

CIRCULAR 043-20
March 18, 2020

ADDITIONAL GUIDANCE TO APPROVED PARTICIPANTS COVID-19

On March 11, 2020, the Regulatory Division (the “Division”) of Bourse de Montréal inc. (the “Bourse”) published a circular ([041-20](#)) reminding Approved Participants of their obligations regarding the business continuity plan¹ which should cover multiple scenarios, including those of a flu pandemic. The Division also emphasized its expectation that Approved Participants take all reasonable steps to achieve compliance with their regulatory obligations.

In the context of Covid-19, the Division considers that a flexible approach to regulatory requirements is appropriate, enabling Approved Participants to provide the necessary liquidity and stability in times of greater volatility. While no exemptions are granted to any Approved Participant with respect to specific regulatory requirements, the Division may tolerate certain departures from the current standards due to temporary emergency measures.

The Division is maintaining all its regulatory activities while making adjustments when required, considering the current situation.

In light of recent developments, and in response to requests received from Approved Participants, the Division wishes to provide additional guidance over the possible restrictions associated with invoking their business continuity plans due to Covid-19 and the conduct of the Division’s regulatory activities.

Notification to the Division

It is the Division’s expectation that the Approved Participant promptly notifies the Division (by email at info.mxr@tmx.com) if an Approved Participant triggers its business continuity plan, in whole or in part related to its activities on the Bourse, and confirms that the plan achieves compliance with the Rules of the Bourse. If not all regulatory requirements are met, the Approved Participant is expected to identify these requirements in the notification and describe alternative measures being taken.

If the Division deems that adjustments to the plan are required, the Division will reach out to the Approved Participant with the objective of mutually agreeing on appropriate temporary measures. The Division will consider each situation independently, on a case-by-case basis, taking into consideration the operations and structure of each Approved Participant.

Telephone conversations recording requirement

All telephone conversations related to trading in Securities or Derivative Instruments listed on the Bourse must be recorded (Article 6.118 e) of the [Rules of the Bourse](#)).

If, as per the business continuity plan, personnel of an Approved Participant are required to conduct their activities remotely, meaning from a site different than the normal business site, where phone recording

¹ Article 3.102 of the [Rules of the Bourse](#)

functionalities are not available, the Division expects the Approved Participant to create, maintain and provide upon request, a written record of each oral communication related to the trading of Securities or Derivative Instruments listed on the Bourse. As a minimum requirement, such written records must include the date, time, identification of the persons participating in the telephone conversation, and the subject matter of the communication. The Division expects that the Approved Participant will require the personnel whose telephone conversations are not recorded to maintain such written records in the Approved Participant's system or to require that such written records be transferred to the Approved Participant for retention. The written records must be kept by Approved Participants for a period of one year.

Until June 30, 2020, subject to the respect of the minimum requirements described above, such alternative measures will be deemed reasonable by the Division.

Time-stamping

All orders for Securities or Derivative Instruments traded on the Bourse must be time-stamped (Article 6.118 b) & c) of the [Rules of the Bourse](#)).

If, as per the business continuity plan, personnel of an Approved Participant are required to conduct their activities remotely, meaning from a site different than the normal business site, where a time stamping device is not available, the Division expects the Approved Participant to otherwise create, maintain and provide upon request, a record of the date and time, to the nearest minute. Such records must be maintained in the Approved Participant's system or must be transferred to the Approved Participant for retention. The records of the date and time of each order must be maintained as currently required.

Until June 30, 2020, subject to the respect of the minimum requirements described above, such alternative measures will be deemed reasonable by the Division.

Reporting Exchanges of Futures for Related Products (“EFRP”) Transactions

Approved Participants for both the seller and buyer must report within one hour upon determination of all the relevant terms of the Transaction to the Market Operations Department on the Special Terms Transaction Reporting Form available at <http://sttrf-frots.m-x.ca/> each EFRP Transaction executed during the trading hours of the applicable Futures Contract (Article 6.208 d) of the [Rules of the Bourse](#)).

While there will be no adjustment to the required reporting deadline for EFRP and the application of late filing fees when appropriate based on the facts, the Division appreciates that due to current circumstances, strict compliance with such deadlines may present operational challenges. Accordingly, the Division suggests that Approved Participants experiencing difficulty in complying with the reporting time promptly notify the Division by email at info.mxr@tmx.com. The Division will consider each situation independently, on a case-by-case basis, taking into consideration the operations and structure of each Approved Participant and the current limitations as a result of invoking its business continuity plan due to Covid-19.

Filing Large Open Position Reports (“LOPR”)

In conducting its surveillance activities and ensuring market integrity, the Division must be provided with daily LOPR from Approved Participants in a timely manner. Therefore, the Division is not adjusting the required reporting deadline for LOPR and maintains the application of late filing fees when appropriate

based on the facts. The Division appreciates that due to current circumstances, compliance with the deadline may be challenging once a business continuity plan has been invoked.

The Division recommends that if a Participant is not able to meet the deadline for the filing of LOPR, the Approved Participant should contact the Division as soon as possible to discuss alternatives.

Supervision and Compliance

Each Approved Participant, at the time of its approval and so long as it remains approved, must establish and maintain a system that is reasonably designed to achieve compliance with the Rules of the Bourse and with any legislation and regulations applicable to Securities and Derivative Instruments activities (Article 3.100 Supervision, Surveillance and Compliance of the [Rules of the Bourse](#)).

An Approved Participant may, given the trigger of its business continuity plan or the significant increase of trading activities or alerts, need to adjust its supervision procedure(s) and process(es) to manage these challenges, such as volume issues, staff illness or system processing delays, resulting from the exceptional circumstances created by the Covid-19 pandemic.

In such cases, the Division expects that the Approved Participant promptly notifies the Division (by email at info.mxr@tmx.com) explaining the changes made to the procedure(s) and process(es) and their rationale. The Approved Participant must detail all measures being taken to ensure and maintain reasonable audit trails for its supervision of orders entered and trades conducted on the Bourse.

Examinations

The Division is not suspending its examination activities. However, all examinations are being conducted offsite and meetings will be held via telephone or teleconferencing. Should an Approved Participant have challenges with the timing of an upcoming examination or complying with an information or document request in that context, the Approved Participant should reach out to the Division to find a mutually agreeable and reasonable solution. Each situation will be assessed on a case-by-case basis, taking into consideration the specific challenges of the Approved Participant.

All questions relating to an open examination should be directed to its Lead Examiner, or any general concerns should be communicated to Karen McMeekin, Director, Examinations, at karen.mcmeekin@tmx.com or by cell at 514 516-5591.

Requests For Information (“RFI”)

In its efforts in promoting market integrity, the Division is not suspending its regulatory functions, which include the monitoring and supervision of the Bourse’s derivatives trading activities. Should an Approved Participant have challenges with an information request or the delay to provide the requested information, the Approved Participant may contact the Division to find a mutually agreeable and reasonable solution. Each situation will be assessed on a case-by-case basis, taking into consideration the specific facts and circumstances.

Marc Stephens, Director, Market Analysis and Investigations, may be reached at marc.stephens@tmx.com or by cell at 514 497-4940.

The Division continues to closely monitor the situation and will evaluate the next steps in due course.



Meanwhile, for more information or for any questions, contact the Regulatory Division, at 514 787 6530 or toll-free in Canada and the US at 1 800 361 5353 ext. 46530, toll-free in Great Britain or France at 00 800 36 15 35 35 ext. 46530, or by email at info.mxr@tmx.com.

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