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Ontario Securities Commission
Suite 1903, Box 55
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Dear Mr. Devault:

Re: IIROC – Request for Comments: Proposed Derivatives Rules Modernization, Stage 1

Bourse de Montréal Inc. (“MX”) would like to take this opportunity to express its views on the amendments proposed by IIROC to its Rules regarding IIROC’s “Derivatives Rules Modernization Project, Stage 1” (the “Proposed Changes”) as described in the Rules Notice 19-0200 (the “Notice”) issued on November 21, 2019.

MX, a subsidiary of TMX Group Limited, operates a market of listed derivatives, including equities and fixed-income derivatives, and provides clearing facilities for such listed derivatives through its affiliate, the Canadian Derivatives Clearing Corporation (“CDCC”). It is vital to MX’s participants and CDCC’s clearing members, and to all institutional and retail investors, that the derivatives market in Canada remains fair, efficient and competitive. Our businesses rely on the participants’ and the clearing members’ trust and confidence in the Canadian derivatives market. The roots of such trust and confidence must grow off of rules that are clear, certain and fair, ensuring that the Canadian derivatives market remains competitive and consistent with international best practices.

Subject to the following comments, MX is generally supportive of the Proposed Changes submitted by IIROC.

1. 1.1.5: Revision of “institutional client” definition

IIROC proposes to revise the current definition of the term “institutional client” and, in general, wishes to conform and harmonize its Rules (and the definitions referred thereto) with the terms of the proposed National Instruments 93-101 and 93-102 (the “Proposed National Instruments”).

We note that the term “eligible derivative party” used in the Proposed National Instruments and the term “institutional client” as revised by IIROC would incorporate a notion of “hedger” that excludes the natural person (individual) acting as a hedger. In other words, these definitions only refer to non-individual hedgers.

We note that the definition is not aligned with the definition of “accredited counterparty” used in the Québec *Derivatives Act*, chapter I-14.01 (“QDA”) which includes both a natural person and a legal person. Moreover, like the QDA, MX’s rules also define the “hedger” as a “Person or company” (the term “Person” includes an “individual”). To avoid any potential inconsistencies, we urge IIROC to consider using a definition that includes a natural person in the notion of hedger and/or to explain why the natural person was excluded from the definition.

2. 1.2.2 General business conduct requirements

a. IIROC Rule sections 3402 & 3403

MX notes the expansion of IIROC Rule sections 3402 and 3403 regarding the suitability assessment obligations for retail and institution clients. MX is wondering if the proposed amendments would require Dealer Members to proceed with suitability assessments for existing derivatives accounts at the time the amendments would enter in force. We would suggest considering that the amendments apply only to new derivatives accounts.

b. Best execution requirements - IIROC Rule 3100

IIROC wishes to amend IIROC Rule 3100, Part C to require that the best execution obligation applies to all security and derivative orders and transactions. MX is asking IIROC to provide clarifications with respect to the monitoring and enforcement approach it will take with respect to these requirements, noting that Section 7.3 of MX rules already provides for best execution

requirements for listed derivatives orders and transactions. In fact, the Regulatory Division of MX already monitors and enforces such requirements for all derivatives listed on MX.

MX would like to offer its collaboration to IIROC with respect to MX's practices for best execution oversight of listed derivatives and discuss how MX and IIROC can work together to avoid the creation of duplicate oversight and unnecessary burden on Canadian participants. Although MX is responsible for this monitoring for all its Canadian and foreign participants, it would be in the best interest of the Canadian industry that both entities work together for an efficient enforcement of these best execution requirements.

c. Priority Rules - IIROC Rule 3503

IIROC wishes to amend IIROC Rule 3503 to require that the client priority rule applies to all securities and derivatives orders and transactions. MX is of the view that this amendment should not be applicable to listed derivatives.

Article 6.114 of MX Rules already provides order priorities rules. Moreover, such rules provide for a useful exception that is not found in IIROC Rules: the right for the client to expressly waive the priority of his order. Such a waiver must be documented by the participant.

The misalignment between the Proposed Changes and MX's existing rules could create double standards for participants (IIROC members versus non-IIROC members). MX would like to discuss with IIROC its practice for priority rules monitoring in order to avoid the creation of unnecessary duplication oversight and burden to the Canadian participants in the area of Canadian listed derivatives.

d. Complaint Reporting - IIROC Rule 3728

Although MX does not have any particular issue with the amendment proposed to IIROC Rule section 3728, it will be important to ensure that there are harmonization and clarity between the proposed requirements to report complaints relating to derivatives and the potential impact on gatekeeper requirements already implemented at MX.

3. 1.2.3 Derivatives-specific business conduct

The proposed amendment to IIROC Rule section 3900, Part F will require the Dealer Member to designate a supervisor qualified to be responsible for approving customer account opening and

establishing and maintaining acceptable procedures for any type of derivative account offering. With a view to facilitating participants' business with MX, we suggest that this new designated supervisor be the same individual designated for equities accounts if the participant so chooses. This option would certainly simplify the business conduct of MX participants.

4. 1.2.4 Expectation, undertakings and conditions to offer CFDs and Forex

MX would like to express some concerns regarding the amendment proposed under this topic. The Proposed Changes state that, for all derivatives account offerings, insiders will be prohibited from trading derivatives on the security for which they are an insider. MX does not understand the regulatory purpose behind such a prohibition. In fact, both IIROC and MX have tags to mark orders that are entered by an "Insider" or a "Significant Shareholder". There are already mechanisms in place to handle the concerns that a regulator may have regarding such a sensitive situation. In fact, MX is of the view that trading should not be considered a violation. The violation lies in the idea of trading on the basis of non-public material information. This is what the rule should prohibit. As a result, we urge IIROC to clarify that insider trading is only prohibited when executed on the basis of non-public material information.

5. 1.3.2 Pre-transaction compensation disclosure

MX is of the view that this rule change may cause Dealer Members to incur additional material costs. We ask IIROC to determine if such a change would bring technological as well as operational challenges to Dealer Members and to provide Dealer Members sufficient time to be in compliance with the new rules. In addition, IIROC should specify if the required disclosure is on a trade-by-trade basis or otherwise. IIROC should also consider if such disclosure obligation should be necessarily applicable to the same population of clients than for all investment product transactions.

6. 1.3.3 Trade confirmation

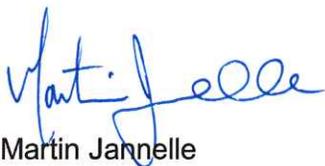
IIROC proposes to expand the scope of IIROC Rule section 3815(1) to require Dealer Members to retain and maintain order, transaction and instructions records for any type of derivatives. Could IIROC specify what the required retention period would be? MX already imposes a one-year retention period for telephone recordings (Article 6.119 e) of MX Rules). MX also believes that requiring the Dealer Members to keep records such as telephone recordings for a period longer than one year may not be the current market practice. It will be important for IIROC to make sure

that the Proposed Changes do not create any inconsistencies with MX Rules (and other exchanges' rules) on the matter.

7. 1.4 Registration and proficiency

Finally, MX is asking IIROC to confirm that the proposed amendments to IIROC Rule section 2602 do not impact the "Trader on Montréal Exchange" category. In fact, MX is of the view that this category should continue to exist for certain participants not trading on behalf of retail or institutional clients.

We thank IIROC for considering our comments. We would be pleased to discuss any aspect of these comments at your convenience.



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