

7.1

Avis et communiqués

7.1 AVIS ET COMMUNIQUÉS

Services de dépôt et de compensation CDS inc. (« CDS ») – Modifications d'ordre technique apportées aux procédés et méthodes de la CDS – Nouvelle fonction de gestion des utilisateurs Web

L'Autorité des marchés financiers publie le projet, déposé par la CDS, de modifications d'ordre technique apportées aux procédés et méthodes de la CDS concernant une nouvelle fonction de gestion des utilisateurs Web. Les modifications proposées visent à décrire la nouvelle fonction de gestion des utilisateurs requise pour utiliser les nouvelles infrastructures des services Web de la CDS, comme le Service d'avertissement électronique (SAE) et le Service de gestion des responsabilités liées aux événements de marché (SGREM).

(Les textes sont reproduits ci-après.)

Commentaires

Les personnes intéressées à soumettre des commentaires doivent en transmettre une copie, au plus tard le 17 août 2009, à :

M^e Anne-Marie Beaudoin
Secrétaire de l'Autorité
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Information complémentaire

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Eurex Frankfurt AG et Eurex Deutschland – Demande de dispense de reconnaissance à titre de bourse

L'Autorité des marchés financiers (l'« Autorité ») publie la demande, déposée par Eurex Frankfurt AG et Eurex Deutschland, de dispense de reconnaissance à titre de bourse en vertu de la *Loi sur les instruments dérivés*, L.R.Q., c. I-14.01. L'Autorité invite toutes les personnes intéressées à lui présenter leurs observations relativement à cette demande.

(Les textes sont reproduits ci-après.)

Commentaires

Toute personne désirant soumettre des commentaires est invitée à les faire parvenir par écrit, au plus tard le 17 août 2009, à l'attention de :

M^e Anne-Marie Beaudoin
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**Avis de modifications d'ordre technique apportées aux Procédés et méthodes de la CDS –
nouvelle fonction de gestion des utilisateurs Web**

Services de dépôt et de compensation CDS inc. (« CDS »^{MD})

**MODIFICATIONS D'ORDRE TECHNIQUE APPORTÉES AUX
PROCÉDÉS ET MÉTHODES DE LA CDS**

NOUVELLE FONCTION DE GESTION DES UTILISATEURS WEB

AVIS D'ENTRÉE EN VIGUEUR

**A. DESCRIPTION DES MODIFICATIONS PROPOSÉES AUX PROCÉDÉS ET MÉTHODES DE
LA CDS**

Contexte

Les modifications proposées visent à décrire la nouvelle fonction de gestion des utilisateurs requise pour utiliser les nouvelles infrastructures des services Web de la CDS, comme le Service d'avertissement électronique (SAE) et le Service de gestion des responsabilités liées aux événements de marché (SGREM).

L'accès des utilisateurs externes aux nouveaux services Web de la CDS sera géré par les adhérents. Lors de l'abonnement à un service Web, une société devra désigner un ou plusieurs gestionnaires des utilisateurs Web (« G UW »). La CDS établira des ID pour les gestionnaires d'utilisateurs Web et leur attribuera le rôle d'administrateurs de la société (semblable à celui du gestionnaire de la sécurité interne du CDSX). Ce rôle permettra à un G UW de créer de nouveaux ID d'utilisateurs et de mettre à jour les ID d'utilisateurs existant au sein de sa société.

De plus, la société désignera un ou plusieurs administrateurs Web (« AW »). La CDS établira également des ID d'utilisateurs pour ces administrateurs Web et leur attribuera le rôle d'administrateurs des accès (semblable à celui de l'administrateur de l'accès aux services du CDSX). Ce rôle permettra à un AW d'attribuer des rôles pour chacun des services Web à des ID d'utilisateurs existant au sein de sa société.

Collectivement, les rôles du G UW et de l'AW constitueront la fonction d'administrateur Web.

Les Procédés et méthodes avec marques de changement peuvent être consultés à partir du site Web de la CDS, aux adresses suivantes :

français : <http://www.cds.ca/cdsclearinghome.nsf/Pages/-FR-modifications?Open>

anglais : <http://www.cds.ca/cdsclearinghome.nsf/Pages/-EN-blacklined?Open>

Description des modifications proposées

Les modifications proposées décrivent les services Web de la CDS et la fonction d'administrateur Web.

