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<input type="checkbox"/>	Trading – Equity and Index Derivatives	<input checked="" type="checkbox"/>	Technology
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		<input type="checkbox"/>	MCeX

**CIRCULAR**  
June 16, 2011

## **REQUEST FOR COMMENTS**

### **REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR BONA FIDE HEDGERS AND FOR RISK MANAGEMENT PURPOSES**

#### **AMENDMENTS TO POLICY C-1**

The Rules and Policies Committee of Bourse de Montréal Inc. (the Bourse) has approved amendments to Policy C-1 of the Bourse, which deal with requests for exemption from position limits for bona fide hedgers. The purpose of these amendments is to provide for the approved participants the obligation to file a request for exemption as soon as they become aware that the prescribed position limit has been exceeded or as soon as they realize that an intended transaction will result in prescribed position limits being exceeded.

Comments on the proposed amendments to Policy C-1 of the Bourse must be submitted within 30 days following the date of publication of the present notice, at the latest on July 18, 2011. Please submit your comments to:

*Mr. François Gilbert*  
*Vice-President, Legal Affairs, Derivatives*  
*Bourse de Montréal Inc.*  
*Tour de la Bourse*  
*P.O. Box 61, 800 Victoria Square*  
*Montréal, Quebec H4Z 1A9*  
*E-mail: [legal@m-x.ca](mailto:legal@m-x.ca)*

A copy of these comments shall also be forwarded to the Autorité to:

*Ms. Anne-Marie Beaudoin*  
*Corporate Secretary*  
*Autorité des marchés financiers*  
*800 Victoria Square, 22<sup>nd</sup> Floor*  
*P.O. Box 246, Tour de la Bourse*  
*Montréal (Quebec) H4Z 1G3*  
*E-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)*

Circular no.: 110-2011

## **Appendices**

For your information, you will find in appendices an analysis document of the proposed rule amendments as well as the proposed regulatory text. The implementation date of the proposed amendments will be determined by the Bourse, in accordance with the self-certification process as established in the Derivatives Act (2008, c.24).

### **Process for Changes to the Rules**

Bourse de Montréal Inc. is authorized to carry on business as an exchange and is recognized as a self-regulatory organization (SRO) by the Autorité des marchés financiers (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 its Rules. The Rules of the Bourse are submitted to the Autorité in accordance to the self-certification process as established in the Derivatives Act (2008, c.24).

In its SRO capacity, the Bourse assumes market regulation and supervision responsibilities of its approved participants. The responsibility for regulating the market and the approved participants of the Bourse comes under the Regulatory Division of the Bourse (the Division). The Division carries on its activities as a distinct business unit separate from the other activities of the Bourse.

The Division is under the authority of a Special Committee appointed by the Board of Directors of the Bourse. The Special Committee is empowered to recommend to the Board of Directors the approval or amendment of some aspects of the Rules of the Bourse governing approved participants. The Board of Directors has delegated to the Rules and Policies Committee of the Bourse its powers to approve or amend these Rules upon recommendation from the Special Committee.



### REQUESTS FOR EXEMPTION FROM POSITION LIMITS FOR BONA FIDE HEDGERS AND FOR RISK MANAGEMENT PURPOSES

#### – AMENDMENTS TO POLICY C-1

#### I SUMMARY

Bourse de Montréal Inc. (the Bourse) wishes to proceed with a complete revision of its Policy C-1 regarding requests for exemption from position limits for bona fide hedgers. This Policy has not been subjected to any update since 1993. A complete revision is therefore necessary not only in order that the Policy and the practices that are related to it be harmonized with the best practices that can be found on other markets including, amongst others, the U.S. market, but also to make it sufficiently clear so that approved participants and their clients clearly understand in which cases it is possible to obtain an exemption from the position limits prescribed by the Bourse. The Policy must also be as clear as possible for what regards the process that must be followed by approved participants, by their clients and by the Bourse when a request for exemption is submitted.

Furthermore, any request for exemption from position limits requires from the applicant to undertake some commitments and, when the exemption is granted, to comply with some requirements and conditions. It is therefore important that these undertakings, commitments and conditions be clearly described in the Policy.

Finally, the conditions related to the renewals of existing exemptions or modifications to such exemptions must be clearly set out.

#### II ANALYSIS

#### A) The context

The current regulations of the Bourse provide in various places for the possibility for approved participants of the Bourse and their clients to be exempted from the position limits established by the Bourse on the various derivative instruments that are listed for trading.

