

CIRCULAR 104-18

June 15, 2018

REQUEST FOR COMMENTS

REORGANIZATION OF THE RULES STRUCTURE, CERTAIN CONFORMING SUBSTANTIVE AMENDMENTS AND VARIOUS NON-SUBSTANTIVE EDITORIAL AMENDMENTS

The Rules and Policies Committee of Bourse de Montréal Inc. (the “**Bourse**”) has approved amendments as part of its Rule Modernization Project. Those amendments to the Rules of the Bourse aim to establish a new Rules’ structure, update the terminology to ensure consistency throughout the Rules, and update cross-references to align with the new numbering convention and abrogate articles that are no longer relevant or redundant.

Comments on the proposed amendments must be submitted at the latest on **September 15, 2018**. Please submit your comments to:

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

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

Please note that the Bourse will only take into consideration comments concerning the substantive rule amendments as well as the non-substantive and conforming amendments presented in this circular and described in the attached analysis.

Appendix and the Bourse's Web Site

You will find in the appendix an analysis of the proposed amendments. You will find the proposed amendments by clicking on the following link: https://www.m-x.ca/publi_new_rulebook_en.php.

In order to facilitate the revision of the amendments, the Bourse has prepared a concordance table between the current Rules and the reorganized Rulebook.

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

Process for Changes to the Rules

The Bourse is authorized to carry on business as an exchange and is recognized as a self-regulatory organization by the Autorité. The Board of Directors of the Bourse has delegated to the Rules and Policies Committee of the Bourse its powers to approve and amend the Rules, the Policies and the Procedures, which are thereafter submitted to the Autorité in accordance with the self-certification process as determined by the *Derivatives Act* (CQLR, chapter I-14.01).



**REORGANIZATION OF THE RULES STRUCTURE, CERTAIN CONFORMING
SUBSTANTIVE AMENDMENTS AND VARIOUS NON-SUBSTANTIVE EDITORIAL
AMENDMENTS**

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I. SUMMARY

In 2014, Bourse de Montréal Inc. (the “Bourse”) undertook a project (the “Rule Modernization Project”) to update, modernize and reorganize its rules applicable to its activities and to market participants (the “Rules”). The primary objective of the Rule Modernization Project was to provide Rules that are clear, updated, organized in a logical fashion and that accurately reflect the current trading environment.

The Rule Modernization Project examined a number of substantive articles in need of updating. During this stage of the project, the Bourse proposed amendments to many articles that were issued for public comment in six (6) circulars¹.

Following these substantive amendments, the final phase of the Rule Modernization Project was to reorganize the structure of the Rules, and to update and harmonize the language of the Rules. Except as noted below, these changes are all non-substantive. None of the changes are intended to modify the substantive meaning or application of the Rules as currently in effect.

This document discusses the proposed Rules structure and other amendments intended to remove redundant articles, abrogate articles from the Rules that are no longer relevant and which were not updated during the prior substantive review of selected articles, update the terminology and make conforming changes in order to ensure consistency throughout the Rules.

The Rules were reorganized in a logical sequence by regrouping articles with similar subject matter in the same sections or sub-sections. The Bourse also endeavoured to maintain the numbering of the current Rulebook to the greatest degree possible within an entirely new numbering convention. For that reason, the Bourse has used “reserved” placeholders where possible to provide continuity in numbering and to bridge the two numbering systems.

In order to assist market participants in navigating the new Rules, the Bourse has included, as an Appendix to the Rules, a table showing concordance between the new Rules and the current Rules. Once the new Rules are adopted, the Bourse will also maintain on its website the previous Rules for reference.

Finally, the revised Rules include a limited number of new articles. Most of these are intended to be clarifications of existing articles and do not create new obligations or violations. Each of these is discussed below.

Because of the substantial revisions occasioned by this reorganization, the Bourse has reviewed and affirmatively adopted the new Rules in their entirety. A few new articles provide guidelines as to the interpretation of the Rules. The Rules will be considered “version 1” as of the date of their adoption and no prior history will be cited, although all prior versions of the articles as provided in the current Rules are relevant with respect to understanding the meaning of the articles in the revised Rules. The date that subsequent amendments are adopted will be noted in the history of each article in the revised Rules going forward from the date of its adoption.

¹ See Circulars [034-16](#), [035-16](#), [087-16](#), [088-16](#), [090-16](#) and [118-16](#).

II. ANALYSIS

a. Background

The proposed amendments are part of the Rule Modernization Project. So far, as part of this project, the Bourse:

1. Proposed a number of substantive changes to the Rules in consultation with market participants. These changes aligned the Rules with current Bourse practices and as applicable, with current industry best practices;
2. Removed outdated articles from the Rules;
3. Incorporated the products' specifications into the Rules;
4. Incorporated the Bourse's policies and procedures into the Rules;
5. Removed references to products and transactions no longer available on the Bourse; and
6. Updated the terminology in order to refer to the relevant defined terms.

