalf of the Person.
- (b) — The reply must set out specifically for each fact alleged in the originating notice, whether such fact is admitted or denied, and contain a statement of the Person's position with regard to the conclusions drawn by the Bourse in the originating notice and a statement of any additional facts relied on by the Person.
- (c) — Failure to file a reply within the prescribed delay may result in foreclosure from producing any witness at the hearing.

Article 4.253 — Notice of Hearing

~~When by reason of the reply to the originating notice or for any other reason the Regulatory Division determines that a formal hearing is required, the Bourse shall proceed as follows:~~

- ~~(a) — Following a period of ten (10) business days for service of the reply, the Bourse shall serve a notice of hearing of at least ten (10) business days indicating the date, time and place of the hearing to the Persons to whom the originating notice was addressed.~~
- ~~(b) — The notice of hearing shall include a statement requiring the Person to attend the hearing, failing which the Disciplinary Committee may proceed with the hearing of the matter in that Person's absence.~~

Article 4.254 — Public Hearing

~~All hearings are held in public, except for those pertaining to offers of settlement presented pursuant to Article 4.301 and following, which shall only be held in public once such an offer of settlement has been accepted by the Disciplinary Committee; *provided however*, that the Disciplinary Committee hearing the matter may, on its own initiative or upon request, order that a hearing be held in camera, in part or in whole, or prohibit the publication or disclosure of specific information or documents, in the interest of good morals or public order, particularly to preserve confidential business information or privileged communications or to preserve an individual's privacy or reputation.~~

Article 4.255 — Hearing Procedure

- ~~(a) — Any Person on whom an originating notice was served and that Person's representatives is entitled to attend the hearing, in Person or, if necessary, by way of videoconference, for the purpose of hearing the evidence, cross-examining the witnesses presented by the Regulatory Division, presenting their own witnesses subject to the last paragraph of Article 4.252, and making representations to the Disciplinary Committee hearing the matter;~~
- ~~(b) — Such Person may be assisted by a lawyer at the hearing;~~
- ~~(c) — If a written report in respect of the matter has been prepared by the Regulatory Division and if the latter proposes to table such report at the hearing, a copy of such report must be given to the parties beforehand;~~
- ~~(d) — The Disciplinary Committee may admit as evidence any documentary proof without a witness if the Disciplinary Committee is of the opinion that the rights of cross-examination would not be affected; and~~
- ~~(e) — In the event of a guilty verdict in disciplinary matters, the parties are entitled to be heard on the penalty to be imposed, unless the Disciplinary Committee has previously ruled that representations on the penalty shall be made prior to its deliberations on the merits.~~

Article 4.256 — Testimony

~~Any Person required to testify before the Disciplinary Committee must make a solemn declaration.~~

Article 4.257 — ~~Obligation to Respond~~

~~The Regulatory Division has the right to question a Person who is subject to a complaint or who is accused of having breached a provision of the Regulations of the Bourse as well as to any other Person under its jurisdiction, and such Person shall be obliged to answer all questions.~~

Article 4.258 — ~~Failure to Appear~~

~~If a Person notified of the hearing fails to attend the hearing specified in the notice of hearing, the Disciplinary Committee may proceed with the hearing and disposition of the matter on the date and at the time and place set out in the notice of hearing without further notice, and in the absence of the Person, even if the Person has served a reply in accordance with Article 4.252.~~

Article 4.259 — ~~Deliberations of the Disciplinary Committee~~

~~The deliberations of the Disciplinary Committee hearing the matter must be made in the absence of any other Person.~~

The deliberations of the Disciplinary Committee must be made in the absence of any other Person.

Article 4.402 **Decision of the Disciplinary Committee**

~~(a) (a) The decision~~All decisions of the Disciplinary Committee must be made by majority vote of the Members and must be set forth in writing ~~and served to the Person concerned.~~

~~(b) (b) The Disciplinary Committee must~~ give the~~provide written~~ reasons supporting its decision.

~~(c) (c) A~~The Secretary shall:

~~give~~ notice of the decision ~~must be sent to the complainant, distributed to the Approved Participants, filed in the records of the Bourse~~each Respondent and ~~be made available to the public and the press.~~

~~(i) (d) — Notice of the decision must be given to such~~to any other Persons designated by the Disciplinary Committee hearing the matter;~~;~~

~~(e) — If an offer of settlement is rejected pursuant to Article 4.305, the reasons underlying such a decision by the Disciplinary Committee shall not be made public, but shall be made available to the members of the Disciplinary Committee to whom another offer of settlement would be presented.~~

~~(ii) —~~ Report file the decision in the records of the Bourse; and

~~(iii) —~~ make the decision available on the website of the Bourse (except in the case of a decision rejecting a settlement agreement).

Article 6.209 — A decision of the Disciplinary Committee ~~to the Special Committee~~

~~If no appeal has been brought at the expiry~~takes effect immediately upon the issuance of the ~~delay to appeal, the Disciplinary Committee~~written decision, unless otherwise specified in that has conducted the hearing ~~must report thereon to the Special Committee.~~

~~Chapter D — Settlements and Appeals~~

~~Article 6.212 — Reserved~~

~~Article 6.213 — Offer decision. Any fine, cost or other financial sanction is payable within 30 days of Settlement~~

~~The Regulatory Division may negotiate, at any time, an offer the date of settlement with any Person served with an originating notice.~~

~~Article 6.215(d) Form service of Settlement the written decision imposing it.~~

~~The offer of settlement must be in writing, in the form prescribed by the Regulatory Division, signed by the Person proposing the settlement, and contain the following:~~

~~(Chapter F - Review Under the Derivatives Act~~

~~Article 4.500 - Review by the Financial Markets Administrative Tribunal~~

- ~~A Party may submit~~
- ~~a) — the provisions of the Regulations of the Bourse that have been breached or not complied with, according to the Regulatory Division;~~
 - ~~(b) — a statement of the facts agreed upon by the Regulatory Division and the Person proposing the offer of settlement;~~
 - ~~(c) — the disposition of the matter, including any penalty to be imposed and the amount of costs and expenses of the Regulatory Division to be paid by the Person proposing the offer of settlement;~~
 - ~~(d) — the consent of this Person to the settlement;~~
 - ~~(e) — a statement that the settlement must be approved by the decision of a Disciplinary Committee or, in the cases provided for in Article 4.304, by the Vice President, Regulatory Division, failing which it shall not bind the parties involved, and the Bourse shall proceed with the hearing of the matter; and review in accordance with the *Derivatives Act* (Quebec).~~
 - ~~(f) — a waiver by the Person of all rights under the Regulations of the Bourse to a hearing or to an appeal should the offer of settlement be accepted by the Chapter G - Disciplinary Committee~~

~~Article 4.600 — Composition of Disciplinary Committee~~

~~(a) To be eligible to sit on a Disciplinary Committee, an individual must have been approved by the Special Committee. The Secretary shall maintain a list of such individuals. An individual's name shall be deleted from that list upon the instructions of either the individual or the Special Committee.~~

~~A Disciplinary Committee or, in the cases provided for in Article 4.304, by the Vice President, Regulatory Division.~~

~~Article 4.300 — Submission shall be composed of Offer Settlement~~

~~The offer of settlement must be submitted to the Vice President, Regulatory Division.~~

Article 4.301 — Acceptance of Offer of Settlement

An offer of settlement of a disciplinary matter may be approved by the Vice President, Regulatory Division when the penalty to be imposed is a reprimand, a fine not exceeding \$5,000, the penalty provided in sub-paragraph (a) (viii) of Article 4.205, or a combination of the ~~three~~. Upon submission of the offer, the Vice President, Regulatory Division must:

- (a) — accept the offer of settlement,
- (b) — reject the offer of settlement, or
- (c) — accept the offer with a lesser penalty than the Members, one agreed upon.

Article 4.302 — Rejection of Offer of Settlement

(b) In the event that an offer of settlement is rejected by of whom shall be a Qualified Lawyer who shall chair the Disciplinary Committee or by the Vice President, Regulatory Division, as the case may be, the Bourse must proceed with the hearing of the matter unless the parties involved agree to negotiate a new offer of settlement, and two of whom shall be Industry Representatives. None of the Members may be ineligible under Article 4.602.

Article 1.0 — Privilege

~~— All discussions in relation with an offer of settlement are without prejudice. No part of such a discussion must be used as evidence or referred to in any proceedings whatsoever.~~

Article 3.0 — Effect of Acceptance of an Offer of Settlement

In the event an offer of settlement is accepted by the Disciplinary Committee or, in the cases provided for in Article 4.304, by the Vice President, Regulatory Division:

- (a) — the matter becomes final and the settlement constitutes a decision;
- (c) (b) The Secretary shall be responsible for selecting the Members and shall inform the individuals selected in writing, who shall accept or refuse that selection within one Business Day. Upon receipt of a refusal or in the absence of a response within one Business Day, the Secretary shall promptly select another individual. Promptly after receiving acceptance from each individual selected, the Secretary shall notify the Regulatory Division and each Respondent of the composition of the Disciplinary Committee.
- (d) If it is impossible to form a Disciplinary Committee that complies with the composition requirements set forth in the preceding paragraph, the Secretary may disregard those requirements to the extent necessary to constitute the Disciplinary Committee.
- (e) The Disciplinary Committee shall remain constituted until such time as the proceedings for which it was constituted are definitely resolved and no longer susceptible to appeal. The deletion of the name of a Member from the list maintained under paragraph (a) above has no effect on their status as a Member of any existing Disciplinary Committee.
- (f) Upon accepting their appointment, each Member shall sign an acknowledgement and undertaking to be bound by the code of ethics for Disciplinary Committee Members then in effect.

Article 4.601 Secretary

(a) The Special Committee shall appoint the Secretary and may appoint any number of assistant secretaries. An assistant secretary may perform any function of the Secretary if the latter is unable or unwilling to do so. The Secretary and each assistant secretary shall remain in office until their resignation, removal or death.

(b) The Secretary:

- (i) selects Members for each Disciplinary Committee;
- (ii) schedules and arranges each hearing and pre-hearing conference;
- (iii) transmits documents to Members and the Parties;
- (iv) maintains a record and minutes of each hearing and pre-hearing conference;
- (v) transmits written decisions and reasons to the Parties;
- (vi) receives and processes applications for appeal to the Special Committee under Article 4.900; and
- (vii) performs any other duties assigned to the Secretary in these Rules or otherwise determined by a Disciplinary Committee or the Special Committee.

Article 4.602 Conflict of interest

(a) An individual is ineligible to act as a Member if the individual:

- (i) is, or has been, in the three years preceding the date of the relevant Notice of Proceedings, a member of the Special Committee;
- (ii) is or has been, in the three years preceding the date of the relevant Notice of Proceedings, a director, officer or partner of either the Bourse or of the Respondent (if the Respondent is not an individual), or any of their affiliated corporations or entities;
- (iii) has an Immediate Family Member who is or has been, in the three years preceding the date of the relevant Notice of Proceedings, a director, officer or partner of either the Bourse or any of its affiliated corporations or subsidiaries, or of a Respondent (if the Respondent is not an individual) or any of its affiliated corporations or subsidiaries;
- (iv) receives a consulting, advisory or other compensatory fee from the Bourse or any Respondent, other than as remuneration as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee, or the receipt of fixed amounts of deferred compensation for prior service with the Bourse or the Respondent that is not contingent on continued service;
- (v) is, with respect to any Respondent or any employee of the Regulatory Division, in one of the situations described at Articles 202 or 203 of the Code of Civil Procedure (with the necessary modifications); or

(vi) has or had another relationship to a Party, or is in any other situation, that may create a reasonable apprehension of bias.

(b) An individual who is selected for a Disciplinary Committee despite knowing that they are in one of the aforementioned situations shall decline the selection, advising the Secretary of the reasons therefor. A Member who enters, or learns that he is in, one of the aforementioned situations after accepting to sit on a Disciplinary Committee shall immediately notify the Secretary, who shall in turn notify the Special Committee. The Secretary shall also immediately notify the Special Committee if he is advised by any other Person that a Member is in one of the aforementioned situations.

(c) The Special Committee shall promptly consider the matter and determine whether to remove the Member (in which case it shall proceed as described in accordance with Article 4.603).

Article 4.603 Inability to Act

(a) Where, prior to a hearing being commenced, one or more Members are unable to act, the Secretary shall identify an equal number of new Members in accordance with the procedure and composition requirements set forth at Article 4.600.

(b) Where, after a hearing has commenced, one of the Members is unable to act, the two remaining Members may validly proceed with the hearing and render a decision on the conviction and the sanction, provided that all of the Parties consent. Failing such consent, the Disciplinary Committee shall be dissolved and a new hearing shall be held before a new Disciplinary Committee to be constituted by the Secretary in accordance with the procedure and composition requirements set forth at Article 4.600.

(c) Where, after a hearing has commenced, more than one Member is unable to act, the Disciplinary Committee shall be dissolved and a new hearing shall be held before a new Disciplinary Committee to be constituted by the Secretary in accordance with the procedure and composition requirements set forth at Article 4.600.

Chapter H - Minor violations

~~—Article 4.700 there can be no appeal of the matter;~~

~~(c) the disposition of the matter agreed upon in the settlement must be recorded in the permanent records of the Bourse; and~~

~~(d) a notice of the decision must be sent to the complainant, distributed to the Approved Participants, filed in the records of the Bourse and made available to the public and the press.~~

Fine for Minor Violation-

(a) (a) The Vice-President of the Regulatory Division may, in accordance with the procedure provided in Articles 4.310702 and following, for any violation appearing in the List of Fines for Minor Violations published on the website of the Bourse, impose a predetermined fine that cannot exceed \$50005,000 per violation, against an Approved Participant or an Approved Person. The violations included in the List of Fines for Minor Violations are:-

(i) (i) Incomplete or inaccurate report pertaining to the accumulation of positions for Derivative Instruments (Article 6.500 (a));

- ~~(ii)~~ ~~(ii)~~ — Exceeding position limits (Article 6.310);
- ~~(iii)~~ ~~(iii)~~ — Non-compliance with the time of market exposure (Article 6.205);
- ~~(iv)~~ ~~(iv)~~ — Failure to send a notice of non-compliance or a notice of exceeding position limits, within the prescribed time (Articles 3.105 and 6.500 (j));
- ~~(v)~~ ~~(v)~~ — Prohibited use of the "hidden volume" functionality (Article 6.204);
- ~~(vi)~~ ~~(vi)~~ — Granting unapproved access to the Electronic Trading System (Articles 3.4 (a) and 3.400).