It is the case notably in paragraph E of article 6651 of the Rules which regards position limits applicable to options, in article 14157 which regards derivative instruments in general and in various articles of Rule Fifteen which regard futures contracts listed on the Bourse. In all cases, these articles specifically refer to Policy C-1. However, they do not detail the process that must be followed to submit an exemption request neither the handling process of such a request once it has been received by the Bourse. Approved participants and their clients must therefore necessarily refer to Policy C-1 when requesting an exemption from position limits.

#### B) Introduction of the risk management concept

It is first proposed to introduce a new concept for what regards exemption requests: risk management. Along with the introduction of this new concept, it is also proposed to arrange for allowing that position limits exemption be possible not only for bona fide hedgers but also for approved participants and clients who wish to hold important positions for risk management purposes.

Pursuant to current Policy C-1, only bona fide hedgers can request and obtain an exemption from position limits. When looking at the U.S. regulations and more specifically at the rules of the CME Group exchanges (CME, NYMEX and CBOT) and the regulations of the Commodity Futures Trading Commission, one realizes that the bona fide hedger concept is a concept that primarily targets enterprises involved in the production, purchase or sale of commodities such as agricultural products, raw materials, construction materials, energy products, etc. For example, an agricultural producer who wishes to ensure a certain selling price for his upcoming production can use futures contracts on the

commodity he produces in order to be protected against unfavourable price fluctuations. In the same manner, an air transportation company can use futures contracts on fuel in order to be protected against expected price increases for this commodity.

All these cases are characterized by a desire to be protected against risks that are related to the future production of a commodity, to future purchases or to future sales of a commodity that is not yet on hand. CFTC Regulation 1.3 (z), when defining what is a bona fide hedger, clearly refers to the fact that this concept is related to commercial services and to goods that are physically deliverable or that are, at some point in time, in a physical distribution channel. The CFTC definition also clearly refers to commodities that are subjected to a production, manufacturing or distribution process for commercial purposes. Finally, the CFTC definition sets out a time horizon limited to 12 months for what regards hedging future purchases and sales of commodities.

The bona fide hedger concept is more or less adequate for derivative instruments having financial instruments as an underlying such as equities or bonds. Although the use of derivative instruments in this case can effectively be in order to procure some protection against unfavourable market movements, the desired time horizon may very well extend much farther than the 12 months period prescribed by the CFTC. Furthermore, holding of securities by an approved participant or by a client will generally not be for commercial purposes but for investment purposes and in many instances, these investments will be for a very long period of time.

CME Group exchanges Rule 559 (*Position Limits and Exemptions*) makes a distinction between the bona fide hedger and the risk management concepts. Rule 559A provides for the possibility to obtain an exemption from position limits for bona fide hedgers while Rule 559B provides the same for positions taken for risk management purposes.

The Bourse therefore proposes to allow the same thing. The bona fide hedger concept is already

provided for and defined in articles 14226 and 14227 of the Rules of the Bourse. The Bourse therefore proposes that Policy C-1 limits itself to referring to these articles for what regards this concept. The Bourse, even though introducing the risk management concept, considers that it is necessary to retain the bona fide hedger concept because it will remain relevant if derivative instruments having commodities as their underlying are listed for trading on the Bourse. A good example of this is the crude oil futures contract that was briefly listed on the Bourse in 2010.

For what regards the risk management concept, since it is not defined in the current Rules and Policies of the Bourse, it is proposed to incorporate in Policy C-1 a definition of what the Bourse considers as being a position taken for risk management purposes. The proposed definition, which is drawn from the definition used by the CME Group, clearly refers to the fact the derivative instrument underlying can, contrarily to the underlying of a commodity futures contract, trade on an exchange.

### **C) Requests for exemption**

Up until now, neither the Rules of the Bourse nor Policy C-1 were clearly specifying that the possibility to obtain a position limit exemption was not available for any speculative account. It is proposed that this point be clearly specified in the Policy in order to avoid that requests for exemption be submitted for this type of account. None of the markets that impose position limits and that permit that exemptions be granted allow such exemptions to be granted to speculative accounts.

Also, up until now, Policy C-1 was providing that any request for exemption from position limits had to be filed at the latest before 9:30 a.m. (Montréal time) on the first business day following the day on which the prescribed limit is exceeded. Such a provision could have been considered adequate in the past when electronic tools were either not existing or not very efficient. As a result, in most cases it was difficult or even impossible for an approved participant to know or to estimate precisely his real position in a short period of time.