The proposed amendments presented in this analysis would establish a new Rules' structure, update the terminology to ensure consistency throughout the Rules, update cross-references to align with the new numbering convention and abrogate articles that are no longer relevant or redundant and that were not abrogated during the earlier substantive phases of the Rule Modernization Project.

The proposed amendments are analysed below with additional details included in the Appendices

b. Description and Analysis of Market Impacts

The amendments can be separated into the following categories:

1. Introduction of the new Rules' structure;
2. Non-substantive amendments;
3. Substantive revisions to the text of the Rules (but not the meaning or intent unless provided otherwise).

Each is discussed below.

1. Introduction of the new Rulebook structure

The Bourse is proposing a new structure to its Rules which should provide greater clarity to market participants. The Bourse reviewed the Rules, identified articles addressing the same subject matter and regrouped them in Parts and Chapters. These Parts and Chapters are organized in a logical fashion and in an order which is generally similar to the Rules of other derivatives exchanges, modified to the extent possible to maintain the structure of the current Rules. For example, current Rule 4 has been maintained as Part 4 of the reorganized Rules. The Bourse is also introducing a Table of Contents which will facilitate reference to and use of its Rules by market participants and others.

The Rules' Parts and Chapters will be identified using a new, uniform and consistent numbering convention. The new numbering convention will be: Part 1, Chapter A, Article 1.1, (a), (i), (1), (A). Separation of clauses within a subparagraph that are not enumerated in a list will use (x), (y) and (z). Every new Chapter will begin the numbering of articles anew at an increment of 100.

Accordingly, Chapter 2 of every Part will begin with Article 200. The numbering system begins with Part 1, Chapter A, Article 1.0.

The new Rules' structure consist of thirteen (13) Parts as set out below:

- Part 1- General Provisions and Definitions
- Part 2- Governance
- Part 3- Approved Participants and Approved Persons
- Part 4- Inspections and Enforcement
- Part 5- Disputes
- Part 6- Trading Rules
- Part 7- Trading and Business Conduct
- Part 8- Business Conduct - Advertising
- Part 9- Clearing and Financial Integrity
- Part 10- Liability and Disclaimers
- Part 11- Product Specifications for Equity Index, Equity, ETF and Currency Options
- Part 12- Product Specifications for Futures
- Part 13- Product Specifications for Options on Futures

Due to the introduction of the new numbering convention, all articles had to be renumbered and articles cross-referencing other articles have been updated to align with the new numbering convention. Appendix III contains a table of concordance to assist market participants in identifying articles in the new Rules.

2. Non-substantive and conforming amendments

The Bourse also proposes amendments which are intended to clarify the Rules, remove redundant or anachronistic articles and to incorporate all policies and procedures of the Bourse into the Rules.

The proposed non-substantive amendments include:

1. Incorporate the following policies and procedures and separate provisions of the Rules;
 - The Daily Settlement Price Procedures for Futures Contracts and Options on Futures Contracts²;
 - The Procedures applicable to the Execution of Strategies Involving Options³;
 - The Procedures applicable to the Execution of Strategies Involving Futures and Options on Futures⁴;
 - The Procedures Applicable to the Execution of Strategies Involving Share Futures⁵;
 - Rules Regarding the Regulatory Division⁶;
 - Rules Regarding the Special Committee of the Regulatory Division⁷

² Will now be in Part 6, Chapter E, Appendix A.

³ Will now be in Part 6, Chapter D, Appendix B.

⁴ Will now be in Part 6, Chapter D, Appendix A.

⁵ Will now be in Part 6, Chapter D, Appendix C.

⁶ Will now be in Part 2, Chapter B.

⁷ Will now be in Part 2, Chapter C.

These policies and procedures are simply being relocated with no substantive changes, so they need not also be abrogated.