~~(b)~~ ~~(b)~~ The Vice-President of the Regulatory Division, may impose a fine for any violation included in the List of Fines for Minor Violations against a former Approved Participant or former Approved Person, on the condition that a notice of minor violation is served within the delay provided in article 4.201 ~~(b2)~~ ~~(c)~~.

~~(c)~~ ~~(c)~~ Notwithstanding the possibility of imposing a fine for a minor violation included in the List of Fines for Minor Violations in accordance with paragraphs a) and b), the Vice-President of the Regulatory Division, may, at his discretion, choose to file a complaint in accordance with the procedure provided in Articles 4.251 and following under Chapter C, Part 4 of the Rules.

Article 4.701 Notice of Minor Violation

~~(a)~~ ~~(a)~~ Before imposing a fine, the Vice-President of the Regulatory Division shall serve a notice of a minor violation to the Approved Participant or the Approved Person.-

~~(b)~~ ~~(b)~~ The notice of minor violation shall:

- ~~(i)~~ ~~(i)~~ — Be in writing;
- ~~(ii)~~ ~~(ii)~~ — Be signed by the Vice-President of the Regulatory Division;
- ~~(iii)~~ ~~(iii)~~ — Contain the following items for each violation:-
 - ~~(1)~~ ~~(1)~~ — the alleged violation;
 - ~~(2)~~ ~~(2)~~ — the regulatory provision or provisions related to the alleged violation;
 - ~~(3)~~ ~~(3)~~ — the date of the violation;
 - ~~(4)~~ ~~(4)~~ — a summary statement of the facts on which the violation is based;
 - ~~(5)~~ ~~(5)~~ — the amount of the fine for the violation;
 - ~~(6)~~ ~~(6)~~ — the delay of time provided by Article 4.310 702 during which the Approved Participant or the Approved Person may submit observations or serve a request for the matter to be heard by a Disciplinary Committee;
 - ~~(7)~~ ~~(7)~~ — a notice that failure to submit observations or a response results in foreclosure from contesting any fine to be imposed.

Article 4.702 Observations or Challenge from the Approved Participant or the Approved Person
Contestation

~~(a) (a)~~ Once a notice of minor violation has been served, the Approved Participant or the Approved Person may, within ~~twenty (20) business days~~ 20 Business Days:

~~(i) (i)~~ Submit observations in writing to the Vice-President of the Regulatory Division. These observations must ~~confirm~~ admit or ~~refute~~ deny the facts. ~~As part of the process to impose a fine for a minor violation, a defense of due diligence is neither allowed nor receivable; or-~~

~~(ii) (ii)~~ Contest the notice of minor violation by ~~serving~~ notifying the Vice-President of the Regulatory Division ~~with a request of their desire~~ for the matter to be heard by a Disciplinary Committee in accordance with ~~Articles 4.202 and following~~ Chapter G, which ~~request~~ notice must be accompanied by a ~~response~~ reply as described in Article 4.252 ~~203~~. In this instance, the notice of minor violation is deemed a complaint under Article 4.201 ~~200~~.

~~(b) (b)~~ A defense of due diligence is neither allowed nor receivable in connection with the process to impose a fine for a minor violation.

~~(c)~~ If observations are not submitted and the notice of minor violation is not contested within the prescribed time, the Approved Participant or the Approved Person will be deemed to have agreed to pay the fine and to have relinquished all rights under the Regulations of the Bourse concerning the hearing and contesting the violation.

Article 4.703 Notice of Fine for Minor Violation

~~(a) (a)~~ Upon expiry of the ~~delay~~ deadline provided for in Article 4.310 ~~702~~, and after having considered the observations of the Approved Participant or the Approved Person, if any, the Vice-President of the Regulatory Division may impose the fine prescribed in List of Fines for Minor Violations on this Approved Participant or this Approved Person by serving a notice of a fine for violation or decide not to impose a fine for minor violation. In this case, a notice advising of the closing of the matter will be sent to the Approved Participant or the Approved Person.

~~(b)~~ The decision by the Vice-President of the Division to impose a fine for minor violation may be appealed to the Special Committee in accordance with Articles 4.351 and following. A defense of due diligence is neither allowed nor receivable during the appeal before the Special Committee.

~~(b) (c)~~ The fine for minor violation imposed against the Approved Participant or the Approved Person is payable within the ~~ten (10) business days~~ 10 Business Days following service of the notice of fine for minor violation.

Article 4.704 Publication of Information Regarding Fines Imposed for Minor Violations

The Regulatory Division will make information publicly available on the website of the Bourse, on an anonymous basis, regarding fines imposed for minor violations, including the nature of the minor violations, the fines imposed during the period as well as any other information that the Regulatory Division considers relevant.

Chapter I - Summary Proceedings

Article 4.313-4350 Reserved 800 Grounds for Summary Proceedings

(a) Where the Vice-President of the Regulatory Division determine that the methods or practices adopted by an Approved Participant or Approved Person are detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public, the Bourse shall serve a notice of hearing on the Respondent in accordance with Article 4.802. Such methods or practices may include, without limitation:

- (i) the Approved Participant or Approved Person is convicted of a crime or of an infraction in connection with trading in Securities or Derivative Instruments or of an offence under any statute or regulation applicable to Securities or Derivative Instruments;
- (ii) the Approved Participant or Approved Person refuses or neglects to provide Documents and information or to appear in the manner prescribed by the Regulations of the Bourse;
- (iii) the financial or general condition of the Approved Participant or Approved Person is such that it is or may become detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public; or
- (iv) the system of book or record keeping used by the Approved Participant is unsatisfactory.

(b) The Vice-President of the Regulatory Division may, pending the hearing, recommend to the Special Committee that it takes action by way of summary proceedings in accordance with this Chapter.

(c) The Vice-President of the Regulatory Division may also recommend to the Special Committee that it takes action by way of summary proceedings in accordance with this Chapter if:

- (i) the Approved Participant or Approved Person fails to pay on demand any assessment, fee or charge which has become due to the Bourse pursuant to the Regulations of the Bourse or its list of fees, or any other indebtedness to the Bourse, such as a fine, or the costs of a hearing, investigation or surveillance operation; or
- (ii) the Approved Participant or the Approved Person fails to meet or admits or discloses their inability to meet their liabilities or obligations to the Bourse, another Approved Participant or to the public.

Article 4.801 Summary Actions

(a) Notwithstanding anything to the contrary contained in any other provision of the Regulations of the Bourse, in any of the circumstances described at subparagraph 4.800 (a), the Special Committee may impose without any notice, hearing or formality whatsoever, one or more of the following orders:

- (i) the suspension of an Approved Participant or Approved Person, which may be limited to a suspension of specific rights and privileges, for a period and upon any terms and conditions determined by the Special Committee;
- (ii) the amendment of the terms and conditions of a previously granted Bourse Approval;
- (iii) the imposition of any terms and conditions that must be satisfied by a Person to continue as an Approved Participant or Approved Person, which may include, without limitation:

- (1) restricting one or more sectors of the Approved Participant's operations or;
 - (2) requiring the presence of employees or representatives of the Bourse at the Approved Participant's premises for the surveillance of its trading activities on the Listed Products; or
 - (3) requiring the mailing of notices to the Approved Participant's clients, the contents of which are to be specified by the Regulatory Division.
- (b) All orders imposed by the Special Committee under subparagraph (a) are interim orders that take effect immediately upon delivery of the notification to the Approved Participant or Approved Person and remain in force until a hearing is held, at which time any such order may be confirmed, set aside or modified.
- (c) In any of the circumstances described at paragraph 4.800 (c), the Special Committee may, without any notice, hearing or formality whatsoever:
 - (i) declare an Approved Participant or Approved Person a Defaulter, upon which the Approved Participant or the Approved Person shall automatically be suspended; and
 - (ii) within 10 Business Days after being declared a Defaulter, or such other period as the Special Committee may decide, suspend or revoke the Bourse Approval of an Approved Participant or Approved Person if the cause of such default is not remedied to the satisfaction of the Special Committee.
- (d) No Approved Participant shall allow a Person declared as a Defaulter to conduct any trading activities on the Bourse without the written consent of the Special Committee.

Article 4.802 Summary Proceedings Hearing

- (a) Unless the Parties agree to an extension of the period or to a waiver of the hearing, the Bourse shall, at least 10 Business Days before the hearing, serve a notice of hearing on the Respondent.
- (b) The hearing procedures applicable to a disciplinary proceeding shall, with the necessary modifications, apply to any hearing under this Part.
- (c) Upon consideration of the grounds for proceedings invoked under Article 4.800, the Disciplinary Committee may render a decision to:
 - (i) set aside or modify an interim order imposed by the Special Committee under Article 4.801 (b);
 - (ii) suspend an Approved Participant or Approved Person, which may be limited to a suspension of specific rights and privileges, for a period and upon any terms and conditions determined by the Disciplinary Committee;
 - (iii) revoke a Bourse Approval;
 - (iv) amend of the terms and conditions of a previously granted Bourse Approval; or
 - (v) impose any terms and conditions that must be satisfied by a Person to continue as an Approved Participant or Approved Person, including, without limitation:

- (1) restricting one or more sectors of the Approved Participant's operations; or
- (2) requiring the presence of employees or representatives of the Bourse at the Approved Participant's premises for the surveillance of its trading activities on the Listed Products; or
- (3) requiring the mailing of notices to the Approved Participant's clients, the contents of which are to be specified by the Regulatory Division.

Chapter J - Appeal before the Special Committee

PART 4— Article 4.900 Jurisdiction of the Special Committee-

An appeal from a decision of the Regulatory Division (other than of a Disciplinary Committee, any other committee of the Bourse or the staff of the Bourse) may be brought before the Special Committee. ~~The members of the Disciplinary Committee who participated to the hearing of the case in the first instance, cannot participate to the hearing of the appeal by the Special Committee.~~

Article 4.901 Time to Appeal-

The appeal must be brought within ~~ten (10) business days~~ 10 Business Days of the service of the decision.

Notice of Article 4.902 Application for Appeal-

Any appeal of a decision ~~of the Disciplinary Committee, of another committee of the Bourse, or of a member of the staff of the Bourse~~ referred to at Article 4.900 must be brought by filing a sending written notice ~~of appeal with~~ to the Vice-President, Chief Legal Affairs (Derivatives) Officer. The notice must contain a brief statement of the grounds for appeal ~~and be served upon the parties.~~

Article 4.903 Security for Costs-

When the appeal appears abusive, dilatory, frivolous, or for some other special reason, the Special Committee may, upon request, order the appellant to furnish, within a prescribed period, Security to guarantee, in whole or in part, the payment of the costs of appeal, the amount of the fine and the costs and expenses listed in ~~Article 4.206, Article 4.106~~, if the appeal is dismissed.- If the appellant does not furnish Security within the prescribed period, the Special Committee may dismiss the appeal.

Article 6.228— Appeal Briefs

- ~~(a) Within fifteen (15) business days of the filing of the notice of appeal, the appellant must file with the Vice-President, Legal Affairs (Derivatives), nine (9) copies of the appellant's brief containing the appellant's arguments, and must serve one (1) copy on the respondent.~~

- (b) ~~Within fifteen (15) business days of the receipt of the appellant's brief, the respondent must file with the Vice-President, Legal Affairs (Derivatives), nine (9) copies of the respondent's brief and must serve one (1) copy on the appellant.~~
- (c) ~~If the appellant fails to file the brief within the above-mentioned period, the appeal may be dismissed upon application to the Special Committee.~~

Article 4.904 Stay of Decision-

Unless otherwise ordered by the Special Committee, an appeal suspends the execution of the decision of the ~~Disciplinary Committee or of the personnel of the Bourse when such decision imposes a penalty other than those provided for sub-paragraphs (a) (iii), (iv), (v) and (vi) of Article 4.205;~~Regulatory Division provided however, suspension of the rights of an Approved Participant or Approved Person, prohibition to obtain Bourse Approval, expulsion of an Approved Participant and revocation of Bourse Approval is executory, notwithstanding appeal, unless otherwise ordered by the Special Committee.

Article 4.905 Basis of the Appeal-

The appeal is argued on the basis of the file ~~in the first instance and of the appeal briefs;~~ provided however that, in exceptional circumstances and if justice so requires, the Special Committee may authorize the presentation of additional evidence.

Article 4.906 Applicable Procedures

Subject to the provisions in this Chapter, ~~Article 4.253 and following~~the procedures applicable to a hearing before a Disciplinary Committee shall apply to any hearing before the Special Committee, with the necessary ~~changes~~modifications.

Article 4.907 Disqualification

- (a) ~~No officer of the Bourse is eligible to sit at a hearing in first instance or on appeal.~~
- (b) ~~A member of the Special Committee who has any grounds for recusal pursuant to Article 4.204~~Article 4.602 (other than those set forth in subparagraph 4.602 (a) (i)) is not eligible to sit in appeal from a decision.