With the sophistication of electronic tools that are now available to approved participants and their clients, it is now possible for them to know their positions on real-time or practically real-time basis. It is also possible for them to rapidly determine what will be the impact on their current positions of an expected transaction.

Therefore, the Bourse proposes that the wording of paragraph 1.2 of Policy C-1 be amended in order to require from approved participants that they file a request for exemption as soon as they become aware that the prescribed position limit has been exceeded or as soon as they realize that an intended transaction will result in prescribed position limits being exceeded.

However, the Bourse recognizes that some circumstances can make an immediate filing impossible. Therefore, it is proposed not only to retain the current delay, until 9:30 a.m. on the next business day, but also to grant an additional five business days delay in exceptional circumstances. This additional five business days delay would however be granted by formal authorization from the Bourse.

If the Bourse sees that the delays that are prescribed to file a request for exemption have not been complied with and that no such request has been received, it will then have the authority to order the immediate liquidation of all positions that are in excess of the prescribed limit.

Also, the various articles of the Rules of the Bourse that refer to Policy C-1 provide that the request for exemption must be filed by using the prescribed form for that purpose. Such prescribed form has never existed until now. The Bourse has therefore developed such a form, copy of which is attached hereto as Appendix A. This form will be made available to approved participants on the Regulatory Division website (<http://reg.m-x.ca/en/>) when the proposed amendments to Policy C-1 will be implemented. Paragraph 1.5 of Policy C-1 and its subparagraphs summarily describe the information that must be provided to the Bourse on the proposed form when filing a request for exemption.

In addition to allow for a standardization of the information that must be provided to the Bourse when filing a request for exemption, the form will also permit, through the declarations and undertakings that it contains, to remind the applicant about the obligations and conditions he must comply with not only for the purposes of the request itself but also in case the request for exemption is accepted. The declarations and undertakings that are found in the form are essentially the same ones as the conditions and undertakings of subparagraphs 1.5.3 to 1.5.9 of Policy C-1.

### **D) Treatment of Exemption Requests**

Generally, it is necessary that requests for exemption be processed as quickly as possible, especially when they involve a situation where an approved participant or its client intend to execute a particular transaction but that they will be unable to execute this transaction if it is not possible to obtain an exemption from position limits. It is also important to mention that these particular transactions are generally of a large size, involving thousands of contracts. Being unable to execute the intended transaction or having to delay it can therefore have significant financial consequences. It is therefore of an utmost importance that any request for exemption be processed within the shortest possible delays.

In order to ensure a rapid processing of this type of request, the Bourse proposes to provide for a specific processing delay in Policy C-1. Thus, any request for exemption received before 2:00 p.m. (Montréal time) would have to be processed within a maximum delay of three hours. For requests received after 2:00 p.m., they would have to be processed before 9:30 a.m. (Montréal time) on the next business day. Of course, the processing within the prescribed time delays would be conditional upon the receipt by the Bourse of all required information.

Also, the Bourse has always had an internal committee responsible for reviewing requests for exemption and deciding upon the approval or refusal of these requests. However, nowhere in the Rules and Policies of the Bourse is the existence of this committee mentioned.

In order to make the processing of requests for exemption from position limits as transparent as possible, it is therefore proposed to incorporate into Policy C-1 provisions mentioning the existence of this committee and how it is composed. The committee, as it is already the case, would be composed of a representative from each of the following sectors of the Bourse:

- Legal Affairs;
- Research & Development;
- Financial Markets;
- Market Operations;
- Canadian Derivatives Clearing Corporation (CDCC); and
- Regulatory Division.

It would also be provided that in case of impossibility to have a committee meeting, then the decision to approve or not the requested exemption would rest on the Vice-President of the Regulatory Division. On this matter, it has to be reminded that all requests for exemption will be transmitted to the Regulatory Division and it is the Division, as it is already the case, which will have the responsibility to collect all the information necessary to take a decision and to submit the request to the committee.

It therefore appears logical, in case of non availability of the majority of the committee members, that the decision be taken by the officer in charge of the Regulatory Division since it is the Division that holds all the necessary information and that will also be responsible for ensuring compliance with the exemption conditions if it is granted.

### **E) Factors taken in consideration by the Bourse for the purpose of requests for exemption from position limits**

The Bourse considers that it would be useful for approved participants and their clients to have an idea of the factors that will be taken in consideration by the Bourse when a request for exemption from position limits will be submitted.