2. Abrogate Article 1110 (citations) since the new Rules' structure makes the citation of articles a non-issue. All articles are regrouped in one set of Rules and each article is implicitly an article from the Rules. Therefore, there is no need for an article that explicitly provides that an article is an article of the Rules.
3. Many defined terms in the current Rule 1 (now article 1.101) are not used throughout the Rules and therefore, their definition can be abrogated. These terms are:
 - CDCC Option;
 - CDCC Option is used once throughout the Rules and the article where it appears, describes CDCC Options using the same wording than its definition. Therefore, abrogating this definition will not cause any ambiguity as to the meaning of CDCC Option.
 - Intercommodity Spread (futures contracts);
 - Intermarket Spread (futures contracts);
 - Introducing Broker;
 - Opening Trade; and
 - Security Deposit.
4. Abrogate Article 4004 since it was meant to be a transitional provision and is no longer relevant to the Rules.
5. Abrogate Article 4405 since the employees of an "Approved Participant" who are approved by the Bourse pursuant to current Article 6636, and designated representative who are approved pursuant to current Article 3501 are included in the definition of "Approved Person" in Article 1.01 of the Rules.
6. Current articles 6377 and 7467 both pertain to recordkeeping requirements of approved participants. In order to avoid redundancy and regroup the relevant information in one article, these two articles were merged into a single one; 6.118. No substantive changes were made.
7. Abrogate Articles 6701, 6751, 6763, 6764, 6765, 6767, 6771, 6780, and 6790. These articles specify the sections of the Rules applicable to options, but all listed products, futures and options, are subject to all the Rules, not only to specific sections. Since these articles are redundant and no longer relevant, the Bourse proposes to abrogate them.
8. Abrogate Articles 6801, 6802 c), 6803, 6804, 6807, 6808, and 6812 since they were meant to be transitional provisions. These articles used to describe the contracts' specifications and were amended⁸ to refer to Rule 15 after the contracts' specifications were moved in Rule 15. These articles are no longer relevant due to the new structure and numbering of the Rules and can be abrogated.
9. Abrogate Article 6802 a) and b). The content of Article 6802 a) is already provided for in Article 6.306 of the new Rules, and the content of Article 6802 b) is already provided for in Article 6.412 and in Appendix 6D of the new Rules.

⁸ [Circular 149-15](#)

10. Abrogate Article 7005 since it is no longer relevant. This article mentions that the definition of the terms used in Rule 7 is found in Rule 1 or in the IIROC “Joint Regulatory Financial Questionnaire and Report” form (Form 1). Article 7152 is the only article using a term defined in IIROC’s Form 1 and it is specifically mentioned in this Article that such term should have the meaning attributed in IIROC’s Form 1. Therefore, Article 7005 is no longer relevant and can be abrogated. Its abrogation will not cause any interpretation issue with terms used throughout the Rules.
11. Abrogate Article 15001 since it is not substantive and no longer relevant due to the new structure of the Rules. Article 15001 enumerates the futures contracts whose specifications are set forth in Rule 15 and given the reorganization of the Rules, this article is no longer relevant.
12. Add the definition of “Regulatory Division” in Article 1.101. Article 1 of the Rules Regarding the Special Committee-Regulatory Division and Article 1 of the Rules Regarding the Regulatory Division will be abrogated since they define terms that are already defined in the current Rule 1, except for the term “Regulatory Division” whose definition will be moved in the definition section of the new Rules.
13. Abrogate Article 2 of the Rules Regarding the Special Committee-Regulatory Division to avoid redundancy since its content is already provided for in article 1.0. of the new Rules.
14. The Standard & Poor’s and FTSE disclaimers are currently used in each section dealing with the contracts’ specifications using indices calculated by SNP or FTSE. In order to avoid redundancy, these disclaimers were regrouped in one section of the Rules. The Standard & Poor’s disclaimer was also changed following a language update from Standard & Poor’s.
15. References to restricted permit and restricted permit holders were removed from the Rules regarding the Regulatory Division and the Rules regarding the Special Committee when these Rules were incorporated in Part 2, Chapter B and C respectively. Restricted permit holder is an obsolete concept since this category of trader no longer exist.
16. Update and harmonize the terminology throughout the Rules with regard to the following terms:
 - “Operation” and “Transaction” “Transaction” [*English version*]; “Opération” [*French version*];

Instead of replacing one term by the other, the Bourse has reviewed the context of the term and determined which term (from example, “operation” or “transaction”) shall be used in the Rules in order to respect the purpose of such applicable Rules.

3. Substantive Rule Amendments

There are several amendments that are somewhat substantive in nature. However, none of these represents a departure from the current understanding of the effect of the current article, except for the amendment to article 6.1. These proposed amendments are as follows:

1. *Definitions.* A definition of “Electronic Trading System” or “Trading System” was added. Although both are referred to in the Rules, until now the terms have been undefined. The new definition reads as follow:

“Electronic Trading System or Trading System means the electronic systems administered by or on behalf of the Bourse for execution of Transactions on the Bourse, including both system defined strategies and User Defined Strategies”.