Appeal Article 4.908 Review Under the Derivatives Act

~~Any appeal from~~A Party may submit a decision of the Special Committee ~~is governed by for review in accordance with~~ the Derivatives Act, ~~as amended from time to time.~~

Chapter — Summary Proceedings

Article 9.0 ~~Reserved~~

Article 10.0 ~~Summary Suspension~~

~~Where the Special Committee deems it necessary for the protection of the public and the reputation of the Bourse, it may suspend an Approved Participant or suspend or revoke Bourse Approval of any Person without following the procedures set forth in Article 4.251 and following, provided that the~~

~~Bourse issues forthwith a notice of hearing and convenes a hearing within the following fifteen (15) business days. The Special Committee may, without notice, take such action including, whenever the circumstances enumerated in Article 4.402 to Article 4.406 occur.~~

Article 12.0 ~~——~~ Grounds (Quebec), except for Summary Action

~~If any Approved Participant or Approved Person is convicted of a crime or of an infraction in connection with trading in Securities or Futures Contracts or of an offence under any statute or regulation applicable to Securities or Derivative Instruments, or if any Approved Participant or Approved Person has their registration or license under any such statute or regulation suspended or revoked, the Special Committee may, without any notice, hearing or formality whatsoever, suspend the Approved Participant or Approved Person and withdraw Bourse Approval of such Approved Person pending the completion of all appeal proceedings relating to such conviction, suspension or revocation; *provided however*, if no appeal is launched within the prescribed period from such conviction, suspension or revocation, or if such a conviction, suspension or revocation is made or upheld on appeal, the Special Committee may thereupon, without any notice, hearing or formality whatsoever, suspend or expel such Approved Participant and suspend or revoke Bourse Approval of such Approved Person.~~

Article 14.0 ~~——~~ Additional Grounds for Summary Action

~~If any Approved Participant or Approved Person is suspended, expelled or has their approval or permit suspended, withdrawn or revoked by another exchange or self-regulatory organization, the Special Committee may suspend or expel such Approved Participant or suspend or revoke Bourse Approval of such Approved Person, provided that the Bourse shall forthwith issue a notice of hearing and convene a hearing within the following fifteen (15) business days.~~

Article 16.0 ~~——~~ Failure to Provide Information or Appear

~~If any Approved Participant, employee of an Approved Participant or Approved Person refuses or neglects to provide information or to appear in the manner prescribed by the Regulations of the Bourse, the Special Committee may without any notice, hearing or formality whatsoever, suspend the Approved Participant or Approved Person until the information has been provided or the appearance has been made.~~

Article 18.0 ~~——~~ Summary Actions Relating to Financial Condition

- ~~(a) —— Notwithstanding anything to the contrary contained in any other provision of the Regulations of the Bourse, the Special Committee may impose without any notice, hearing or formality whatsoever, one or more of the interim orders described in paragraph (b), if following any inspection or investigation with respect to the business, affairs or conduct of an Approved Participant or Approved Person whether made pursuant to the Regulations of the Bourse, the applicable legislation or otherwise, or if, on the basis of any reliable information otherwise obtained by or given to the Regulatory Division, it is established that:~~
- ~~(i) —— such Approved Participant is insolvent or does not have the risk-adjusted capital required under the Regulations of the Bourse;~~

- ~~(ii) — the financial or general condition of such Approved Participant or Approved Person is such that it is or may become detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public;~~
- ~~(iii) — the system of book or record keeping or accounting used by such Approved Participant is unsatisfactory; or~~
- ~~(iv) — the methods or practices adopted by such Approved Participant or Approved Person in carrying on business may be detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public.~~
- ~~(b) — The following orders may be an order imposed by the Special Committee under the authority and in the circumstances set forth in paragraph (a):~~
 - ~~(i) — the suspension of the Approved Participant or of any of the rights and privileges of the Approved Participant or Approved Person for a period and upon the terms and conditions, if any, determined by the Special Committee;~~
 - ~~(ii) — the suspension or amendment of the terms and conditions of a previously granted Bourse Approval;~~
 - ~~(iii) — the imposition of any terms and conditions that must be satisfied by a Person to continue as an Approved Participant or Approved Person; or~~
 - ~~(iv) — the imposition of any other terms, conditions or instructions deemed appropriate in the circumstances including, without limitation:
 - ~~(1) — restricting one or more sectors of the Approved Participant's operations;~~
 - ~~(2) — requiring the presence of employees or representatives of the Bourse at the Approved Participant's premises for the surveillance of its trading activities on the Listed Products; or~~
 - ~~(3) — requiring the mailing of notices to clients in terms specified by the Regulatory Division.~~~~
- ~~(c) — If interim orders are imposed pursuant to the above paragraph (b), the Bourse must issue a notice of hearing to be held within fifteen (15) business days following the Special Committee's decision unless the parties agree to an extension of the period or to a waiver of the hearing.~~
- ~~(d) — Interim orders imposed by the Special Committee remain in force until the hearing is held, at which time the orders may be confirmed, set aside or modified.~~

Article 34.0 — Summary Actions Relating to Default

- ~~(a) — An Approved Participant or an Approved Person may be declared a Defaulter by the Special Committee without any notice, hearing or formality whatsoever in any of the following cases:
 - ~~(i) — the Approved Participant or the Approved Person fails to pay on demand any assessment, fee or charge which has become due to the Bourse pursuant to the Regulations of the Bourse or its list of fees, or any other indebtedness to the Bourse, such as a fine, or the costs of a hearing, investigation or surveillance operation; or~~~~

- (ii) ~~the Approved Participant or the Approved Person fails to meet or admits or discloses his inability to meet his liabilities or obligations to the Bourse, another Approved Participant or to the public.~~
- (b) ~~An Approved Participant or the Approved Person who is declared a Defaulter by the Special Committee who makes an assignment of his property under the applicable legislation or against whom a receiving order is issued under this same law shall automatically be suspended.~~
- (c) ~~If the cause of such default is not corrected to the satisfaction of the Special Committee within fourteen (14) business days after a Person was declared a Defaulter, or such other period as the Special Committee may decide, the Approved Participant may be expelled, or Bourse Approval of the Approved Person may be suspended or revoked by the Special Committee without any notice, hearing or formality whatsoever.~~
- (d) ~~No Approved Participant shall do business for the account of a defaulter without the written consent of the Special Committee.~~

Article 42.0 ~~Reinstatement of Defaulters~~

- (a) ~~An Approved Participant who has been expelled may apply to the Special Committee for reinstatement as an Approved Participant. No one may be reinstated as an Approved Participant pursuant to this Article, if:~~
 - (i) ~~the Approved Participant was expelled pursuant to a provision of the Regulations of the Bourse other than those covered by Article 4.401 and following;~~
 - (ii) ~~the Approved Participant is insolvent or bankrupt;~~
 - (iii) ~~the Special Committee is not satisfied that the Approved Participant is no longer in default of any of its liabilities or obligations; or~~
 - (iv) ~~the application for reinstatement is not approved by the Special Committee.~~
- under Article 4.801.

CLEAN VERSION

PART 1 - GENERAL PROVISIONS AND DEFINITIONS

Chapter B — Definitions

Article 1.101 Definitions

[...]

Defaulter (Défaillant) means an Approved Participant or an Approved Person declared as a defaulter pursuant to Article 4.801 of the Rules.

[...]

Article 1.104 Delegation

(a) Unless otherwise specified and subject to compliance with any applicable law (including any order or requirement of a Securities Regulator), the following individuals may delegate the powers and obligations granted to them under these Rules to an employee of the Bourse:

- (i) The President of the Bourse;
- (ii) The Vice-President, Regulatory Division; and
- (iii) The Chief Legal Officer.

(b) For greater clarity:

- (i) No delegated powers or obligations may be further sub-delegated.
- (ii) The powers and obligations of the Vice-President, Regulatory Division may be delegated only to an employee of the Bourse who is a member of the Regulatory Division.

Article 1.105 Governing Law and Forum

These Rules are governed exclusively by, and are to be construed and interpreted exclusively in accordance with, the laws applicable in the Province of Quebec. Any Person subject to these Rules irrevocably attorns to the exclusive jurisdiction of the courts of the Province of Quebec, in the judicial district of Montreal.

Article 1.106 Headings

The headings and titles used in these Rules are for reference purposes only and have no legal effect.

PART 2 – GOVERNANCE

Chapter B — Regulatory Division

Article 2.100 Creation of the Regulatory Division

The Regulatory Division is created by the Board of Directors with the aim of ensuring that the regulatory functions of the Bourse are carried out efficiently and fairly. To this end, the supervision of the regulatory functions and operations of the Bourse are entrusted to the Regulatory Division, which shall operate as a distinct business unit separate from the other activities of the Bourse. The Regulatory Division shall be not-for-profit and financially self-sufficient.

Article 2.101 Functions of the Regulatory Division

The Regulatory Division carries on its functions in the following fields of activity :

[...]

Article 2.102 Supervision

(a) The Regulatory Division shall be subject to the supervisory powers of the Special Committee, which shall:

(i) ensure that the Regulatory Division has the resources it needs to carry out its functions;

(ii) ensure that the Regulatory Division carries out its functions fairly, objectively and without conflicts of interest; and

[...]

Chapter C — Special Committee of the Regulatory Division

Article 2.200 Special Committee of the Regulatory Division

The Special Committee shall be appointed by the Board of Directors to perform those functions and to exercise those powers provided in this Chapter. Its rules of procedure shall be the rules of procedure of the Board of Directors, subject to such changes as may be necessary to adapt them to the circumstances.

Article 2.204 Powers of the Special Committee

[...]

(h) order that a special examination or investigation be made pursuant to Article 4.104 of the Rules;

(i) order a suspension for failure to provide information pursuant to Article 4.102 of the Rules;

(j) proceed summarily in the situations mentioned in Part 4, Chapter I of the Rules, as the circumstances warrant;

(k) hear appeals from decisions rendered by the Regulatory Division;

(l) report to the Board of Directors regarding the execution by the Regulatory Division of its regulatory functions; and

[...]

Article 2.205 Decisions of the Special Committee

(a) Decisions of the Special Committee shall require the vote of the majority of those attending in Person, by telephone or by video conference. In summary proceedings, if a member becomes unable to act before a decision is rendered, the decision may be reached by the remaining members, provided they are at least four.

(b) Copies of the minutes of each meeting shall be sent to all members of the Special Committee, to the Chair of the Board of Directors, to the President of the Bourse and to the Chief Legal Officer.

PART 3 - APPROVED PARTICIPANTS AND APPROVED PERSONS

Chapter B — Chapter B—Obligations of Approved Participants

Article 3.112 Market Makers – Options and Futures

[...]

(g) Conditions specific to clients of an Approved Participant:

(i) Under the terms of the mandatory Market Making Agreement referred to under paragraph (f) above, a client of an Approved Participant notably agrees to the following with respect to its trading activities and conduct as a Market Maker and must (i) be subject to the jurisdiction of the Bourse, acting as a self-regulatory organization, including its Regulatory Division and any of its Committee, during the term of the Market Making Assignment and thereafter in accordance with Article 4.2 to the same extent and as if it was itself an Approved Participant and (ii) comply with all the Regulations of the Bourse as if it was itself an Approved Participant, with the necessary adaptations, including with Part 4 of the Rules (except with respect to examinations), Articles 3.100, 3.110, 4.101, 6.3, 6.10, 6.11, 6.114, 6.115, 6.118, 6.118(j)(k), 6.119, 6.120, 6.202, 6.203, 6.204, 6.205, 6.206, 6.207, 6.209, 6.210, 6.309 and following regarding position limits, 7.5, 7.6, 7.7 and 12.7 and following regarding position limits, as these may be amended and/or replaced from time to time.

Chapter D — Suspension, Revocation, Termination and Resignation of Approved Participants and Others

Article 3.300 Process for Resignation

(a) No Approved Participant may resign without the prior approval of the Special Committee, which may be withheld until the Special Committee determines that it is satisfied that the Approved Participant will fully comply with any investigation or proceedings that are ongoing or may arise following the Approved Participant's resignation. In making that determination, the Special Committee shall take into account anything that it deems relevant, which may include an assessment of the likelihood that the Approved Participant will maintain its existence and financial resources following its resignation. To satisfy itself as to the foregoing, the Special Committee may condition its acceptance of the resignation on the provision of such things and undertakings as it sees fit, which may include undertakings to maintain the Approved Participant's existence or financial guarantees from any Person with control over the Approved Participant.

[...]

Article 3.302 Suspension and Revocation

- (a) An Approved Participant that no longer complies with the conditions to be an Approved Participant set forth in the Regulations of the Bourse may be suspended or have its Bourse Approval revoked by the Special Committee on the recommendation of the Vice-President, Regulatory Division.
- (b) Where a Person, other than an Approved Participant, no longer complies with the conditions of a Bourse Approval held by that Person, that Bourse Approval may be suspended or revoked. Suspension or revocation of Bourse Approval shall automatically preclude that Person from acting in the capacity for which the suspended or revoked Bourse Approval was required. No Approved Participant shall allow any Person to continue to act in the capacity, nor hold the position, for which Bourse Approval has been suspended or revoked.
- (c) Any Person who may have their Bourse Approval suspended or revoked under this Article shall be notified by the Bourse and provided the opportunity to submit observations before a suspension or revocation is recommended or confirmed.

Article 3.303 Effects of Suspension or Revocation

[...]

- (c) An Approved Participant or Person who is suspended shall remain subject to the jurisdiction of the Bourse. Where the Bourse Approval of an Approved Participant or Person has been revoked they shall remain subject to the jurisdiction of the Bourse, in accordance with paragraph Article 4.2(c).

Chapter E — Approval, Requirements and Obligations Relating to Approved Persons

Article 3.406 Suspension or Revocation Of Approval

[...]

(b) In the event of a suspension or revocation of Bourse Approval of an Approved Person pursuant to this Article or pursuant to Article 4.400, unless otherwise ordered by the Vice president of the Regulatory Division, the Approved Participant, the affiliated corporation or subsidiary of the Approved Participant employing this Person must immediately discontinue such Approved Person's employment, and thereafter this Person may not be employed in the same capacity by any Approved Participant, any affiliated corporation or subsidiary of an Approved Participant without permission of the Vice president of the Regulatory Division, which may be revoked at any time.

(d) An Approved Person that is suspended shall remain subject to the jurisdiction of the Bourse. An Approved Person whose Bourse Approval is revoked shall remain subject to the jurisdiction of the Bourse, in accordance with paragraph 4.2(c).

Appendix 6D-2 PROCESSING REQUESTS FOR EXEMPTION FROM POSITION LIMITS

[...]

(c) The Internal Consultation Committee include the following persons or their designees:

(i) Chief Legal Officer;

PART 4 - THE CONDUCT OF THE REGULATORY FUNCTIONS OF THE BOURSE

Chapter A Definitions and General Provisions

Article 4.1 Definitions

The terms defined in this Chapter have the meanings, and the corresponding term in French, set out as follows for purposes of Part 4 of the Rules:

Agent for Service (Mandataire aux Fins de Signification) means a Person whom a Regulated Person has appointed as agent for the service of process with respect to any Notice of Proceedings or other document that the Bourse may serve on that Regulated Person.

Disciplinary Complaint (Plainte Disciplinaire) means a disciplinary complaint filed by the Bourse against one or more Regulated Persons.

Document (Document) means, without limitation, files, books, registers, accounts, data, records, whatever their storage medium and whatever the means by which they may be accessed, including all books of accounts, securities, documents, banking and investment account records, trading and supervisory records, client files and records, accounting and financial statements, audio and video recording, minutes, notes and correspondence, whether written, electronically stored or recorded by any other means.

Immediate Family Members (Membres de la Famille Immédiate) means, with respect to an individual, that individual's spouse (including common-law spouse), parent, child, sibling, mother or father-in-law, son or daughter-in-law, brother or sister-in-law, and anyone (other than an employee of either the individual or the individual's immediate family member) who shares the individual's home.

Industry Representative (Représentant du Secteur) means a Person who is, or has been, a director, Officer or partner of an Approved Participant.