The proposed Policy C-1 therefore includes a section (Section 3) which enumerates briefly the main factors that will be taken in consideration.

### **F) Communication of the decision**

The proposed amendments to Policy C-1 also include a provision stating that in order to have a request for exemption considered as having been approved, there must be a confirmation from the Bourse to this effect.

The Bourse considers that such a provision is necessary so that it be clear that the submission of a request for exemption from position limits is not by itself a permission to exceed the prescribed limits. Any overrun of prescribed limits must be formally approved by the Bourse.

Any decision regarding a request for exemption will be confirmed in two manners. It will be first communicated verbally as quickly as possible and will then be followed by a written confirmation in which will be specified, if the request is accepted, all the conditions and limitations applying to the granted exemption including, amongst others, the granted position limit and the exemption expiration date.

In case of partial or total refusal, the applicant will be notified in the same manner. If in such a case it appears necessary to liquidate excess positions, the Bourse will then require that such excess positions be liquidated in an orderly fashion. To this end, a reasonable delay, considering existing market conditions, will be given to the approved participant and/or his client.

Also, in case of refusal, if it appears that the client who asked for an exemption holds accounts at many approved participants and that it has not reduced its position to an acceptable level within the prescribed delay, the Bourse will have the capacity to order each approved participant with whom this client holds positions to liquidate a certain number of positions, such number being based on a prorata of positions held at each approved participant.

Finally, any exemption granted will be for a limited period of time which in no case will

exceed a three-month period from the date on which the exemption was approved.

At first look, this three-month period may look somewhat short but it can be explained by the fact that past experience has shown that generally approved participants and their clients do not need long term exemptions because their portfolio management strategies change regularly. Furthermore, it frequently happens that the need for exemption is only for a point in time resulting from a temporary portfolio situation.

There is also the fact that position limits evolve over time. It is therefore possible that a position requiring an exemption at some point in time no longer requires such an exemption a few weeks or months later because the Bourse, in reason of market conditions, increases the prescribed position limits.

We can take, for example, the Three-month Canadian Bankers' Acceptance futures contract (BAX). The position limit for this futures contract at the beginning of 2011 was 66,400 contracts. As of May 4, 2011, the limit was up at 100,375 contracts. The explanation for this sharp increase of the prescribed limit is that the formula to calculate position limits for futures contracts is based on the open interest of the contract. The open interest in the BAX futures contract having strongly increased during the period mentioned, the limit has therefore been adjusted consequently. This example means that an approved participant who would have liked to take a position of, let us say, 80,000 contracts during the month of January would have needed an exemption. However, for this same position during the month of May, no exemption would have been necessary since this position would have been below the prescribed limit.

### **G) Exemption renewal, increase, modification or cancellation**

If an approved participant and/or its client wish to have an existing position limit exemption increased or renewed, the process to follow will be exactly the same as if it was a new request.

For what regards the renewal of an existing exemption, Policy C-1 requires that the request for

renewal be filed at least 10 business days before the expiry of the exemption.

### **H) Public Interest**

Since the purpose of the regulatory amendments proposed in this analysis is to allow for the implementation of a position limit exemption policy which is for the use not only of approved participants but also of their clients, the Bourse considers that amendments that are proposed to Policy C-1 are of public interest.

### **I) Impact of the proposed amendments on systems**

The purpose of the proposed regulatory amendments is to ensure that approved participants and their clients are well aware of the process related to requests for exemption from position limits for derivative instruments listed on the Bourse and of the conditions and limitations that are applicable when such exemptions are granted.

The Bourse considers that the proposed amendments will have no impact on systems used by approved participants because they do not require putting in place new computer tools.

Information that must be provided to the Bourse for the purpose of a request for exemption from position limits is already available in the systems and records of approved participants and their clients. They will only need to extract the necessary information and to transmit it to the Bourse. Also, the extraction and transmission of this information do not require approved participants and their clients to put in place automated tools because situations where there is a need to request an exemption are extremely limited, and this, mainly because existing position limits are generally sufficiently high to satisfy most of the needs.

### **J) Financial Markets Interest**

The Bourse considers that the regulatory amendments proposed in this analysis will not affect the interests of financial markets. To the

contrary, they will allow these markets to have clear indications regarding the request for exemption from position limits process and regarding the terms and conditions that must be complied with when such exemptions are granted.