Adhésion aux services de la CDS (version 5.8)

Chapitre 3 : « Services Web » (nouveau)

De plus, le formulaire suivant sera ajouté :

Demande d'administrateurs Web (CDSX842F)

Les modifications proposées aux Procédés et méthodes de la CDS sont étudiées et approuvées par le Comité d'analyse du développement stratégique. Le Comité d'analyse du développement stratégique détermine ou étudie, surveille et établit l'ordre de priorité des projets de développement des systèmes de

Avis de modifications d'ordre technique apportées aux Procédés et méthodes de la CDS – nouvelle fonction de gestion des utilisateurs Web

la CDS et l'apport d'autres modifications proposées par les adhérents et la CDS. Ce comité compte, parmi ses membres, des représentants des adhérents de la CDS et il se réunit tous les mois.

Ces modifications ont été étudiées et approuvées par le Comité d'analyse du développement stratégique le 25 juin 2009.

B. CLASSEMENT – MODIFICATIONS D'ORDRE TECHNIQUE

Les modifications proposées dans le cadre du présent avis sont considérées comme étant d'ordre technique, car la question de la gestion des utilisateurs Web est traitée aux Règles 3.1.1 « Fondés de pouvoir » et 3.1.2 « Accès aux services ».

La section 3.1.1 (b) définit le gestionnaire des utilisateurs comme suit : « Le fondé de pouvoir est responsable de la nomination ou de l'annulation de la nomination d'un gestionnaire des utilisateurs pour l'adhérent. Le gestionnaire des utilisateurs est responsable de la nomination ou de l'annulation de la nomination des particuliers (au nombre desquels il peut figurer) agissant à titre d'utilisateurs pour l'adhérent et fournit les mécanismes d'authentification à chaque utilisateur. » Le gestionnaire d'utilisateurs Web (GUW) et l'administrateur Web (AW) sont tous deux des types de gestionnaires des utilisateurs et agissent à ce titre.

La section 3.1.2 indique : « La CDS attribue à chaque adhérent des mécanismes d'authentification ou leur fournit le moyen de créer des mécanismes d'authentification qui servent à identifier l'adhérent et les utilisateurs qu'il nomme ainsi que les accès au réseau qu'il choisit. La CDS établit les types de fonctions qui pourront servir à accéder au réseau et les normes qu'elles doivent respecter. » L'accès Web est un autre mécanisme d'accès aux services de la CDS.

C. DATE D'ENTRÉE EN VIGUEUR DES MODIFICATIONS PROPOSÉES AUX PROCÉDÉS ET MÉTHODES DE LA CDS

Conformément à l'Annexe A (intitulée « *Rule Protocol Regarding The Review And Approval Of CDS Rules By The OSC* ») de l'ordonnance de reconnaissance et de désignation de la Commission des valeurs mobilières de l'Ontario, telle que modifiée le 1^{er} novembre 2006, et à l'Annexe A (intitulée « *Protocole d'examen et d'approbation des Règles de Services de dépôt et de compensation CDS inc. par l'Autorité des marchés financiers* ») de la décision 2006-PDG-0180 de l'Autorité des marchés financiers qui est entrée en vigueur le 1^{er} novembre 2006, la CDS a établi que ces modifications entreront en vigueur à une date ultérieure déterminée par la CDS et comme l'indique le bulletin de la CDS afférent.

D. QUESTIONS

Pour obtenir de plus amples renseignements au sujet du présent avis, veuillez communiquer avec :

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Services de dépôt et de compensation CDS inc.
85, rue Richmond Ouest
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Téléphone : 416 365-3872
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Courriel : lellick@cds.ca

CHAPITRE 3

Services Web

En vue d'utiliser les services Web de la CDS, une société doit être reconnue comme adhérent au moyen de l'approbation de sa Demande d'adhésion par le Conseil d'administration de la CDS.

Les adhérents peuvent s'inscrire aux services Web de la CDS en sélectionnant les choix appropriés dans le formulaire Demande d'accès aux services Web à l'intention des adhérents de la CDS (CDSX843F).

Lorsqu'elle inscrit un adhérent à ses services Web, la CDS établit la société dans le système selon les exigences de cette dernière. Cet établissement initial ne comprend pas celui des utilisateurs. L'adhérent doit lui-même établir ses utilisateurs dans le système et leur donner accès aux unités appropriées.