Member (Membre) means an individual whom the Secretary has selected to sit on a Disciplinary Committee under Article 4.600 and who has accepted that selection.

Notice of Proceedings (Avis de Procédure) means a notice sent by the Bourse to a Respondent under Article 4.202.

Party (Partie) means, with respect to a given hearing, the Regulatory Division and each Respondent.

Qualified Lawyer (Avocat Qualifié) means a Person who has practiced law in the Province of Quebec for no fewer than 10 years and has relevant experience as the Bourse may determine.

Regulated Persons (Personne Réglementée) means all:

- a. Approved Persons;
- b. Approved Participants;
- c. Designated Representatives; and
- d. partners, shareholders, directors and Officers of Approved Participants.

Regulatory Division (Division de la Réglementation), for the purposes of Part 4 of the Rules, includes employees of the Regulatory Division or agents acting on behalf of the Regulatory Division.

Respondent (Intimé) means a Regulated Person subject to a proceeding under Part 4 of the Rules.

Secretary (Secrétaire) means the individual appointed under Article 4.601.

Securities Regulator (Autorité en Valeurs Mobilières) means a securities commission, securities regulatory authority or similar organization.

Article 4.2 Jurisdiction

- (a) The Bourse has jurisdiction over all Regulated Persons in the conduct of its regulatory functions.
- (b) Part 4 of the Rules sets out the powers of the Bourse to carry out its functions pursuant to Article 2.101, and the rights and obligations of Regulated Persons with respect to such regulatory functions.
- (c) A Person who has ceased to be a Regulated Person shall remain subject to the Bourse's jurisdiction as though they were a Regulated Person, but no proceedings shall be commenced under Part 4 of the Rules against a former Regulated Person unless a Notice of Proceedings has been served upon that former Regulated Person no later than five years from the date upon which they ceased to hold that status.

Article 4.3 Meaning of "in writing"

The phrase "in writing" and similar phrases when used in this Part 4 includes transmission by electronic means.

Chapter B - Conduct of Regulatory Activities

Article 4.100 Request for Information

- (a) In connection with the exercise by the Bourse of its duties pursuant to Article 2.101, the Regulatory Division may request Documents or information, in writing or otherwise, from any Person, including a client of an Approved Participant.
- (b) The Regulatory Division can request Documents and information as follows:
 - (i) for the Regulatory Division to carry out its duties pursuant to Article 2.101 and ensuring that the supervision of the regulatory functions of the Bourse are carried out efficiently and fairly in accordance with Article 2.100;
 - (ii) when the Bourse receives a request in connection with an investigation being carried out by any exchange, self-regulatory organization, securities commission or any similar authority, to the jurisdiction of which the Approved Participant is subject in any manner or with which the Bourse has entered into an agreement pursuant to Article 4.105 and subject to all applicable legislation relating to the protection of personal information; or
 - (iii) as may otherwise be authorized or required by law.

Article 4.101 Obligation to respond and cooperate

- (a) Regulated Persons shall provide Documents and information as requested under Article 4.100, and shall fully cooperate in the manner determined by the Regulatory Division.
- (b) All Regulated Persons shall:
 - (i) promptly, fully and truthfully cooperate with the Regulatory Division, including by replying to all requests made, submitting and allowing free access to the Regulatory Division to any Document or information;
 - (ii) give free access to and provide any Documents and information, in their possession or under their control, that the Regulatory Division may require, regardless of the nature of the medium and the form in which such information, register, data, file, documents or exhibit can be accessed;
 - (iii) provide, on demand, copies of Documents and information, in the manner and form required by the Regulatory Division, including in recorded form or electronically; and
 - (iv) for purposes of Article 4.100(b)(ii), submit the requested information directly to the requesting exchange, self-regulatory organization, securities commission or any similar authority, in the form and manner prescribed in the request.
- (c) Approved Participants must make reasonable efforts to ensure the cooperation, in connection with the exercise by the Bourse of its authority under Part 4 of the Rules, of any Person over which they have any control or direction or with which they are in a business relationship, including their clients.
- (d) Compliance with the provisions of this Article shall not create any liability towards any other Approved Participant, employee of an Approved Participant, Approved Person, or client.

Article 4.102 Failure to respond or cooperate

Without limitation to any other recourse available to the Bourse under the Regulations of the Bourse or applicable law, any Regulated Person who fails to comply with their obligations under this Chapter may be subject to proceedings under this Part 4.

Article 4.103 Conduct of investigations

- (a) The Regulatory Division may investigate any possible violation of any of the Regulations of the Bourse.
- (b) In the course of an investigation and in accordance with Article 4.100, the Regulatory Division may require any Person to provide it with any Document or information that the Regulatory Division deems relevant to the investigation. Any such Person shall:
 - (i) comply, in accordance with Article 4.101, with a request under paragraph (a) within the time prescribed in the request; and
 - (ii) appear in person for an interview with the Regulatory Division, or by any other means determined by the Regulatory Division, to answer questions from the Regulatory Division. This interview may be transcribed or recorded electronically, on audiotape or videotape, as determined by the Regulatory Division;

- (c) A Person whom the Regulatory Division has informed of the conduct of an investigation shall not conceal or destroy any information, record, data, file, document, exhibit or object thing that contains information that may be useful to the investigation, or request or encourage another person to do so.
- (d) Any Person responding to a request in the course of an investigation pursuant to this Article may be assisted by legal counsel. The Regulatory Division may, at its discretion, allow a representative of the Approved Participant to be present during an interview. The presence of legal counsel or a representative of the Approved Participant at an interview conducted by the Regulatory Division must not cause prejudice to the conduct of the investigation.
- (e) All requests, Documents and information pertaining to an investigation shall be treated as confidential and any Person who receives a request under this Article, who participates or assists in the course of an investigation, shall not disclose any information in relation to the investigation except:
 - (i) to legal counsel providing assistance in the course of the investigation;
 - (ii) to a Person responsible for compliance or supervision with the Approved Participant;
 - (iii) to a representative of the Approved Participant for purposes of supervision or to inform a partner, director or officer of the Approved Participant;
 - (iv) as required by law; or
 - (v) where the Regulatory Division provides a written authorization to disclose following a request made.
- (f) Failure to comply with any provision of this Article shall be deemed a violation of Article 4.101.
- (g) When a Person fails to respond to a request in accordance with this Article, the Bourse may apply to the Financial Markets Administrative Tribunal constituted under the *Act respecting the regulation of the financial sector* (Quebec) for an order directing that person to comply with the request.

Article 4.104 Special examinations and investigations

Without limiting the powers conferred upon the Regulatory Division under this Part, the Special Committee or the Vice-President of the Regulatory Division may in their absolute discretion, at any time, direct a special examination or investigation in respect of any matter coming under the Regulatory Division's jurisdiction, including without limitation the conduct, the business or affairs of any Regulated Person.

Article 4.105 Information sharing

The Regulatory Division may, on behalf of the Bourse, enter into agreements with any exchange, central clearing counterparty, self-regulatory organization, securities regulator, financial intelligence or law enforcement agency or authority, in Québec or elsewhere, to collect and share information. Subject to the legislation relating to the protection of personal information, the Regulatory Division may at any time make available to such Persons any report, Document or information described in such agreements or upon request, pursuant to Article 4.100 (b).

Article 4.106 Costs and expenses

The following shall constitute a debt owed to the Bourse by the Regulated Person, who must pay the amount thereof upon demand:

- (a) all costs and expenses paid or incurred by the Regulatory Division, including professional fees, in connection with any investigation carried out or any proceedings initiated under Part 4 of the Rules; and
- (b) any amount charged by the Regulatory Division in accordance with the fee schedule of the Bourse in effect from time to time.

Chapter C — Disciplinary Proceedings

Article 4.200 Disciplinary Proceedings

- (a) The Bourse can initiate proceedings against a Regulated Person under Part 4 of the Rules for violation of any of the Regulations of the Bourse.
- (b) The Bourse shall commence and administer a disciplinary proceeding in accordance with the provisions under this Chapter.
- (c) This provision is in addition to the powers that the Bourse may hold and choose to exercise pursuant to any powers that may be delegated by a securities commission.

Sub-part 1: Proceedings

Article 4.201 Service of documents

- (a) Any document required to be served on the Bourse must be addressed to the attention of the Chief Legal Officer, and delivered to the email address designated by the Bourse.
- (b) Any document required to be served on any Person other than the Bourse must be served by:
 - (i) delivering it directly to the Person or their legal counsel;
 - (ii) in the case of an individual, delivery to an adult person at the individual's residence, place of employment or place of business or the place of business of the party's legal counsel or agent;
 - (iii) in the case of a Person that is not an individual, delivery to a director or officer, or other person holding or exercising, or appearing to hold or exercise, managerial authority at the Person's place of business; or
 - (iv) in all cases, either :
 - (i) by registered mail addressed to the Person to their last known address; or
 - (ii) by electronic means to the Person's last known email address;
 - (v) If none of the foregoing methods are possible, the Bourse may effect service by any other means that is likely to bring the document to the attention of the Person.

- (c) An affidavit signed by an employee or representative of the Bourse attesting that the foregoing service requirements have been complied with is sufficient proof of service.
- (d) A Foreign Approved Participant shall ensure that the appointment of an agent for the service of process under Article 3.3 remains valid for so long as the Foreign Approved Participant maintains that status and for a period of no fewer than five years thereafter. A Foreign Approved Participant shall immediately notify the Bourse of any change in their Agent for Service or the Agent for Service's contact information.
- (e) Any document required to be served on a Foreign Approved Participant may be served on the Foreign Approved Participant or on its Agent for Service.
- (f) Service made at the address of a Regulated Person or an Agent for Service (as the case may be) most recently provided for that purpose to the Chief Legal Officer shall be deemed to be valid.

Article 4.202 Notice of Proceedings

- (a) The Bourse shall serve a Notice of Proceedings to any Regulated Person against whom it has initiated disciplinary proceedings in accordance with Article 4.200. The Notice of Proceedings shall include the following, as applicable:
 - (i) a reference (which may be in the form of an excerpt) to any Rule that the Bourse alleges that the recipient of the Notice of Proceedings has violated, along with an indication of the URL address (Web address) where the full text of the Rules may be consulted;
 - (ii) an indication that the date, time, and location of the hearing will follow in a notice of hearing;
 - (iii) a statement to the effect that a Party at a hearing is entitled to:
 - a. represent themselves or be represented by legal counsel, as per Article 4.103(d);
 - b. a pre-hearing conference, as per Article 4.303; and
 - c. seek to negotiate a settlement with the Bourse, as per Article 4.210 and following;
 - (iv) a warning that failure to file a reply by the prescribed deadline may result in foreclosure from producing any evidence or witness at the hearing; and
 - (v) an indication that the evidence that will be presented at the hearing will be provided to the Respondent in accordance with the Regulations of the Bourse;
 - (vi) any other information or content that the Regulatory Division deems appropriate.
- (b) Except when a Notice of Proceedings is being sent in connection with a summary proceeding under Chapter I, a Disciplinary Complaint shall be attached to the Notice of Proceedings and include:
 - (i) a summary statement of the facts alleged and intended to be relied upon by the Regulatory Division and the conclusions drawn by the Regulatory Division based on the alleged facts; and
 - (ii) the potential sanction(s) that may be imposed as a result of the allegations.

- (c) This provision in no way affects the Bourse's ability to exercise any powers that a competent Securities Regulator may have delegated to it.

Article 4.203 Reply

- (a) A Regulated Person having received a Notice of Proceedings shall reply thereto within 20 Business Days of such receipt. The reply, which shall be signed by the Regulated Person or an individual authorized to sign on the Regulated Person's behalf, shall contain the following:
 - (i) individually, for each fact alleged in the Notice of Proceedings, an indication as to whether that fact is admitted or denied, and if denied, a summary of grounds for the denial;
 - (ii) a statement of the Person's position with regard to the conclusions drawn by the Bourse in the Disciplinary Complaint and a statement of any additional facts relied on by the Person;
 - (iii) a preliminary list of the witnesses that the Person intends to call at the hearing.
- (b) A Disciplinary Committee may accept as proven each fact alleged that is neither specifically admitted nor denied, or which are denied without the grounds being specified, under paragraph (a).
- (c) Failure to file a reply by the prescribed deadline shall result in:
 - (i) the Regulated Person being foreclosed from producing any witnesses or evidence at the hearing; and
 - (ii) the Regulatory Division holding a hearing without further notice.
- (d) Notwithstanding the foregoing, the Regulatory Division may halt the calculation of the deadline to reply set forth at paragraph (a) above if it determines, in its sole discretion:
 - (i) that a Regulated Person having received a Notice of Proceedings is engaged in good-faith negotiations with the Regulatory Division in view of concluding a settlement agreement; or
 - (ii) that, for reasons of procedural fairness, there exist sufficient grounds to do so with respect to any Regulated Person that has received a Notice of Proceedings.

Article 4.204 Disclosure of evidence

- (a) As soon as is reasonably practicable, and no later than 20 Business Days before the commencement of the hearing on the merits, the Regulatory Division must disclose to, and make available for inspection by a Respondent any evidence in the Regulatory Division's possession or control that are relevant to the proceedings.
- (b) No later than 20 Business Days before the commencement of the hearing, each Party must, unless otherwise agreed to by the Parties or decided by the chair of the Disciplinary Committee, provide each other Party with:
 - (i) any evidence that the Party intends to produce at the hearing on the merits; and

- (ii) a final list of all witnesses that they intend to call at the hearing.
- (c) The final list of witnesses, provided under subparagraph (b) (ii), shall include a summary of the evidence that the witness is expected to give at the hearing and in the case of an expert witness, a signed copy of the expert's report.
- (d) At a hearing, a Party may not produce any evidence or call any witnesses that were not disclosed in accordance with paragraph (b) above except with the authorization of the Disciplinary Committee.
- (e) Notwithstanding the foregoing, a written report prepared by the Regulatory Division will only be disclosed in accordance with this Article if the Regulatory Division proposes to table that report at the hearing.