### **K) Other Alternatives Considered**

No other alternative was considered by the Bourse.

## **III COMMENTS**

### **A) Efficiency**

As indicated previously, the proposed amendments to Policy C-1 will allow approved participants and their clients to have clear indications on the request for exemption from position limits process and on the terms and obligations that must be complied with when such exemptions are granted.

The proposed amendments will also allow the Bourse to be more efficient when it will process requests for exemption from position limits. The implementation of a standardized form that will accompany the implementation of amended Policy C-1 should contribute to make the process more efficient by procuring some assurance that in all cases the Bourse will receive information which is complete when a request for exemption is filed, which was not the case until now. Furthermore, the proposed amendments will impose to the Bourse an obligation to process exemption requests received within prescribed time delays. Finally, the proposed amendments will formalize the existence of an internal committee of the Bourse whose mandate consists in deciding upon exemption requests that are submitted to the Bourse.

### **B) Process**

The first step for the approval of the regulatory amendments that are proposed in this analysis consist in having them approved by the Special Committee – Regulatory Division of the Bourse.

The proposed amendments are then submitted to the approval of the Rules and Policies Committee of the Bourse. Once the approval of the Rules and

Policies Committee is obtained, the project, including this document and its appendix, is simultaneously published by the Bourse for a 30-day comment period and submitted to the Autorité des marchés financiers (AMF) for self-certification purposes. The AMF also publishes the proposed amendments and the 30-day request for comments in its weekly bulletin.

Finally, a copy of the amendments proposal is transmitted to the Ontario Securities Commission for information.

## **IV SOURCES**

- Article 6651 of Rule Six of Bourse de Montréal Inc. – Position Limits (Options)
- Articles 14226 and 14227 of Rule Fourteen of de Bourse de Montréal Inc. – Definition of bona fide hedge and bona fide hedgers accounts
- Article 14157 of Rule Fourteen of Bourse de Montréal Inc. – Position Limits for Derivative Instruments
- Rule Fifteen of Bourse de Montréal Inc. — Futures Contracts Specifications
- Policy C-1 of Bourse de Montréal Inc. – Requests for Exemptions to Position Limits for Bona Fide Hedgers
- Regulation 1.3 (z) of the Commodity Futures Trading Commission – Bona Fide Hedging Transactions and Positions
- Rule 559 of the CME Group Exchanges (CME, CBOT and NYMEX) – Position Limits and Exemptions



STANDARDIZED FORM

EXEMPTION REQUEST FOR POSITION LIMITS FOR DERIVATIVE INSTRUMENTS LISTED FOR TRADING ON BOURSE DE MONTRÉAL INC.

Indicate if this is:

- A new request
- or
- An increase or a renewal of an existing exemption

1. Name of the beneficiary owner of the account(s) for whom this request is submitted:

\_\_\_\_\_

2. Address: \_\_\_\_\_

City: \_\_\_\_\_ Province or State: \_\_\_\_\_

Postal or Zip Code: \_\_\_\_\_ Country: \_\_\_\_\_

Name and title of the person responsible for the account:

\_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

3. Approved Participant(s) with whom the account(s) is(are) held (attach appendix if necessary):

Name: \_\_\_\_\_

Person responsible for the account(s): \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

Account(s) Number(s): \_\_\_\_\_

4. If the approved participant(s) identified above does(do) not itself (themselves) clear the positions at CDCC, identify the clearing broker(s) (attach appendix if necessary):

Name: \_\_\_\_\_

Person responsible for the account(s): \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_) \_\_\_\_\_

E-mail: \_\_\_\_\_

Account(s) Number(s): \_\_\_\_\_

5. Indicate for which derivative instrument listed on the Bourse an exemption from position limits is requested, what is the requested limit and for how long (maximum of 3 months)

Product (Symbol): \_\_\_\_\_

Requested Limit (number of contracts): \_\_\_\_\_

Long: \_\_\_\_\_ Short: \_\_\_\_\_

6. Include a detailed statement of current open positions in this derivative instrument.

7. Exemption Type:

Hedging (bona fide hedge – see definition in articles 14226 and 14227 of the Rules of the Bourse)

Risk management (see definition in subparagraph 1.1 of Policy C-1 of the Bourse).

8. Include detailed statement of current positions in the underlying interest of the above-mentioned derivative instrument or in securities related to this underlying interest.

