November 17, 2020

DELIVERED by EMAIL

Theodora Lam
Senior Policy Counsel, Market Policy
Investment Industry Regulatory Organization of Canada
Suite 2000, 121 King Street West
Toronto, Ontario, M5H 3T9
email: tlam@iiroc.ca

Re: **IIROC Notice 20-0202 – Rules Notice – Request for Comment – UMIR and IIROC Rules – Proposed Amendments Respecting the Trading of Derivatives on a Marketplace**

Dear Ms. Lam,

The Toronto Futures, Options and Swaps Exchange (tFOSE Exchange) supports IIROC's efforts to set a common set of trading rules for equities and derivative instruments that help ensure fairness and market integrity.

tFOSE Group Holdings Inc. is a recently established business entity which is in the process of building a new derivatives exchange and clearing house. While tFOSE Exchange will be a Canadian operated and regulated entity, it is building infrastructure and developing innovative products to attract global investors.

tFOSE is a pre-launch, cloud-based derivatives exchange and clearinghouse engaged in two active applications with the Canadian Securities Administrators. Supported by a team of markets and technology experts, tFOSE is well equipped to drive customer choice focused on interoperability, open access and better derivatives.

While tFOSE Exchange initially considered operating its own market surveillance and enforcement, it realized that working with IIROC to create a common regulator that would oversee both equities and derivatives was the best course of action for all. A common regulator and set of market integrity rules are not only good for the integrity of and confidence in a growing Canadian derivatives market, it also simplifies derivatives regulation for participants and marketplaces. Instead of market participants having to understand and abide by individual marketplace integrity rules they can focus on one set in UMIR. tFOSE Exchange has committed to enter into a Regulatory Services Agreement (RSA) with IIROC to outsource this market regulatory function to IIROC. Initially it will be the only derivatives exchange availing itself of IIROC's services but considers the investment by both it and IIROC to be an investment in the Canadian capital markets.

Q 1 Two-Phased Approach

tFOSE Group Holdings Inc. supports the two phased approach to market integrity issues. Priority and focus on market integrity issues are key to building confidence and trust in markets.

PROPOSED AMENDMENTS

Definition of Derivative

The definitions of derivative and related derivative are key to the application of the rules. While we generally support the proposed definitions, we question the use of the word "thing" as an underlying interest because it may raise unnecessary confusion or questions. We also suggest that the definition should be consistent with definitions in other countries (what other securities regulators use) to avoid additional compliance costs for market participants involved in cross-border activities.
We suggest the following definition set out in the U.S. Commodities Futures Act be used to provide consistency and enable efficient cross-border activity since it already familiar to industry:

"**Derivative:** A financial instrument, traded on or off an exchange, the price of which is directly dependent upon (i.e., "derived from") the value of one or more underlying securities, equity indices, debt instruments, commodities, other derivative instruments, or any agreed upon pricing index or arrangement (e.g., the movement over time of the Consumer Price Index or freight rates). They are used to hedge risk or to exchange a floating rate of return for fixed rate of return. Derivatives include futures, options, and swaps. For example, futures contracts are derivatives of the physical contract and options on futures are derivatives of futures contracts."

Question 3 - Exceptions to UMIR 2,2 for Prohibition on Prearranged Transactions

While pre-arranged transactions may be inappropriate in some circumstances where the intention is to manipulate the price, there are also appropriate circumstances. For example, Block trades, Riskless basis cross trades, Exchange of Futures for risk, and Transfer of open positions. The UMIR updates should acknowledge this and refer to marketplace rules around prearranged trades.

Question 4 – Other Examples.

No comment(s).

Question # 5 Do you agree the prohibition on frontrunning, and related pre-hedging exemption, should be extended to derivatives?

tFOSE agrees with the prohibition on frontrunning, and related pre-hedging exemption, should be extended to derivatives.

Question # 6 What would be an appropriate order threshold for determining an "active" OEO client for listed derivatives? What criteria should we consider in determining an "active" OEO client for listed derivatives?

tFOSE feels this is not an Exchange/Marketplace question. As an Exchange we act as a utility, processing, and matching orders. If the order is entered via an approved connection to the Exchange and it follows our rules and that of UMIR, tFOSE Exchange is satisfied.

Powers of Market Regulator verses the Exchange

Exchanges and their regulators can have overlapping as well as separate powers. We believe the rules should reflect the following:

Position and Reporting Limits
The exchange sets the limits which would be monitored by IIROC. Both the exchange and IIROC should have the ability to require firms to reduce or liquidate positions in excess of the limits tFOSE sets. IIROC will also have the ability to modify the limits in unusual circumstances where there are market integrity concerns. The exchange and IIROC should work together to minimize duplication in reporting.

Trading Halts
The exchange will be monitoring the underlying interest. If the trading of the underlying is halted for regulatory reasons, then the derivative instrument will be halted automatically. IIROC will be monitoring the trading of the exchange's products and will determine if a halt is necessary for regulatory reasons. The exchange can halt the trading of the derivative product for business reasons which include technical issues. An example of a Business halt could be a result of a technical issue at a market maker that affects the trading of their securities of responsibility on the exchange. Another example is a halt caused by a lack of connectivity to the engine or that there is an unacceptable delay in processing. In either case, if the Exchange believes that the continuation of trading could/would result in unfair or disorderly markets, it should have the ability to halt the marketplace. The marketplace will inform IIROC of the decision and reasons.

Price fluctuation limits (Price Bands)
The exchange will set these but consult with IIROC.

Enforcing UMIRs
IIROC will be responsible for monitoring and enforcing UMIRs.

Regulatory Process

IIROC should reconsider the composition of the Market Regulatory Advisory Committee (MRAC) to ensure sufficient derivatives expertise is available. It may be more efficient to have a separate or sub-group to provide the relevant expertise.

Question # 7 Have we identified all of the proposed provisions that will materially impact investors, Participants, Marketplaces or IIROC? If not, please list any other proposed provisions that you believe will materially impact one or more parties and why.

We have no comment(s).

Question # 8 Overall, do you agree with IIROC's qualitative assessment that the benefits of the Proposed Amendments are proportionate to their costs? Please provide reasons for your stance.

Yes. Creating one market regulator for the trading of all listed instruments is a good investment for Canadian capital market participants. It should streamline costs and facilitate market integrity. It also establishes IIROC and Canada as regulatory innovators.

Thank you for your consideration. We would be happy to discuss any of our comments.

Respectfully Submitted,

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James Beattie
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