La CDS désigne un gestionnaire des utilisateurs Web (un « G UW ») et un administrateur Web (un « AW ») selon les instructions de la société. Pour obtenir de plus amples renseignements, veuillez consulter la section [Administrateurs Web](#) à la page 41.

Chaque utilisateur peut demander un accès aux services Web de la CDS en remplissant le formulaire d'inscription en ligne accessible à l'adresse <https://www.cdsservices.ca>. La demande est soumise au G UW de la société qui en examine les détails et qui l'approuve ou la refuse.

Pour obtenir une assistance au moment de vous inscrire aux services Web de la CDS ou de vous en retirer, veuillez communiquer avec le Service à la clientèle de la CDS.

Avis de non-responsabilité

Les retards liés à l'utilisation d'Internet et les pannes de réseau ne sont pas du ressort ou de la responsabilité de la CDS. En conséquence, l'accès aux services Web de la CDS et la réception des avis par le Web et par courriel créés par ces services peuvent faire l'objet de retards et d'interruptions. Les adhérents sont donc responsables de la maintenance de leurs connexions à Internet, s'ils reçoivent les avis par le Web, ou de la maintenance et du suivi des adresses de courriel désignées afin d'assurer la réception des avis par courriel.

Les avis par courriel provenant de la CDS ne sont pas encodés. Ainsi, la confidentialité et la sécurité des renseignements ne fait l'objet d'aucune garantie.

CHAPITRE 3 SERVICES WEB
IBM Tivoli Identity Manager**3.1 IBM Tivoli Identity Manager**

La CDS utilise le logiciel IBM Tivoli Identity Manager pour la gestion de l'accès des utilisateurs aux services Web de la CDS et des privilèges des utilisateurs relatifs à ces services Web. Lesdits utilisateurs ont accès aux interfaces suivantes afin d'effectuer leurs tâches :

- Interface en libre service – Fournit un sous-ensemble de tâches destinées à un utilisateur final donné. Pour obtenir de plus amples renseignements, veuillez consulter la section [Interface en libre service](#) à la page 40.
- Console d'administration – Fournit un ensemble complet de tâches administratives destinées aux GUW et aux AW. Pour obtenir de plus amples renseignements, veuillez consulter la section [Console d'administration](#) à la page 41.

3.2 ID et mots de passe de l'utilisateur des services Web

Pour donner accès aux services Web, chaque utilisateur se voit attribuer un ID de l'utilisateur unique (p. ex., AAABCC99) qui est composé de la façon suivante :

- AAA : code de la société
- B : première lettre du prénom de l'utilisateur
- CC : deux premières lettres du nom de famille de l'utilisateur
- 99 : code d'identification unique à deux chiffres

Chaque utilisateur doit modifier son mot de passe la première fois qu'il ouvre une session. Selon la norme en vigueur à la CDS, un mot de passe doit contenir un minimum de six caractères dont au moins une lettre et un chiffre.

3.2.1 Interface en libre service

Les utilisateurs finaux accèdent à l'interface en libre service pour effectuer les tâches suivantes :

- Modification de mot de passe : modification du mot de passe
- Accès au formulaire de demande : demande d'accès aux services Web offerts par la CDS
- Consultation ou modification du profil : mise à jour des renseignements personnels, d'affaires et des renseignements relatifs aux personnes-ressources
- Consultation des demandes : consultation d'une liste des demandes récemment soumises

Pour accéder à l'interface en libservice, rendez-vous sur le site <https://www.cdsservices.ca/itim/self>. Pour obtenir de plus amples renseignements, veuillez consulter l'aide en ligne.

CHAPITRE 3 SERVICES WEB
Administrateurs Web**3.2.2 Console d'administration**

Les G UW et les AW accèdent à la console d'administration pour effectuer les tâches suivantes :

- Modification de mot de passe : modification ou réinitialisation de mots de passe d'utilisateurs
- Gestion des utilisateurs : création, modification, suppression et suspension d'utilisateurs
- Rapports : production de rapports de vérification et de sécurité
- Consultation des demandes : consultation d'une liste des demandes de chaque utilisateur
- Gestion des activités : approbation et refus de demandes de nouveaux ID de l'utilisateur ou de demandes d'accès aux diverses applications

Pour obtenir une liste des tâches particulières au G UW et à l'AW, veuillez consulter la section [Tâches du Gestionnaire des utilisateurs Web](#) à la page 42 et la section [Tâches de l'Administrateur Web](#) à la page 43. Pour accéder à la console d'administration, rendez-vous sur le site <https://www.cdsservices.ca/itim/console>. Pour obtenir de plus amples renseignements, veuillez consulter l'aide en ligne.