9. Include any other information considered useful for the purpose of this request.

**DECLARATIONS AND UNDERTAKINGS**

1. The undersigned declares that positions declared in this request are real bona fide hedges or that they have been taken or will be taken for risk management purposes and that their description is complete and accurate.
2. The undersigned promises to provide any other information or document that the Bourse could deem relevant to request, including any information allowing the Bourse to know and assess the financial situation of the applicant.
3. If the requested exemption is granted, the undersigned undertakes to provide the Bourse with a daily statement not only of open positions in the derivative instrument subjected to such exemption, but also in the underlying interest or in the security related to such underlying interest and this as long as the exemption will be in force.
4. The undersigned undertakes to comply with all the Rules, Policies and Procedures of the Bourse as well as with all the conditions and limitations that could be imposed by the Bourse in connection with the granted exemption.
5. The undersigned undertakes to communicate promptly to the Bourse any significant change in the information provided in this request for exemption.

6. The undersigned undertakes to liquidate in an orderly fashion all positions held in the relevant derivative instrument on expiry or at any other time where it is determined by the undersigned or by the Bourse that it is necessary to liquidate these positions in whole or in part.
7. The undersigned acknowledges that the Bourse may, at any time and for any valid reason, amend or withdraw any position limit exemption it has granted.

No exemption and no increase or renewal of such exemption shall be considered as having been approved or in force as long as the approval of such has been confirmed verbally and in writing by the Regulatory Division of the Bourse. Any exemption, increase or renewal of such exemption shall be for a limited period of time and in no case shall such exemption, increase or renewal be valid for a period of time exceeding three (3) calendar months from the date on which it has been granted.

The approval of this request does not in any way limit the authority of the Bourse to take any emergency measures or to take any discretionary decision if taking such measures or such decision is necessary to ensure market integrity. The Bourse can also impose additional conditions to any exemption already granted or withdraw such exemption if it deems it necessary in reason of operational, regulatory or financial problems of the exemption beneficiary or in reason of matters related to market integrity, lack of market liquidity or depth or any other situation that may be causing a risk for the Bourse, for the clearing corporation and for market participants.

The undersigned certifies that he/she is authorized to sign and submit this request.

Name of applicant (client or approved participant for the account of whom the exemption request is submitted):

---

Submitted by (complete name): \_\_\_\_\_

Position/Title: \_\_\_\_\_ Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

Date: \_\_\_\_\_

## POLICY C-1

### REQUESTS FOR EXEMPTION FROM ~~TO~~ POSITION LIMITS FOR BONA FIDE HEDGERS AND RISK MANAGEMENT PURPOSES (08.09.89, 30.12.93, 00.00.00)

#### INTRODUCTION

The purpose of this Policy is to explain the mechanism allowing approved participants and their a qualified clients to obtain an exemption from the position limits on options and futures derivative instruments which are prescribed in the Regulations Rules of The BourseMontreal Exchange in order to better manage their business more effectively.

#### 1. REQUEST

1.1 Any ~~member~~ approved participant, on its own behalf or on behalf of its client, or any client who is a bona fide hedger as defined in articles 11157, 14207 and 14208, or any client who is a bona fide hedger as defined in these same articles, can file with the BourseExchange an application for a request for exemption from the position limits on derivative instruments prescribed by the BourseExchange for options and futures. However, in order for such a request to be submitted and taken into consideration by the Bourse, the account for which it is submitted must qualify as that of a bona fide hedger, as defined in articles 14226 and 14227. The Bourse will also consider requests for exemption which are submitted for risk management purposes. In no case will the Bourse consider or accept any request for exemption from position limits for any account of a speculative nature.

For the purpose of this Policy, will be considered positions undertaken for risk management purposes and therefore eligible to be the subject of a request for exemption to position limits, those undertaken in a derivative instrument by a person or entity who regularly buys, sells or holds positions in the underlying cash market for this derivative instrument or in a market related to this position, whether on an exchange markets or on the over-the-counter market, provided this underlying or related market shows sufficiently elevated liquidity with regards to the size of the position held in the derivative instrument.

1.2 In order to ensure compliance with article 14157 of the Rules of the Bourse, any request for exemption from position limits must be filed as soon as the approved participant or its client notices that the prescribed position limit for a given derivative instrument is attained or is about to be attained due to a transaction that the approved participant or its client has completed or intends to complete. If, for any reason, it is impossible to submit the request for exemption immediately, the application shall must be filed submitted no later than 9:30 a.m.M., (Montréal time) on the first first business day following the day where the limit was exceeded.