Sub-part 2: Settlement Agreements

Article 4.210 General Principles

- (a) The Regulatory Division may, at any time after service of a Notice of Proceedings, negotiate a settlement agreement with any or all of the Respondents. All discussions in relation with an offer of settlement are without prejudice. No part of such a discussion must be used as evidence or referred to in any proceedings whatsoever.
- (b) A settlement agreement must be in writing, in the form prescribed by the Regulatory Division, signed by the Parties, and contain the following:
 - (i) the provisions of the Regulations of the Bourse that the Respondent acknowledges having breached;
 - (ii) a statement of the facts;
 - (iii) the disposition of the matter, including any sanction to be imposed and the amount of costs and expenses of the Bourse to be paid by the Respondent;
 - (iv) the Respondent's consent to the settlement;
 - (v) a provision that the settlement agreement and its terms are confidential, unless and until it has been accepted by the Disciplinary Committee;
 - (vi) a provision that the Respondent will not make any public statement that is inconsistent with the settlement agreement;
 - (vii) a provision that the Regulatory Division will not initiate any further action against the Respondent in relation to the matter addressed in the settlement agreement;
 - (viii) a statement that the settlement must be accepted by the Disciplinary Committee or the Vice-President, Regulatory Division, as the case may be, failing which it shall not bind the Parties involved and the Bourse shall proceed with the hearing of the matter;

- (ix) a waiver by the Respondent of all rights under the Regulations of the Bourse to a hearing or to an appeal should the settlement agreement be accepted in accordance with Article 4.211; and
 - (x) any other provisions not inconsistent with the Regulations of the Bourse that the Parties agree to include in the settlement agreement.
- (c) A settlement agreement may impose any obligations on a Respondent to which the Respondent agrees, whether or not they could be imposed by a Disciplinary Committee.

Article 4.211 Submission of Settlement Agreements

- (a) Each settlement agreement shall be submitted for acceptance to the Disciplinary Committee, which shall proceed with a hearing to accept or reject a settlement agreement.
- (b) Notwithstanding the foregoing, a settlement agreement may be accepted by the Vice-President, Regulatory Division, without a hearing, if the sanction to be imposed is a reprimand, the sanction provided in subparagraph 4.400 (a) (viii), a fine not exceeding \$5,000 in the aggregate, or a combination of the three.
- (c) If a settlement agreement is accepted under this Article 4.211:
 - (i) the matter becomes final and the settlement constitutes a decision;
 - (ii) there can be no appeal of the matter;
 - (iii) the Secretary shall distribute a copy of the decision to the Respondents, file it in the records of the Bourse and make it available to the public on the website of the Bourse;
 - (iv) the Disciplinary Committee or the Vice-President, Regulatory Division (as the case may be) must give written reasons supporting the decision; and
 - (v) the decision accepting the settlement agreement shall refer to the existence of any previous, rejected settlement agreement entered into between the Regulatory Division and that Respondent related to the same proceedings, without describing the reasons for which it was rejected.
- (d) If a settlement agreement is rejected, the Bourse must proceed with the hearing of the matter unless the Parties agree to negotiate a new settlement agreement. Any subsequent settlement agreement shall be submitted to a Disciplinary Committee that includes no Member who was a Member of the Disciplinary Committee that rejected the previous settlement agreement.

Chapter D — Hearing

Article 4.300 General Principles

- (a) Part 4 shall be interpreted and applied to secure a fair hearing and just determination of a proceeding on its merits as well as the most expeditious and least expensive conduct of the proceeding.
- (b) No proceeding, document, decision or hearing in a proceeding is invalid by reason of a defect or other irregularity in form.

- (c) Subject to a requirement under Part 4 of the Rules, a Disciplinary Committee has authority to control the process of a proceeding before it and may exercise any of its powers on its own initiative or at the request of a Party.
- (d) At the request of a Party, a Disciplinary Committee may provide for any procedural or evidentiary matter that is not provided for under Part 4 of the Rules by analogy thereto or by reference to the rules of procedure of another self-regulatory organization or professional association, or to the provisions of the *Code of Civil Procedure* (Quebec) or the *Civil Code of Québec*.
- (e) The Secretary shall be responsible for the administration of a hearing in accordance with the provisions in this Chapter and Article 4.601.

Article 4.301 Notice of Hearing

- (a) When the Regulatory Division determines that a hearing is required, the Bourse shall, at least 30 Business Days before the hearing, serve a notice of hearing on the Persons to whom the Notice of Proceedings was served.
- (b) The notice of hearing shall include:
 - (i) the date, time and place of the hearing; and
 - (ii) a statement requiring the Person to attend the hearing, failing which the Disciplinary Committee may proceed with the hearing of the matter in that Person's absence.

Article 4.302 Public hearing

- (a) All hearings are held in public, except for those pertaining to settlement agreements and pre-hearing conferences.
- (b) Notwithstanding the foregoing, the Disciplinary Committee hearing a matter may, on its own initiative or upon request by a Party, order that a hearing be held *in camera*, in part or in whole, or prohibit the publication or disclosure of specific information or documents, in the interest of good morals or public order, particularly to preserve confidential business information or privileged communications or to preserve an individual's privacy or reputation.
- (c) The Secretary shall publish an announcement of a hearing on the website of the Bourse.

Article 4.303 Pre-hearing conference

- (a) The chair of the Disciplinary Committee may, either on his own initiative or at the request of a Party, order a pre-hearing conference. The purpose of such a conference shall be to seek agreement between the Parties on any matter related to the proceedings such that their advancement or outcome be more just, harmonious or expeditious.
- (b) The pre-hearing conference shall be chaired by the chair of the Disciplinary Committee formed to hear the matter, who may make any order related to the proceedings or the hearing to which the Parties both consent and that is not inconsistent with these Rules. The chair shall circulate the text of any such order for comment to both Parties before signing it, upon which it shall have binding effect and be filed with the Disciplinary Committee.

- (c) The Secretary shall draft minutes of the pre-hearing conference, which the chair of the Disciplinary Committee shall sign.

Article 4.304 Hearing procedure

- (a) A hearing may be held either in person or, if the chair of the Disciplinary Committee deems it more appropriate in the circumstances, by videoconference. In determining whether it is more appropriate that a hearing be held by videoconference, the chair of the Disciplinary Committee shall consider any representations made by any Party.
- (b) Each Respondent is entitled to be represented by legal counsel eligible to undertake such representation under the *Act respecting the Barreau du Québec*.
- (c) The Regulatory Division may call and question a Regulated Person who is alleged to have breached a provision of the Regulations of the Bourse, as well as any other witnesses it or another Party considers useful to have them give an account of the facts of which they have personal knowledge or produce any document relating to the matter, and that Person shall be obliged to answer all questions.
- (d) Prior to testifying before the Disciplinary Committee, an individual must make a solemn declaration to tell the truth, the whole truth and nothing but the truth.
- (e) At each hearing, the sequence of events shall be as follows:
- (i) the Regulatory Division shall make an opening address;
 - (ii) each Respondent may make an opening address;
 - (iii) the Regulatory Division shall present its evidence and call its witnesses;
 - (iv) each Respondent may cross-examine any witness called by the Regulatory Division;
 - (v) each Respondent may present its evidence and call its witnesses;
 - (vi) the Regulatory Division may cross-examine any witness called by a Respondent;
 - (vii) the Regulatory Division shall make a closing address; and
 - (viii) each Respondent may make a closing address.
- (f) The Secretary shall draft minutes of the hearing, which the chair of the Disciplinary Committee shall sign.
- (g) The Disciplinary Committee may admit as evidence any documentary proof without a witness if the Disciplinary Committee is of the opinion that the rights of cross-examination would not be affected.

Article 4.305 Failure to Appear

If a Respondent fails to appear at a hearing as specified in the notice of hearing, then with respect to that Respondent the Disciplinary Committee shall proceed with the hearing and disposition of the matter on the date and at the time and place set out in the Notice of Proceedings without further notice and in the absence of that Respondent, even if that Respondent has served a reply.

Chapter E — Decision

Article 4.400 Sanctions

- (a) Upon finding a Respondent guilty of one or more offences, the Disciplinary Committee may, with respect to each offence, impose any one or more of the following sanctions or Rulings:
- (i) a reprimand;
 - (ii) disgorgement of any amount obtained, including any loss avoided, directly or indirectly, as a result of the offence;
 - (iii) a fine not exceeding the greatest of (a) \$5,000,000, (b) four times the profit realized, or (c) four times the amounts invested in the transaction or series of transactions;
 - (iv) suspension or revocation of the Respondent's rights or privileges as an Approved Participant or Approved Person for such period and upon such conditions, including conditions of reinstatement, as the Disciplinary Committee may determine;
 - (v) a prohibition on obtaining or surrendering any approval required under these Rules for the time and upon such conditions determined by the Disciplinary Committee, including the conditions for the release of such a prohibition. The Disciplinary Committee may also impose such a prohibition on any affiliated corporations or subsidiaries of the Respondent;
 - (vi) revocation of the Respondent's Bourse Approval as an Approved Participant;
 - (vii) making restitution to any Person who has suffered a loss as a result of the Respondent's acts or omissions;
 - (viii) appointment of a monitor to exercise powers granted by the Disciplinary Committee, which may include monitoring an Approved Participant's business and affairs;
 - (ix) an obligation, for an Approved Person, to take one or more courses or to receive any other training or education deemed appropriate; or
 - (x) reimbursement in whole or in part of the costs and expenses (including professional fees) paid or incurred by the Bourse in connection with the Disciplinary Complaint and the matters out of which it arose including all investigations, hearings, appeals and other proceedings before or after the Disciplinary Complaint.
- (b) These sanctions and Rulings shall be in addition to such other action as the Bourse may take pursuant to any other provision of the Regulations of the Bourse.

Article 4.401 - Deliberations

The deliberations of the Disciplinary Committee must be made in the absence of any other Person.

Article 4.402 Decision of the Disciplinary Committee

- (a) All decisions of the Disciplinary Committee must be made by majority vote of the Members and must be set forth in writing.
- (b) The Disciplinary Committee must provide written reasons supporting its decision.

(c) The Secretary shall:

- (i) give notice of the decision to each Respondent and to any other Persons designated by the Disciplinary Committee hearing the matter;
- (ii) file the decision in the records of the Bourse; and
- (iii) make the decision available on the website of the Bourse (except in the case of a decision rejecting a settlement agreement).

(d) A decision of the Disciplinary Committee takes effect immediately upon the issuance of the written decision, unless otherwise specified in that decision. Any fine, cost or other financial sanction is payable within 30 days of the date of service of the written decision imposing it.

Chapter F - Review Under the Derivatives Act

Article 4.500 - Review by the Financial Markets Administrative Tribunal

A Party may submit a decision of a Disciplinary Committee for review in accordance with the *Derivatives Act* (Quebec).

Chapter G - Disciplinary Committee

Article 4.600 Composition of Disciplinary Committee

- (a) To be eligible to sit on a Disciplinary Committee, an individual must have been approved by the Special Committee. The Secretary shall maintain a list of such individuals. An individual's name shall be deleted from that list upon the instructions of either the individual or the Special Committee.
- (b) A Disciplinary Committee shall be composed of three Members, one of whom shall be a Qualified Lawyer who shall chair the Disciplinary Committee, and two of whom shall be Industry Representatives. None of the Members may be ineligible under Article 4.602.
- (c) The Secretary shall be responsible for selecting the Members and shall inform the individuals selected in writing, who shall accept or refuse that selection within one Business Day. Upon receipt of a refusal or in the absence of a response within one Business Day, the Secretary shall promptly select another individual. Promptly after receiving acceptance from each individual selected, the Secretary shall notify the Regulatory Division and each Respondent of the composition of the Disciplinary Committee.
- (d) If it is impossible to form a Disciplinary Committee that complies with the composition requirements set forth in the preceding paragraph, the Secretary may disregard those requirements to the extent necessary to constitute the Disciplinary Committee.
- (e) The Disciplinary Committee shall remain constituted until such time as the proceedings for which it was constituted are definitely resolved and no longer susceptible to appeal. The deletion of the name of a Member from the list maintained under paragraph (a) above has no effect on their status as a Member of any existing Disciplinary Committee.
- (f) Upon accepting their appointment, each Member shall sign an acknowledgement and undertaking to be bound by the code of ethics for Disciplinary Committee Members then in effect.

Article 4.601 Secretary

- (a) The Special Committee shall appoint the Secretary and may appoint any number of assistant secretaries. An assistant secretary may perform any function of the Secretary if the latter is unable or unwilling to do so. The Secretary and each assistant secretary shall remain in office until their resignation, removal or death.
- (b) The Secretary:
 - (i) selects Members for each Disciplinary Committee;
 - (ii) schedules and arranges each hearing and pre-hearing conference;
 - (iii) transmits documents to Members and the Parties;
 - (iv) maintains a record and minutes of each hearing and pre-hearing conference;
 - (v) transmits written decisions and reasons to the Parties;
 - (vi) receives and processes applications for appeal to the Special Committee under Article 4.900; and
 - (vii) performs any other duties assigned to the Secretary in these Rules or otherwise determined by a Disciplinary Committee or the Special Committee.

Article 4.602 Conflict of interest

- (a) An individual is ineligible to act as a Member if the individual:
 - (i) is, or has been, in the three years preceding the date of the relevant Notice of Proceedings, a member of the Special Committee;
 - (ii) is or has been, in the three years preceding the date of the relevant Notice of Proceedings, a director, officer or partner of either the Bourse or of the Respondent (if the Respondent is not an individual), or any of their affiliated corporations or entities;
 - (iii) has an Immediate Family Member who is or has been, in the three years preceding the date of the relevant Notice of Proceedings, a director, officer or partner of either the Bourse or any of its affiliated corporations or subsidiaries, or of a Respondent (if the Respondent is not an individual) or any of its affiliated corporations or subsidiaries;
 - (iv) receives a consulting, advisory or other compensatory fee from the Bourse or any Respondent, other than as remuneration as a member of the board of directors or any board committee, or as a part-time chair or vice-chair of the board or any board committee, or the receipt of fixed amounts of deferred compensation for prior service with the Bourse or the Respondent that is not contingent on continued service;
 - (v) is, with respect to any Respondent or any employee of the Regulatory Division, in one of the situations described at Articles 202 or 203 of the *Code of Civil Procedure* (with the necessary modifications); or

- (vi) has or had another relationship to a Party, or is in any other situation, that may create a reasonable apprehension of bias.
- (b) An individual who is selected for a Disciplinary Committee despite knowing that they are in one of the aforementioned situations shall decline the selection, advising the Secretary of the reasons therefor. A Member who enters, or learns that he is in, one of the aforementioned situations after accepting to sit on a Disciplinary Committee shall immediately notify the Secretary, who shall in turn notify the Special Committee. The Secretary shall also immediately notify the Special Committee if he is advised by any other Person that a Member is in one of the aforementioned situations.
- (c) The Special Committee shall promptly consider the matter and determine whether to remove the Member (in which case it shall proceed as described in accordance with Article 4.603).