3.3 Administrateurs Web

Les administrateurs sont responsables des tâches suivantes :

- Le G UW crée un ID de l'utilisateur et un mot de passe pour chaque utilisateur. Pour obtenir de plus amples renseignements, veuillez consulter la section [Tâches du Gestionnaire des utilisateurs Web](#) à la page 42.
- L'AW donne accès à l'utilisateur aux diverses applications Web de la CDS. Pour obtenir de plus amples renseignements, veuillez consulter la section [Tâches de l'Administrateur Web](#) à la page 43.

Les adhérents doivent déterminer comment ils assigneront ces tâches, c.-à-d. à un G UW et à un AW ou l'ensemble de ces tâches à une seule et même personne. De plus, une société peut décider de se doter de plusieurs G UW et AW.

Pour établir un G UW ou un AW, veuillez remplir le formulaire Demande d'administrateurs Web (CDSX842F) et l'envoyer au Service à la clientèle de la CDS.

La CDS crée un ID de l'utilisateur et un mot de passe provisoire, et coordonne la remise de chacun dans une enveloppe scellée. Le mot de passe est remis au G UW ou à l'AW alors que le ID de l'utilisateur est remis au fondé de pouvoir. Si, pour quelque raison que ce soit, l'enveloppe est endommagée ou ouverte, veuillez la retourner immédiatement à la CDS. Si l'enveloppe est intacte, lancez une session et modifiez le mot de passe provisoire.

CHAPITRE 3 SERVICES WEB
*Tâches du Gestionnaire des utilisateurs Web***3.4 Tâches du Gestionnaire des utilisateurs Web**

Parmi les tâches du G UW, relativement à l'établissement des utilisateurs, on compte les suivantes :

- Approbation et refus des demandes de nouveaux ID de l'utilisateur
- Création de nouveaux ID de l'utilisateur (demandes provenant d'un utilisateur ou du G UW)
- Suspension, suppression et rétablissement d'utilisateurs
- Modification et réinitialisation de mots de passe d'utilisateurs
- Liaison du mot de passe au code RACF des utilisateurs
- Consultation et mise à jour des renseignements des profils d'utilisateurs
- Production de rapports

Ces tâches sont effectuées au moyen de la console d'administration du logiciel IBM Tivoli Identity Manager (<https://www.cdsservices.ca/itim/console>). Pour obtenir de plus amples renseignements, veuillez consulter l'aide en ligne.

Codes RACF

Dans le cadre de l'approbation de demandes de nouveaux ID de l'utilisateur, le G UW doit vérifier si l'utilisateur dispose déjà d'un code RACF. Si c'est le cas, le G UW doit mettre à jour les renseignements du profil de l'utilisateur afin de faire état de cette information au moyen de la console d'administration du logiciel IBM Tivoli Identity Manager. Le mot de passe doit être réinitialisé pour que les mots de passe soient les mêmes. Afin de supprimer un code RACF au profil de l'utilisateur, veuillez communiquer avec le Service à la clientèle de la CDS.

3.4.1 Production de rapports par le Gestionnaire des utilisateurs Web

À l'aide du logiciel IBM Tivoli Identity Manager, les G UW peuvent produire les rapports suivants en format PDF ou CSV :

- Audit Events report – Dresse la liste de tous les utilisateurs qui ont été ajoutés ou supprimés, ou ceux dont le profil a été modifié.
- Password Lock Out report – Dresse la liste des utilisateurs dont l'accès a été révoqué en raison de l'entrée de mots de passe erronés.

Les G UW peuvent mettre des filtres en place afin de réduire le nombre de données incluses dans les rapports. Pour obtenir de plus amples renseignements, veuillez consulter l'aide en ligne.