The Bourse also added the following definitions:

- *Derivatives Act;*
 - *Companies’s Creditors Arrangement Act;*
 - *Code of Civil Procedure.*
2. *Article 1.5.* Article 1.5 provides that the Rules appear in both a French and English language version and that they are both equally authoritative. The article also states that no version of the Rules shall be considered the translation of the other and no version of the Rules shall have precedence over the other. The purpose of this article is to provide interpretative guidance with respect to the effect of language on the Rules. The effect of this article is to clarify that when interpreting the meaning of a term, the reader should seek to understand the term in the context in which it is used in the first instance rather than seeking to refer to the term as translated in the other language version of the Rules. This principle aligns with interpretative guidelines of laws and regulations in Quebec⁹.
 3. *Article 1.9.* This article makes clear that the prior history and interpretations of the Rules remain applicable to the revised and reorganized Rules. Accordingly, all of the preceding interpretations and understandings regarding the interpretation of specific articles continue to apply. This article therefore provides certainty that there is a continuity of practice regardless of the reorganization of the Rules.
 4. *Article 1.100.* This article stipulates that capitalized terms in the Rules have the meaning specified in Article 1.101.
 5. *Article 1.101.* This article provides interpretative guidance for the Rules regarding gender neutrality, singular and plural terms, references to calendar days and references to paragraphs or clauses.
 6. *Part 2, Chapter B.* This adds to the articles of Rules applicable to the operation of the Regulatory Division. These were previously available as separate rules. There is no substantive change, simply incorporation of the text into the Rules.

⁹ [Charter of the French Language.](#)

7. *Part 2, Chapter C.* This adds to the articles of Rules applicable to the Special Committee of the Regulatory Division. These were previously available as separate rules. There is no substantive change, simply incorporation of the text into the Rules.
8. *Article 6.1.* This articles provides the circumstances under which the emergency powers of the Bourse can be exercised. The Bourse amended paragraph (a) of this article to provide that such power is to be exercised upon the good faith belief of the Bourse that an emergency situation occurs. This standard differs from the previous one which was referencing to “valid reason” which can be more ambiguous and create interpretation issues.
9. *Articles 6.2 and 6.3.* Article 6.3 provides that all trading in Listed Products must take place on the Bourse or subject to the Rules of the Bourse. Article 6.2 is related, but sets out that all transactions must take place on the Bourse, except if permitted by an exception. These exceptions include non-trading transfers of existing futures contracts (Article 6.200) and the exceptions to pre-arranged trades, including pre-discussed trades, block trades, riskless basis cross trades, and others set forth in the Rules.
10. *Articles 4.201 and 7.2.* Former Article 4101 addressed the Regulatory Division’s authority to bring complaints against someone violating the Rules. It included within its terms the generally prohibited conduct of acting in a manner contrary to “just and equitable principles of trade.” The revised articles separate, but do not alter, these two concepts. Article 4.201 is a procedural provision authorizing the Regulatory Division to bring complaints against violations of any rule provision. Article 7.2 explicitly provides that it is a rule violation to act in a manner that is inconsistent with “just and equitable principles of trade.” This reorganization of the article does not make any substantive change whatsoever in the conduct which is prohibited or in the Regulatory Division’s authority. It merely clarifies the conceptual application of the former article.

c. Comparative Analysis

In order to get a general sense on how the Rules should be organized, the Bourse looked at the rules structure of a number of derivatives exchanges, including CME¹⁰, ICE Futures US¹¹ CBOE¹² and various of the newly organized Swap Execution Facilities.

d. Proposed Amendments

Please see Appendix I and II which provide further details on the proposed amendments.

III. AMENDMENT PROCESS

The Bourse undertook the Rules Modernization Project to update its Rules and provide its clients with more clarity with regard to its regulations. The proposed amendments will reorganize the Rules in a more logical fashion while harmonizing the terminology throughout the Rules.

¹⁰ <http://www.cmegroup.com/rulebook/CME/>

¹¹ <https://www.theice.com/futures-us/regulation>

¹² http://wallstreet.cch.com/CBOEtools/PlatformViewer.asp?SelectedNode=chp_1_1&manual=/CBOE/rules/cboe-rules/

IV. IMPACTS ON TECHNOLOGICAL SYSTEMS

None of the proposed amendments has an impact on the technological systems of the Bourse or those of its approved participants.

V. OBJECTIVES OF PROPOSED AMENDMENTS

The proposed amendments seek to:

- Provide greater clarity for market participants;
- Simplify the Rules by reviewing the structure of the Rules and the numbering convention;
- Incorporate all separate policies and procedures of the Bourse into the Rules;
- Harmonize the language of the Rules; and
- Abrogate articles that are redundant or which are anachronisms.

VI. PUBLIC INTEREST

It is in the public interest that the Rules of the Bourse be clear and well organized. The proposed amendments aim at making the Rules more transparent and reducing ambiguity in their wording.

VII. EFFICIENCY

The proposed amendments will have no impact on market efficiency.

VIII. PROCESS

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

IX. ATTACHED DOCUMENTS

- Appendix I: Revised Rule Book
- Appendix II: Red Line of Amendments to the Current Rule Book post-reorganization
- Appendix III: Table of Concordance.