Article 4.603 Inability to Act

- (a) Where, prior to a hearing being commenced, one or more Members are unable to act, the Secretary shall identify an equal number of new Members in accordance with the procedure and composition requirements set forth at Article 4.600.
- (b) Where, after a hearing has commenced, one of the Members is unable to act, the two remaining Members may validly proceed with the hearing and render a decision on the conviction and the sanction, provided that all of the Parties consent. Failing such consent, the Disciplinary Committee shall be dissolved and a new hearing shall be held before a new Disciplinary Committee to be constituted by the Secretary in accordance with the procedure and composition requirements set forth at Article 4.600.
- (c) Where, after a hearing has commenced, more than one Member is unable to act, the Disciplinary Committee shall be dissolved and a new hearing shall be held before a new Disciplinary Committee to be constituted by the Secretary in accordance with the procedure and composition requirements set forth at Article 4.600.

Chapter H - Minor violations

Article 4.700 Fine for Minor Violation

- (a) The Vice-President of the Regulatory Division may, in accordance with the procedure provided in Articles 4.702 and following, for any violation appearing in the List of Fines for Minor Violations published on the website of the Bourse, impose a predetermined fine that cannot exceed \$5,000 per violation, against an Approved Participant or an Approved Person. The violations included in the List of Fines for Minor Violations are:
 - (i) Incomplete or inaccurate report pertaining to the accumulation of positions for Derivative Instruments (Article 6.500 (a));
 - (ii) Exceeding position limits (Article 6.310);
 - (iii) Non-compliance with the time of market exposure (Article 6.205);
 - (iv) Failure to send a notice of non-compliance or a notice of exceeding position limits, within the prescribed time (Articles 3.105 and 6.500 (j));

- (v) Prohibited use of the "hidden volume" functionality (Article 6.204);
 - (vi) Granting unapproved access to the Electronic Trading System (Articles 3.4 (a) and 3.400).
- (b) The Vice-President of the Regulatory Division may impose a fine for any violation included in the List of Fines for Minor Violations against a former Approved Participant or former Approved Person, on the condition that a notice of minor violation is served within the delay provided in article 4.2 (c).
- (c) Notwithstanding the possibility of imposing a fine for a minor violation included in the List of Fines for Minor Violations in accordance with paragraphs a) and b), the Vice-President of the Regulatory Division, may, at his discretion, choose to file a complaint in accordance with the procedure provided under Chapter C, Part 4 of the Rules.

Article 4.701 Notice of Minor Violation

- (a) Before imposing a fine, the Vice-President of the Regulatory Division shall serve a notice of a minor violation to the Approved Participant or the Approved Person.
- (b) The notice of minor violation shall:
- (i) Be in writing;
 - (ii) Be signed by the Vice-President of the Regulatory Division;
 - (iii) Contain the following items for each violation:
 - (1) the alleged violation;
 - (2) the regulatory provision or provisions related to the alleged violation;
 - (3) the date of the violation;
 - (4) a summary statement of the facts on which the violation is based;
 - (5) the amount of the fine for the violation;
 - (6) the delay of time provided by Article 4.702 during which the Approved Participant or the Approved Person may submit observations or serve a request for the matter to be heard by a Disciplinary Committee;
 - (7) a notice that failure to submit observations or a response results in foreclosure from contesting any fine to be imposed.

Article 4.702 Observations or Contestation

- (a) Once a notice of minor violation has been served, the Approved Participant or the Approved Person may, within 20 Business Days:
- (i) Submit observations in writing to the Vice-President of the Regulatory Division. These observations must admit or deny the facts; or

- (ii) Contest the notice of minor violation by notifying the Vice-President of the Regulatory Division of their desire for the matter to be heard by a Disciplinary Committee in accordance with Chapter G, which notice must be accompanied by a reply as described in Article 4.203. In this instance, the notice of minor violation is deemed a complaint under Article 4.200.
- (b) A defense of due diligence is neither allowed nor receivable in connection with the process to impose a fine for a minor violation.
 - (c) If observations are not submitted and the notice of minor violation is not contested within the prescribed time, the Approved Participant or the Approved Person will be deemed to have agreed to pay the fine and to have relinquished all rights under the Regulations of the Bourse concerning the hearing and contesting the violation.

Article 4.703 Notice of Fine for Minor Violation

- (a) Upon expiry of the deadline provided for in Article 4.702, and after having considered the observations of the Approved Participant or the Approved Person, if any, the Vice-President of the Regulatory Division may impose the fine prescribed in List of Fines for Minor Violations on this Approved Participant or this Approved Person by serving a notice of a fine for violation or decide not to impose a fine for minor violation. In this case, a notice advising of the closing of the matter will be sent to the Approved Participant or the Approved Person.
- (b) The fine for minor violation imposed against the Approved Participant or the Approved Person is payable within the 10 Business Days following service of the notice of fine for minor violation.

Article 4.704 Publication of Information Regarding Fines Imposed for Minor Violations

The Regulatory Division will make information publicly available on the website of the Bourse, on an anonymous basis, regarding fines imposed for minor violations, including the nature of the minor violations, the fines imposed during the period as well as any other information that the Regulatory Division considers relevant.

Chapter I - Summary Proceedings

Article 4.800 Grounds for Summary Proceedings

- (a) Where the Vice-President of the Regulatory Division determine that the methods or practices adopted by an Approved Participant or Approved Person are detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public, the Bourse shall serve a notice of hearing on the Respondent in accordance with Article 4.802. Such methods or practices may include, without limitation:
 - (i) the Approved Participant or Approved Person is convicted of a crime or of an infraction in connection with trading in Securities or Derivative Instruments or of an offence under any statute or regulation applicable to Securities or Derivative Instruments;
 - (ii) the Approved Participant or Approved Person refuses or neglects to provide Documents and information or to appear in the manner prescribed by the Regulations of the Bourse;

- (iii) the financial or general condition of the Approved Participant or Approved Person is such that it is or may become detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public; or
 - (iv) the system of book or record keeping used by the Approved Participant is unsatisfactory.
- (b) The Vice-President of the Regulatory Division may, pending the hearing, recommend to the Special Committee that it takes action by way of summary proceedings in accordance with this Chapter.
- (c) The Vice-President of the Regulatory Division may also recommend to the Special Committee that it takes action by way of summary proceedings in accordance with this Chapter if:
 - (i) the Approved Participant or Approved Person fails to pay on demand any assessment, fee or charge which has become due to the Bourse pursuant to the Regulations of the Bourse or its list of fees, or any other indebtedness to the Bourse, such as a fine, or the costs of a hearing, investigation or surveillance operation; or
 - (ii) the Approved Participant or the Approved Person fails to meet or admits or discloses their inability to meet their liabilities or obligations to the Bourse, another Approved Participant or to the public.

Article 4.801 Summary Actions

- (a) Notwithstanding anything to the contrary contained in any other provision of the Regulations of the Bourse, in any of the circumstances described at subparagraph 4.800 (a), the Special Committee may impose without any notice, hearing or formality whatsoever, one or more of the following orders:
 - (i) the suspension of an Approved Participant or Approved Person, which may be limited to a suspension of specific rights and privileges, for a period and upon any terms and conditions determined by the Special Committee;
 - (ii) the amendment of the terms and conditions of a previously granted Bourse Approval;
 - (iii) the imposition of any terms and conditions that must be satisfied by a Person to continue as an Approved Participant or Approved Person, which may include, without limitation:
 - (1) restricting one or more sectors of the Approved Participant's operations or;
 - (2) requiring the presence of employees or representatives of the Bourse at the Approved Participant's premises for the surveillance of its trading activities on the Listed Products; or
 - (3) requiring the mailing of notices to the Approved Participant's clients, the contents of which are to be specified by the Regulatory Division.
- (b) All orders imposed by the Special Committee under subparagraph (a) are interim orders that take effect immediately upon delivery of the notification to the Approved Participant or Approved Person and remain in force until a hearing is held, at which time any such order may be confirmed, set aside or modified.
- (c) In any of the circumstances described at paragraph 4.800 (c), the Special Committee may, without any notice, hearing or formality whatsoever:

- (i) declare an Approved Participant or Approved Person a Defaulter, upon which the Approved Participant or the Approved Person shall automatically be suspended; and
 - (ii) within 10 Business Days after being declared a Defaulter, or such other period as the Special Committee may decide, suspend or revoke the Bourse Approval of an Approved Participant or Approved Person if the cause of such default is not remedied to the satisfaction of the Special Committee.
- (d) No Approved Participant shall allow a Person declared as a Defaulter to conduct any trading activities on the Bourse without the written consent of the Special Committee.

Article 4.802 Summary Proceedings Hearing

- (a) Unless the Parties agree to an extension of the period or to a waiver of the hearing, the Bourse shall, at least 10 Business Days before the hearing, serve a notice of hearing on the Respondent.
- (b) The hearing procedures applicable to a disciplinary proceeding shall, with the necessary modifications, apply to any hearing under this Part.
- (c) Upon consideration of the grounds for proceedings invoked under Article 4.800, the Disciplinary Committee may render a decision to:
 - (i) set aside or modify an interim order imposed by the Special Committee under Article 4.801 (b);
 - (ii) suspend an Approved Participant or Approved Person, which may be limited to a suspension of specific rights and privileges, for a period and upon any terms and conditions determined by the Disciplinary Committee;
 - (iii) revoke a Bourse Approval;
 - (iv) amend of the terms and conditions of a previously granted Bourse Approval; or
 - (v) impose any terms and conditions that must be satisfied by a Person to continue as an Approved Participant or Approved Person, including, without limitation:
 - (1) restricting one or more sectors of the Approved Participant's operations; or
 - (2) requiring the presence of employees or representatives of the Bourse at the Approved Participant's premises for the surveillance of its trading activities on the Listed Products; or
 - (3) requiring the mailing of notices to the Approved Participant's clients, the contents of which are to be specified by the Regulatory Division.

Chapter J - Appeal before the Special Committee

Article 4.900 Jurisdiction of the Special Committee

An appeal from a decision of the Regulatory Division (other than of a Disciplinary Committee) may be brought before the Special Committee.

Article 4.901 Time to Appeal

The appeal must be brought within 10 Business Days of the service of the decision.

Article 4.902 Application for Appeal

Any appeal of a decision referred to at Article 4.900 must be brought by sending written notice to the Chief Legal Officer. The notice must contain a brief statement of the grounds for appeal.

Article 4.903 Security for Costs

When the appeal appears abusive, dilatory, frivolous, or for some other special reason, the Special Committee may, upon request, order the appellant to furnish, within a prescribed period, Security to guarantee, in whole or in part, the payment of the costs of appeal, the amount of the fine and the costs and expenses listed in Article 4.106, if the appeal is dismissed. If the appellant does not furnish Security within the prescribed period, the Special Committee may dismiss the appeal.

Article 4.904 Stay of Decision

Unless otherwise ordered by the Special Committee, an appeal suspends the execution of the decision of the Regulatory Division provided however, suspension of the rights of an Approved Participant or Approved Person, prohibition to obtain Bourse Approval, expulsion of an Approved Participant and revocation of Bourse Approval is executory, notwithstanding appeal, unless otherwise ordered by the Special Committee.

Article 4.905 Basis of the Appeal

The appeal is argued on the basis of the file, provided however that, in exceptional circumstances and if justice so requires, the Special Committee may authorize the presentation of additional evidence.

Article 4.906 Applicable Procedures

Subject to the provisions in this Chapter, the procedures applicable to a hearing before a Disciplinary Committee shall apply to any hearing before the Special Committee, with the necessary modifications.

Article 4.907 Disqualification

A member of the Special Committee who has any grounds for recusal pursuant to Article 4.602 (other than those set forth in subparagraph 4.602 (a) (i)) is not eligible to sit in appeal from a decision.

Article 4.908 Review Under the Derivatives Act

A Party may submit a decision of the Special Committee for review in accordance with the *Derivatives Act* (Quebec), except for an order imposed under Article 4.801.

ANNEX 2 - CONCORDANCE TABLE

Article title	New Article	Current Article
Delegation	1.104	N/A
Governing Law and Forum	1.105	N/A
Headings	1.106	N/A
Powers of the Special Committee - Appeal of decision rendered by the Regulatory Division	2.204 (k)	2.204 (k)
Suspension and Revocation - Approval other than Approved Participant	3.302 (b)	3.304
Part 4 - Definitions	4.1	N/A
Jurisdiction	4.2	4.201 (b)
Meaning of "in writing"	4.3	N/A
Request for Information	4.100	4.1
Obligations to respond and collaborate	4.101	4.1 (a); (d)
Failure to respond	4.102	4.5
Conducting an investigation	4.103	N/A
Special examinations and investigations	4.104	4.3
Information sharing	4.105	4.1(c); 4.7
Costs and expenses	4.106	4.6; 4.206
Disciplinary Proceedings	4.200	4.201
Service of documents	4.201	4.251
Notice of proceedings	4.202	4.251
Reply	4.203	4.252
Disclosure of evidence	4.204	N/A
Disclosure of evidence - written report prepared by the Regulatory Division	4.204 (e)	4.255(c)
Settlement Agreements - General principles	4.210	N/A
Submission of Settlement Agreements	4.211	4.301; 4.302; 4.303; 4.304; 4.305; 4.306
Hearing - General principles	4.300	N/A
Notice of Hearing	4.301	4.253
Public hearing	4.302	4. 254
Pre-hearing conference	4.303	N/A
Hearing procedure	4.304	4.255; 4.256
Failure to Appear	4.305	4.258
Sanctions	4.400	4.205

Deliberations	4.401	4.259
Decision of the Disciplinary Committee	4.402	4.260;
Review by the Financial Markets Administrative Tribunal	4.500	2.204 (k); 4.351
Composition of Disciplinary Committee	4.600	4.202; 4.203;
Secretary	4.601	N/A
Conflict of interest	4.602	4.204
Inability to Act	4.603	N/A
Chapter H - Minor violations	4.700 to 4.704	4.308 to 4.312
Chapter I - Summary Proceedings	4.800 to 4.802	4.401 to 4.407
Chapter J - Appeal before the Special Committee	4.900 to 4.908	4.351 to 4.360

**Circular 094-21 : AMENDMENTS TO PART 4 OF THE RULES OF BOURSE DE MONTREAL INC.
CONDUCT OF THE REGULATORY FUNCTIONS OF THE BOURSE
Summarized comments received from IIAC on July 22, 2021 and responses from the Bourse**