1.3 1.3 Exceptionally and with its explicit authorization, the Bourse may allot more time for the submission of a request for exemption, but this period may in no case exceed five (5) business days following the day on which the prescribed position limit was attained or exceeded.

1.4 If the Bourse notices that an approved participant has exceeded the permitted position limit for a given derivative instrument and that no request for exemption from the position limits has been

submitted for this exceedance, the Bourse may order the immediate liquidation of all positions exceeding the prescribed limit.

1.5 The request must be submitted in writing to the Regulatory Division of the Bourse using the prescribed form and The application shall must include the following information:

- 1.53.1 a description of the type of positions which have been or will be taken by the approved participant or its client in the given derivative instrument. This description shall include, among other things, the number, expected duration and direction (buyer or seller) of the open positions at the time of the request, as well as the number, expected duration and direction of additional positions which the approved participant or its client intends to take. If the positions are in options, an indication of their strike price(s) and their type (calls or puts); and the limit requested;
- 1.53.2 the desired limit and duration of the period (three (3) months maximum) for which the approved participant or its client wishes the exemption to be in effect; a statement that these positions are bona fide hedges or an explanation to justify that the positions comply with the definition of bona fide hedge;
- 1.53.3 a statement that these positions are bona fide hedges or that they have been or will be taken the client's financial statements at the most recent date for risk management purposes. This statement must also include a complete and exact description of the position taken in the underlying interest of the derivative instrument for which the request for exemption is filed or in a value related to that underlying interest and, in the case where the applicant already holds this underlying interest or related value, a copy of any document which demonstrates the existence and ownership of this underlying interest or related value;-
- 1.53.4 the client's inventory position in the underlying product for the period of six months preceding the date of the request an undertaking to provide the Bourse with any information or document it may deem pertinent to request, including any information enabling the Bourse to know and evaluate the financial situation of the applicant ;
- 1.53.5 an undertaking to provide the Bourse with a daily report of open positions in the derivative instrument subjected to a position limit exemption and of any underlying interest or related value for the entire duration of the exemption a recent summary of the client's activity in the market pertaining to which a request for a higher limit is made;
- 1.53.6. an undertaking to comply with all the Rules, Policies and Procedures of the Bourse as well as with all the conditions or limitations which the Bourse could impose in relation to the requested exemption; if the member submitting the request is not a member of the clearing house which guarantees the contract, he shall submit with the request a letter from the clearing member in which the clearing member states that it does not object to this request;
- 1.53.7. an undertaking to promptly submit to the Bourse any important modification to the information provided at the time of the request for exemption any other information the Exchange may request.;

1.5.8 an undertaking to orderly liquidate all positions held at their expiry or at any other time deemed appropriate by the applicant or the Bourse to liquidate these positions in whole or in part; and

1.5.9 recognition of the fact that the Bourse may, at any time and for any motive it deems valid, modify or revoke any granted exemption from position limits.

## **2. PROCESSING OF REQUESTS FOR EXEMPTION FROM POSITION LIMITS**

To accelerate the processing of requests for exemption from position limits, such requests must be sent electronically and in the prescribed form to the attention of the Regulatory Division of the Bourse.

For exemption requests received by the Bourse before 2:00 p.m. (Montréal time), the acceptance or refusal of the exemption request will be communicated to the applicant within 3 hours of the request reception on condition that all information deemed necessary by the Bourse to take its decision has been provided.

For exemption requests received after 2:00 p.m. (Montréal time), the acceptance or refusal of the exemption request will be communicated to the applicant not later than 9:30 a.m. (Montréal time) on the next business day following reception of the request on condition that all information deemed necessary by the Bourse to take its decision has been provided.

The decision to accept or reject the request for exemption will be submitted to an internal Committee of the Bourse which is made up of a representative of the Risk Management Department of the clearing corporation and of each of the following departments of the Bourse:

- Regulatory Division;
- Financial Markets – Market Operations;
- Research and Development;
- Legal Affairs

In case of emergency, the Vice-President of the Regulatory Division or, in his absence, a person designated by him for this purpose will decide and communicate the decision to the applicant.

## **3.2. CRITERIA TAKEN INTO CONSIDERATION BY THE EXCHANGE—BOURSE IN REVIEWING AN APPLICATION FOR EXEMPTION FROM POSITION LIMITS**

Without in any way limiting the criteria which may be considered by the Exchange, the following factors will be taken into consideration by the Exchange—Bourse in reviewing requests for exemptions from position limits.