No.	Summary of comments	Summary of responses
1.	<p>The Use of the Term “Qualified Lawyer” in the Circular – Annex 1, B. Proposed amendments – Part 4 of the Rules</p> <p>Pages 14 and 39 of the Proposal (PDF) give the following definition of a Qualified Lawyer: “a Person who has practiced law in the Province of Quebec for no fewer than 10 years and has relevant experience as the Bourse may determine.” The IIAC and its members would like confirmation that this term (Qualified Lawyer) will only relate to the composition of the Disciplinary Committee (Article 4.600) and not to legal counsel representing industry participants or personnel.</p> <p>Furthermore, members are concerned about the wording “has relevant experience as the Bourse may determine” and question what this experience would entail. Members are also seeking clarity on the necessity of the condition of having practiced “in the Province of Quebec for no fewer than 10 years.” Members believe that the most important asset of a Disciplinary Committee member should be their extensive knowledge of derivatives trading and related regulatory framework in Canada.</p>	<ol style="list-style-type: none"> 1. The term is relevant only for the composition of the Disciplinary Committee and not to legal counsel representing industry participants or personnel. With respect to the wording “has relevant experience as the Bourse may determine,” the Bourse is of the view that this level of detail is appropriate for the Rules, and is currently establishing criteria to determine the competency of members of a Disciplinary Committee. Those criteria will be made public upon their adoption by the Special Committee. 2. For legal counsel representing industry participants or personnel, please refer to the proposed article 4.304(b). Participants and any person who may be called upon to appear before the Disciplinary Committee may be represented by the lawyer of his or her choice subject to the requirements of the <i>Act respecting the Barreau du Québec</i>, CQLR, c. B-1 (circular 033-21)
2.	<p>The Delegation of Powers and Obligations from the Regulatory Division to the Bourse’s Profit-Making Unit – Annex 1, A. Proposed amendments to related Articles and miscellaneous</p> <p>Pages 9 and 35 of the Proposal (PDF) include the [New] Article 1.104. Significant concerns arose from this new proposed Article. The IIAC and its members believe that powers or obligations of the Vice-President, Regulatory Division, should never, under any circumstances, be delegated to an employee of the Bourse. As stated in many prior IIAC comment letters, including our comment letter of November 23,</p>	<p>This is a purely administrative mechanism to enable the Vice-President, Regulatory Division (among others) to delegate their powers so as to manage the risk of interruption in case they are unable to act for whatever reason. We will clarify that, in the case of the Vice-President, Regulatory Division, in compliance with any applicable law (including any order or requirement of a Securities Regulator), the delegation must be made only to a member of the Regulatory Division (as a reminder, members of the Regulatory Division are employees of the Bourse or its affiliates).</p>

	<p>2018, responding to Circular 166-18, and our comment letter of June 1, 2017, responding to Circular 038-17, on proposed amendments to the governance structure of the Bourse, conflicts of interest such as this between the Bourse’s profit-making division and its Regulatory Division can be damaging to market integrity and market reputation.</p>	
<p>3.</p>	<p>Lack of Investigation Transparency</p> <p>The IIAC and its members would like to reiterate previous comments from our IIAC submission dated July 24, 2020, in regard to Circular 074-20, issued on April 30, 2020, now withdrawn by the Regulatory Division. Our comments from 2020 related to the lack of transparency of the Regulatory Division’s investigation process. We strongly believe that the 2020 comments below, drafted for the proposed amendments to Part 4 of the Rules of the Bourse, must be taken into consideration, as many portions of the current proposal create similar industry concerns as did Circular 074-20.</p> <p>The IIAC agreed with the stated objectives of the Bourse in Circular 074-20, in drafting the Proposal <i>“...to make the investigative process of the Division more transparent and predictable to market participants, and improve efficiency during an investigation.”</i></p> <p>The IIAC and its members also fully supported the Regulatory Division of the Bourse in its <i>“...responsibility to prohibit and counter market abuse, market manipulation, fraud and deceptive trading, and to promote the integrity of the derivatives market.”</i></p> <p>The IIAC also welcomed the following mentions, stated in Circular 074-20, that <i>...the Division aims to encourage collaboration with the various stakeholders in order to foster a compliance culture.</i></p> <p><i>...the Division considers that its investigation process should be fair, while being flexible where applicable.</i></p> <p>Our members also acknowledge, as stated in our submission of July 24, 2020, that <i>“The Regulatory Division must obtain a thorough understanding of the facts and circumstances to make measured decisions regarding the appropriateness of</i></p>	<p>The Regulatory Division’s investigative process is similar to those conducted by other SROs in Quebec and elsewhere in Canada. Moreover, other exchanges and securities regulators around the world have similar processes. The conduct of investigations is clearly a core regulatory function of the Bourse performed by the Regulatory Division. As such, the Bourse takes IIAC’s comment on the lack of transparency very seriously. It reiterates its willingness to make the investigation process more transparent and emphasizes that the proposed amendments serve this specific goal (for instance, article 4.103 of the proposed amendments to the Rules provides a detailed description of the investigation process). If IIAC members have comments on specific provisions, the Bourse will consider those in light of its core regulatory activities.</p>

	<p><i>enforcement activity.”</i></p> <p>With the publication of the current Proposal (Circular 094-21) on May 25, 2021, our members confirmed that the investigation process continues to create confusion, continues to be highly time and energy consuming, and crucially, continues to lack transparency.</p>	
4.	<p>The Lack of a Proper Proposal Format and Lack of Proposal Transparency</p> <p>The IIAC believes that the format in which the proposed amendments are presented causes confusion for market participants.</p> <p>We do not understand why the Circular includes duplicate pages. Members would like to note that pages 35-58 are duplicates of pages 9-34 of the PDF. We initially believed that pages 9-34 were the blackline version of the Rules and pages 35-58 were the clean version of the Rules. However, we noticed that what we assumed was the blackline version, following a reconciliation with current applicable rules on the Bourse’s website, did not identify all proposed changes (proposed by the Bourse) to the current valid rules on the Bourse’s website.</p> <p>For example, the format does not clearly identify the change from 36 months to five years that the Bourse has included in the Proposal under Article 4.2 (Jurisdiction). The Circular creates confusion for industry participants in regard to complaints filed against a former Approved Participant or Approved Person.</p> <p>However, proposed Article 4.2 (Jurisdiction) seems to be mentioning a five-year period as per below, although the significant change in period is not marked in what we believe to be the Proposal’s blackline version (pages 9-34).</p> <p>As per the concordance table (Annex 2) of the Circular, new Article 4.2 (Jurisdiction) replaces Article 4.201(b). Yet the significant change of 36 months to five years could only be noticed by industry participants by reconciling the Proposal to the current Rules, which cannot be done within the information provided in the Proposal by the Bourse. This lack of transparency is, once more, concerning to the IIAC.</p>	<ol style="list-style-type: none"> 1. As the proposed text consists not of amendments to the existing Part 4 but rather of an entirely new Part 4, a blackline would not have been useful in identifying changes. There was therefore no obvious way to bring specific changes to the reader’s attention, as the vast bulk of the text was new. The Bourse decided that the best approach would be to provide a blackline for the changes outside of Part 4 but not for Part 4 itself, while highlighting certain key provisions in the accompanying analysis. It is unfortunate that IIAC elected not to contact the Bourse in this regard, as it would have been a simple matter to clarify the presentation of the documents. We invite IIAC to do so in future if ever there is a similar situation. 2. Under section 8206 of IIROC Rule 8200, the Investment Industry Regulatory Organization of Canada (“IIROC”) may commence a disciplinary proceeding against an IIROC Regulated Person up to six years after the date of the occurrence of the last event on which the proceeding is based. The duration of the proposed extension to five years is therefore well within industry norms. As a reminder, the purpose of this time period is not to reflect the duration of an investigation, but to enable the Regulatory Division to take action based on facts that come to light when there would be insufficient time to act before the Regulated Person ceases to hold that status. 3. Page 3 of the analysis accompanying the proposed amendments specifically highlights this change.

	<p>The confusion may arise from a lack of transparency. Proper blackline versions, showing all changes to the current Rules, must be included in Requests for Comments. All changes proposed, including material changes such as a change from 36 months to five years (as per above), are easier to identify in a blackline version. There is also a concern that there may be other items that have changed and have not been properly flagged as such by our manual reconciliation.</p> <p>We would request proper and complete blackline versions in future Requests for Comments as they help the public and industry members understand proposed changes to the Rules and provide comments. Asking participants to compare information from different sources, outside of the Request for Comments, is unacceptable. The Bourse must show better transparency throughout its Proposal process.</p> <p>Since the IIAC and its members were able to identify the significant change of 36 months to five years mentioned above – despite the lack of blackline version in the Request for Comments – we must inform the Bourse that the change is unacceptable and unwarranted. The industry believes that an SRO should, when a complaint is filed, be able to investigate and reach a conclusion within 36 months (three years). The inability for an SRO to do so causes further concern.</p>	
5.	<p>The Terms of Agreements with Clients and Third Parties</p> <p>The IIAC and its members understand the importance of complying with requests for information. However, many third parties and technology providers have standard service agreements that cannot be amended at a member’s request.</p> <p>Furthermore, only persons under the Bourse’s jurisdiction should be involved in receiving a request for information in an interview or in similar proceedings. We therefore ask the Bourse to rephrase the portion below from Article 4.101 (Obligation to respond and cooperate) included in its Proposal:</p> <p><i>(c) Approved Participants must make reasonable efforts to ensure the cooperation, in connection with the exercise by the Bourse of its authority under Part 4 of the</i></p>	<ol style="list-style-type: none"> 1. The obligation to secure third-party cooperation is one of means, not results (as indicated by the reference to “reasonable efforts”). There is no obligation to include contractual language in third-party agreements; that mechanism was instead given as an example of one way to comply with this obligation. 2. The Exchange has jurisdiction over Regulated Persons as defined in the proposed amendments. The use of the term “any Person” reflects section 62.1 of the <i>Act respecting the regulation of the financial sector</i> (the “Financial Sector Act”), which states: <ul style="list-style-type: none"> <i>If a recognized organization conducts an investigation, within the meaning of its rules of operation, into the conduct of its members or participants as regards the carrying on, in Québec, of an activity</i>

Rules, of any Person over which they have any control or direction or with which they are in a business relationship, including their clients.

We wish to remind the Bourse that Approved Participants may not be able to influence their business partners and clients to provide information requested by the Bourse, as some of these individuals are not under the Bourse’s jurisdiction. Furthermore, as mentioned in prior IIAC letters, certain types of information the Regulatory Division has requested from members in the past cannot be provided as that would constitute a privacy breach. For example, members recall that in the recent past, the Regulatory Division has made requests for some information that was not under the control of Approved Participants, such as client information surrounding “give-up” transactions.

We would like to reiterate that when the Regulatory Division is seeking end-client information in give-up transactions, it should request this information from the firm obtaining the “give-up,” since the client belongs to that firm, and not from the firm executing the “give-up” transaction. Requesting client information from the executing firm, as mentioned above, could lead an Approved Participant to a breach of privacy of its policies and procedures.

Furthermore, we firmly believe that an Approved Participant cannot be held responsible if its clients refuse to cooperate with the Regulatory Division. An Approved Participant has no control over its clients in this case.

The IIAC and its members would also like to provide comments on the proposed Article 4.103 (Conduct of investigations) and its use of the term “any Person.”

As mentioned in our IIAC comment letter dated July 24, 2020, including the term “any Person” in this Article is inappropriate. Our comment letter mentions that “any Person” should be changed to “any employee of an Approved Participant or Approved Person” in the case of a request for information (RFI), interviews and similar proceedings. Once again, we believe that only persons under the Bourse’s jurisdiction should be receiving an RFI during the course of an investigation, and the time period allotted to respond to this RFI should be reasonable based on the circumstances. For example, pulling together data from a remote location (such as

governed by an Act referred to in Schedule 1, it may request any person to communicate any document or information relating to the member or participant concerned that it considers useful to the investigation. (our emphasis)

3. Approved Participants must ensure collaboration from their clients in accordance with paragraph 3.5 (b) (iii) 5) of the Rules. As a general practice, the Regulatory Division sends its requests for information to the Regulated Person and not the end client directly. There is no suggestion that the Bourse will hold an Approved Participant responsible if its clients refuse to cooperate with the Regulatory Division, so long as that Approved Participant has used reasonable efforts to secure such cooperation. Furthermore, when possible, the Regulatory Division would generally seek the Approved Participant’s authorization to address the person whose cooperation it is seeking, and only if it is unable to achieve its goals would it seek the Approved Participant’s active assistance (as a reminder, to use “reasonable efforts”).
4. Each situation may be different. As such, the use of reasonable efforts will be assessed taking into account the specific context. For example, consideration will be given to the nature of the relationship between the Approved Participant and the client for which the proximity may vary. The Regulatory Division will provide more guidance to Approved Participants with regard to this requirement.

	<p>in “work from home” situations) may require more time than the “usual” timeframe allotted for such a request.</p>	
<p>6.</p>	<p>Issues with Requests for Information, Interviews and Similar Processes</p> <p>A prior IIAC letter on the topic of requests for information during an investigation, suggested that the following wording should be used (bolded text has been inserted into the relevant Article below):</p> <p><i>In the course of an investigation, the personnel of the Regulatory Division may request, in writing and in digital form, from an Approved Participant, an Approved Person and any other person where authorized under the Rules or by law, to produce any document or information that the personnel of the Regulatory Division deems relevant to the investigation. A copy of the request must be sent to the Chief Compliance Officer. In cases where the Approved Participant does not deem the document or information requested to be relevant, the Regulatory Division will provide written justification for its request.</i></p> <p><i>... due to the COVID-19 outbreak, we believe that all requests for information should be made, at a minimum, in digital form. Mailroom staff may currently be overwhelmed, and a mailed request may not be processed in the allotted time. Furthermore, employees working remotely have access to email, not to physical documents that may be delivered to the office.</i></p> <p><i>We believe that the Chief Compliance Officer must be made aware of all requests and should therefore be receiving a copy of any requests the Regulatory Division makes to the firm.</i></p> <p>Furthermore, we believe that any request should be justified in writing by the Regulatory Division if an Approved Participant does not believe the request to be reasonable or justifiable. Creating a dialogue with participants in this way would help achieve the stated goals of the Regulatory Division for greater transparency and fairness for industry participants. We reiterate our prior IIAC comment letters which included the following:</p>	<ol style="list-style-type: none"> 1. Requests for information are sent in the most efficient and appropriate way. The words <i>in writing</i> are defined under the new Article 4.3: <p><i>The phrase “in writing” and similar phrases when used in this Part 4 includes transmission by electronic means.</i></p> <p>Chief Compliance Officers are copied on requests for information by the investigation team, unless Participants indicate otherwise.</p> 2. Under section 62.1 of the Financial Sector Act, the fact that the investigative team considers a document or information <u>useful</u> is sufficient grounds for the Regulated Person or any Person to be bound by the request of information. As such, a Regulated Person or any Person has the obligation to provide the requested document or information to the investigative team, subject to exceptional circumstances such as the existence of solicitor-client privilege. The Regulated Person may contact the Regulatory Division investigation team at any time, but it would be highly inappropriate for the Regulatory Division to be required to justify its requests to any Regulated Person who takes the position that a document or information is irrelevant. 3. A Regulated Person has the right to be assisted by legal counsel in the course of an investigation (as opposed to legal representation, which occurs only when formal disciplinary proceedings are served upon a Respondent). The phrase “at the discretion” of the Regulatory Division provides for flexibility in the conduct of investigations. The proposed section allows a CCO or other representative to attend an interview, if a request is made and granted, subject to the Regulatory Division’s discretion. In some instances, it may not be appropriate to conduct the interview of

We also strongly believe that the Regulatory Division should, in cases where the Approved Participant does not deem the document or information requested to be relevant to an investigation, provide written justification for its request. We believe this would make the process more transparent to all market participants. Such justification should also confirm the Regulatory Division's role in protecting market integrity.

Another serious concern from industry members, also included in a prior IIAC submission letter, relates to the participation of an Approved Participant's Chief Compliance Officer at interviews. A Chief Compliance Officer, having the responsibility to oversee compliance, must have the right to attend interviews and to be involved in any subsequent disciplinary proceedings. Any other representative of an Approved Participant should also be allowed to attend. The current Proposal states:

(d) Any Person responding to a request in the course of an investigation pursuant to this Article may be assisted by legal counsel. The Regulatory Division may, at its discretion, allow a representative of the Approved Participant to be present during an interview. The presence of legal counsel or a representative of the Approved Participant at an interview conducted by the Regulatory Division must not cause prejudice to the conduct of the investigation.

Besides the use of "any Person," industry members have serious concerns with interviews conducted without the firm's Chief Compliance Officer (CCO), other designated compliance personnel, or another representative of the Approved Participant. The role of the CCO is to oversee all compliance functions, and the CCO should therefore be permitted to attend interviews. The industry's view is that the presence of the CCO can only provide further clarification to investigators. For example, a trader may use "trading lingo" and have a difficult time explaining a situation in "layman's terms" to the Regulatory Division's staff. A CCO or another representative of the Approved Participant would be able to explain complex concepts in plain language to the Regulatory Division's staff. This would be beneficial to both parties. Also, we do not believe that including the language "at the discretion" of the Regulatory Division adds any transparency or fairness to the

an Approved Person or employee of the Approved Participant in the presence of the CCO or other representative of the Approved Participant, especially where such individuals may be potential witnesses and/or may be subject to an interview. It would be highly inappropriate for Approved Participants to suggest or dictate the conduct of interviews.

4. The title of section 4.1 does not affect the substance of the obligation. Accordingly, as a whole, section 4.1 already provides for such an obligation in the conduct of investigations. The proposed change is meant to better align the content of the obligation with the title. It is a change of administrative nature.
5. The notion of free access is not new to the industry. See, for example, subsection 8103 (3) of IIROC Rule 8100 .
6. The proposed amendment on the conduct of interviews is broad enough to include a virtual appearance, such as by videoconference. The words "by any other means determined by the Regulatory Division" provide the necessary flexibility.
7. All investigations must remain confidential in order to avoid compromising the integrity of the process. It would be highly inappropriate for the Regulatory Division to be required to waive such confidentiality if a Regulated Person takes the position that an investigation is unfair, unjustifiable, unreasonable or demonstrates a lack of knowledge from a regulator.
8. A respondent in an enforcement proceeding is entitled to procedural fairness. All recordings and transcripts (if any), are made available to the Approved Participant or Approved Person in due course in order for respondent to make full answer and defense to the allegations contained in a disciplinary complaint. As such, such recordings and transcripts are duly disclosed upon

process. Our prior industry comments stated that the language referring to investigations should be amended to the following:

An Approved Participant, any employee of an Approved Participant or any Approved Person shall have the right to legal assistance and representation during an investigation and any subsequent disciplinary proceedings. Any employee of an Approved Participant or any Approved Person shall also have the right to have a representative of the Approved Participant (such as the Chief Compliance Officer or designated compliance personnel) attend any interview conducted...

Including Article 4.1 in the Current Proposal

Since the Regulatory Division was proposing, in Circular 074-20 issued last year, to amend the title of Article 4.1 from “Obligation to Respond to Inspection” to “Obligation to Respond” and to therefore broaden the “Obligation to Respond” to include investigations and enforcement, we believe the request for comments was incomplete and that Article 4.1 should have been included in the Circular for proper review by industry participants. The IIAC, in our letter dated July 24, 2020, mentioned the following:

In order to provide comments on Article 4.1, we are including excerpts below:

Article 4.1 Obligation to Respond to Inspection

Approved Participants, their employees, and Approved Persons must comply with the obligation to provide information as set forth in this Chapter.

(a) Upon the request of the Regulatory Division or of one of its representatives, such Persons must provide without delay all information related to their business, Trades, positions or conduct as well as to the identity, business, Trades or positions of any of their customers and employees and customers of Persons for whom they provide account maintenance services. To this end, these Persons must submit and give to the Regulatory Division access to any records, registers, data, data bases, files,

the service of a disciplinary complaint. The proposed amendments provide for the disclosure of evidence to any respondent involved in disciplinary proceedings undertaken by the Bourse.

9. Grammatical errors have been identified in article 4.103 (e) of the proposed amendments and will be corrected accordingly:
(e) *All requests, Documents and information pertaining to an investigation shall be treated as confidential and any person who receives a request under this Article, who participates or assists in the course of an investigation...*

documents, papers and information for examination, and allow the Regulatory Division or its representative to obtain a copy thereof on demand.

Since the Regulatory Division did not include Article 4.1 in Annex 1 of the Circular [issued in 2020], we believe that the section above will remain as currently drafted, only mentioning examinations. We agree with the paragraph above.

Our IIAC comment letter dated July 24, 2020, also stated:

Article 4.1, which is not included in Circular 074-20, continues:

(b) For the purposes of any investigation or examination, the Regulatory Division or its representative may obtain such information from any source whatsoever, including any of the customers of any Approved Participants.

Since the Regulatory Division did not include Article 4.1 in Annex 1 of the Circular, we believe that the section above will remain as currently drafted. We believe that “may obtain such information” refers to the information listed in the prior paragraph. If so, the Approved Participant “must provide without delay all information related to their business, Trades, positions or conduct as well as to the identity, business, Trades or positions of any of their customers and employees and customers of Persons for whom they provide account maintenance services.” We find the wording to be quite different than the wording proposed by the Regulatory Division in regard to Article 4.2 in its current proposal [Circular 074-20 issued in 2020]. The wording in the current proposal is so general that it may give free access to the Regulatory Division to information outside the scope of an investigation.

The section in the current proposal (Circular 094-21) that relates to the Obligation to Respond has changed dramatically from the prior version. Our assumption, in our 2020 submission, that the rule would remain unchanged was therefore inaccurate. We believe, once again, that the format used by the Bourse in 2020 lacked transparency and created confusion for industry participants.

In the current proposal, Article 4.101 (Obligation to respond and cooperate) includes the repeated use of the terms “free access.” It states, for example, the following:

(i) promptly, fully and truthfully cooperate with the Regulatory Division, including by replying to all requests made, submitting and allowing free access to the Regulatory Division to any Document or information;

(ii) give free access to and provide any Documents and information, in their possession or under their control, that the Regulatory Division may require, regardless of the nature of the medium and the form in which such information, register, data, file, documents or exhibit can be accessed.

As mentioned in our submission dated July 24, 2020, a response to the request for comments on Circular 074-20, we disagree with the language of “free access.” Approved participants should provide information and documents requested in order for the Regulatory Division to conduct an investigation. However, the term “free access” implies that the Regulatory Division should be allowed to access any of an Approved Participant’s systems and to access any information stored on its systems, whether related to an investigation or not. We strongly disagree with this and ask that the sentence be reworded.

Furthermore, as industry members are concerned that the Regulatory Division may not completely understand the trading of derivatives products, we believe that, in cases where the Approved Participant does not deem the document or information requested to be relevant to the investigation, the Regulatory Division will provide written justification for its request. As previously mentioned, this would make the process more transparent to all market participants. We would hope that such written justification would also confirm the Regulatory Division’s role in protecting market integrity.

In the current proposal, Article 4.103 (Conduct of investigations) mentions the following:

(b) In the course of an investigation and in accordance with Article 4.100, the Regulatory Division may require any Person to provide it with any Document or information that the Regulatory Division deems relevant to the investigation. Any such Person shall:

(i) comply, in accordance with Article 4.101, with a request under paragraph (a) within the time prescribed in the request; and

(ii) appear in person for an interview with the Regulatory Division, or by any other means determined by the Regulatory Division, to answer questions from the Regulatory Division. This interview may be transcribed or recorded electronically, on audiotape or videotape, as determined by the Regulatory Division.

We believe that the above wording needs further clarity and should be amended to the following:

*(ii) appear in person **or electronically (such as by videoconference)** for an interview with the Regulatory Division, or by any other means determined by the Regulatory Division **if reasonable to the Approved Participant**, to answer questions from the Regulatory Division. This interview may be transcribed **and** recorded electronically, on audiotape or videotape.*

Due to the COVID-19 outbreak and the transition to remote work, we believe that in-person interviews may be difficult to perform for the foreseeable future. We believe that interviews conducted electronically, such as by using videoconferencing technology, may be warranted and also much less expensive to conduct. This is especially true when an Approved Participant does not deem the investigation to be justified. An electronic interview would cost much less in time, energy and money. We also believe, for added transparency and fairness to participants, that all interviews should be recorded and transcribed to ensure a proper audit trail. Approved Participants should have access to the recordings and transcriptions upon request. This may be needed if the file is escalated to higher authorities for further investigation.

Article 4.103 (Conduct of investigations), as currently proposed, mentions the following:

(e) All requests, Documents and information pertaining to an investigation shall be treated as confidential and any Person who receives a request under this Article, who participate or assist in the course of an investigation, shall not disclose any information in relation to the investigation except:

- (i) to legal counsel providing assistance in the course of the investigation;*
- (ii) to a Person responsible for compliance or supervision with the Approved Participant;*
- (iii) to a representative of the Approved Participant for purposes of supervision or to inform a partner, director or officer of the Approved Participant;*
- (iv) as required by law; or*
- (v) where the Regulatory Division provides a written authorization to disclose following a request made.*

(f) Failure to comply with any provision of this Article shall be deemed a violation of Article 4.101.

As previously mentioned in our IIAC comment letter dated July 24, 2020, we believe the Circular contains a grammatical error and the wording should be amended to the following:

*(e) All requests, documents and information pertaining to an investigation shall be treated as confidential and any person who receives a request under this Article, who **participates** or **assists** in the course of an investigation...*

Furthermore, we agree that investigations should mostly remain confidential. However, requests made to an Approved Participant which are deemed unfair, unjustifiable, unreasonable or which demonstrate a lack of knowledge from a regulator, should not have to remain confidential. Approved Participants have received such requests in the recent past.

In order for the investigation process to be “more transparent and predictable to market participants” as well as “fair, while being flexible where applicable,” as stated in the Circular, the Approved Participant should be able to receive from the

	<p>Regulatory Division, a written justification for a request deemed unfair, unjustifiable or unreasonable.</p> <p>If, after receiving a written justification from the Regulatory Division, the Approved Participant still believes that the request is unfair, unjustifiable, unreasonable or exhibits a serious lack of knowledge from the regulator, the Approved Participant must be able to discuss some general information concerning the investigation with their IIAC representative, and be able to share the complete information with the Autorité des marchés financiers as well as with any organization that is a gatekeeper for investor protection and/or market integrity. This would ensure the stated goals of the Regulatory Division of transparency and fairness to market participants, while proving the Regulatory Division’s role of maintaining market integrity.</p> <p>It is crucial that members can rely on a regulator that is educated in the underlying complexities specific to their industry. If there is a perception from members that this knowledge is lacking, this information must, for the benefit of the market and all participants, be conveyed to the proper gatekeepers and must not remain confidential. Transparency is essential.</p> <p>Ensuring the Division and its representatives are accountable and well-informed is also relevant with respect to Article 4.106 (Costs and Expenses) which states <i>that the following shall constitute a debt owed to the Bourse by the Regulated Person, who must pay the amount thereof upon demand:</i></p> <p><i>(a) all costs and expenses paid or incurred by the Regulatory Division, including professional fees, in connection with any investigation carried out or any proceedings initiated under Part 4 of the Rules; and</i></p> <p><i>(b) any amount charged by the Regulatory Division in accordance with the fee schedule of the Bourse in effect from time to time.</i></p>	
7.	<p>The Possible Improper Sharing of Information by the Regulatory Division</p> <p>Article 4.105 (Information sharing) in the current proposal mentions the following:</p>	<p>There are partition measures in place to preserve the confidentiality of the information that the Regulatory Division receives and generates as part of</p>

<p><i>The Regulatory Division may, on behalf of the Bourse, enter into agreements with any exchange, central clearing counterparty, self-regulatory organization, securities regulator, financial intelligence or law enforcement agency or authority, in Québec or elsewhere, to collect and share information. Subject to the legislation relating to the protection of personal information, the Regulatory Division may at any time make available to such Persons any report, Document or information described in such agreements or upon request, pursuant to Article 4.100 (b).</i></p> <p>The industry participants understand the reasons behind agreements to collect and share data with other SROs and law enforcement agencies. However, because of its regulatory function, the Regulatory Division must be conscious that our members' trading data and related information should not be shared with the Bourse for the Bourse's business purposes. We believe that the independence between the Regulatory Division and the profit-making unit of the Bourse is the key to maintaining market integrity, market protection and the reputation of the Canadian derivatives market. Therefore, the wording of Article 4.105 should be changed to exclude the collection and sharing of information with the profit-making unit of the Bourse for the Bourse's business purposes.</p>	<p>its regulatory activities and functions. There is no improper sharing of the regulatory information, in compliance with the Recognition Decision of the AMF.</p>
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