32.1 The reputation and financial capacity of the approved participant or its client; The Exchange will ensure that a client will not expose himself beyond his capacity to manage the associated risks as evaluated by the Exchange.

32.2 The level of the client's inventory position in the underlying interest or in values related to the underlying interest in relation to the limit he is seeking;

~~23.3~~ recent activity of the approved participant or client in the appropriate market~~The Exchange may decide to grant a fraction only of the limit which is requested, if the recent activity of the client does not seem to justify the limit he is seeking. The Exchange prefers to consider one or more subsequent applications as the client's activity increases in the product.;~~

~~32.4~~ the regular activity in the appropriate market (liquidity, open interest, etc.);~~The Exchange takes into consideration the regular activity in the appropriate market: liquidity, open interest, etc. When the liquidity will increase, the client may submit an application for a higher limit.~~

~~32.5~~ The proposed strategy should be reasonable in the opinion of the Exchange~~the proposed strategy of the approved participant or client.;~~

~~32.6~~ Any other criteria the Exchange~~Bourse~~, in its discretion, considers appropriate.

### **43. COMMUNICATION OF THE DECISION**

~~34.1~~ No exemption shall be deemed as having been approved and being in effect until the Bourse has issued a confirmation of its approval. If the Exchange approves the exemption, the member or the client will be informed as soon as possible.

~~43.2~~ If the Bourse approves the exemption, the approved participant or the client will be informed as soon as possible. Any decision will first be communicated verbally by the Regulatory Division and will immediately be followed by a written confirmation which will set out the conditions and limitations applicable to the exemption including, among other things, the approved position limit, the expiration date of the exemption and any other relevant condition or limitation.  
~~If the Exchange refuses the exemption or approves a fraction only of the request which was made after the limit has been exceeded, the Exchange will inform the member or the client and will give to the member or the client a short period of time, according to the market conditions and the risk to the client, to reduce the client's position below the limit.~~

~~4.3~~ If the Bourse refuses to approve an exemption request, in whole or in part, the Bourse will inform the applicant accordingly and will give him a reasonable period of time, according to market conditions and the risk, to liquidate positions that are in excess of the permitted limit.

If, in the case ~~where the of an exemption~~ request ~~has been~~ submitted by a client, the client fails to reduce ~~the his~~ position below the prescribed limit within the time prescribed by the ~~Bourse~~Exchange, the ~~Bourse~~Exchange may then instruct each ~~clearing member~~approved participant with whom such client holds a positions to reduce the client's position on a pro rata basis.

~~4.4~~ Any approved exemption will have a limited duration. The duration of this period will be established on the basis of the information provided to the Bourse by the applicant at the time of the request for exemption filing but in no case will exceed a period of three (3) months as of the date on which the exemption was approved by the Bourse.

### **54. RENEWAL, INCREASE, MODIFICATION OR REVOCATION REVISION OF EXEMPTIONS**

~~45.1~~ If an approved participant or a client of an approved participant already benefits from an exemption from position limits and if this participant or client wishes for the limit provided by such exemption to be increased and/or renewed, an application to this effect shall be submitted to the Bourse and shall be completed as described in the provisions of paragraph 1.4 of this Policy.

~~Exemptions are granted for undefined periods but the Exchange has the right to modify any particular limit which has been granted.~~

~~5.4.2 In the case of a request to increase the position limit, this one shall be submitted as soon as the approved participant or the client notices that the granted limit is or will be insufficient, but in no case such request shall be submitted later than 9:30 a.m. (Montréal time) on the first business day following the day where the limit was exceeded. The Exchange will review all the exemptions every 12 to 18 months.~~

~~5.34.3 Any request for renewal of an exemption from position limits must be submitted to the Bourse at least ten (10) business days prior to its expiration date. However, in the case of a major change in the market or in the activity or the financial condition of a client whom has been granted special limit, the Exchange may review the exemption and ask for additional information on the particular situation of the client.~~

~~5.4 In order for the Bourse to ascertain itself that it disposes of up-to-date information, any request for increase of the position limit permitted by the exemption and any request for renewal of this exemption shall be subject to the same application and evaluation process as that of a new request.~~

~~5.5 The Bourse may, at any time, request additional information from the approved participant or from a client and may, if deemed appropriate, review, modify or revoke any exemptions previously granted.~~