3.5 Tâches de l'Administrateur Web

L'AW est responsable de la gestion de l'accès aux fonctions. Parmi ses tâches, on compte les suivantes :

- Gestion de l'accès aux services Web (demande faite par un utilisateur ou un AW)
- Ajout ou suppression de rôles des utilisateurs dans le cadre d'un service Web (p. ex., supervision, utilisation, consultation)
- Consultation des accès accordés actuellement à tous les utilisateurs d'une société.

Ces tâches sont effectuées au moyen de la console d'administration du logiciel IBM Tivoli Identity Manager (<https://www.cdsservices.ca/itim/console>). Pour obtenir de plus amples renseignements, veuillez consulter l'aide en ligne.

Examen externe



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BY COURIER

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July 15, 2009

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Attention: Jacinthe Bouffard, SRO Oversight Director

Dear Madame:

Re: Eurex Frankfurt AG – Application for Exemption from Recognition Under Section 12 of the Derivatives Act

We are acting as counsel to and are filing this application with the Autorité des marchés financiers (the "AMF") on behalf of Eurex Deutschland ("Eurex") and Eurex Frankfurt AG ("EFAG") for the following decisions:

- (a) a decision under section 86 of the *Derivatives Act* (Québec) (the "Act") exempting Eurex and EFAG (together, the "Applicants") from the requirement to be recognized under section 12 of the Act;
- (b) a decision under section 86 of the Act exempting any member of Eurex and its representatives who execute trades on Eurex and do not operate an establishment in Québec from the registration requirements of sections 54 and 56 of the Act;
- (c) a decision under section 86 of the Act exempting Eurex and EFAG from the requirement of section 82 of the Act to be qualified by the AMF;
- (d) a decision under section 86 of the Act exempting Eurex and EFAG from Regulation 21-101 respecting Marketplace Operation ("21-101"); and
- (e) a decision under section 86 of the Act exempting Eurex and EFAG from National Instrument 23-101 respecting Trading Rules ("23-101").

The Act and all regulations, rules, policies and notices of the AMF made thereunder are collectively referred to as the "Legislation".

Part I of this application addresses the request for exemptions from the requirements for Eurex and EFAG to be recognized or qualified in order for Eurex to operate as a derivatives exchange in Québec and from the requirement for derivatives created or marketed by them to be authorized by the AMF. It also seeks exemptions from certain provisions that would result in duplicative regulation.



Part II of this application discusses the access of various types of entities in Québec to trading on Eurex. Dealers whose registrations with the AMF permit them to trade derivatives would be able to trade as members of Eurex either as principal or as agent for their clients. Other dealers registered with the AMF, advisers registered with the AMF acting on behalf of fully managed accounts, banks, proprietary trading firms and hedge funds would be able to trade on Eurex as members if they are “accredited investors” (“**Accredited Investors**”) as defined in section 1.1 of National Instrument 45-106 *Prospectus and Registration Exemptions* (“**45-106**”), as in force on February 1, 2009, and they trade as principal. Accredited Investors resident in Québec also would be able to route their orders for execution on Eurex as clients of any Eurex member. The Applicants understand that the AMF does not grant a discretionary exemption in circumstances in which a legislative exemption is available.

PART I Operation of Eurex as an Exchange in Québec

A. Background

1. Eurex is a futures and options exchange, which is jointly owned by Deutsche Börse AG and SIX Swiss Exchange. A chart showing its corporate structure can be found at http://www.eurexchange.com/about/corporate_structure_en.html. The annual financial information for Eurex for 2008 is contained in the annual report for Deutsche Börse Group, which is available at http://deutsche-boerse.com/dbag/dispatch/en/binary/gdb_navigation/investor_relations/30_Reports_and_Figures/30_Annual_Reports/10_Annual_Report_2008/Content_Files/10_complete_version/GB_Text_2008.pdf.
2. Eurex is a public law entity and self-regulatory organization (“**SRO**”) governed by the *German Exchange Act*. Under the *German Exchange Act*, Eurex is subject to supervision by the Exchange Supervisory Authority (the “**ESA**”) of the State of Hesse, Germany.
3. Eurex is operated by EFAG, which is an “Aktiengesellschaft” (stock corporation) incorporated under German law and the direct owner of Eurex. EFAG provides the human, material and financial resources that enable Eurex to render its services to its participants (the “**Members**”). EFAG is responsible for all liabilities arising from its functions as a service provider. EFAG does not have any legal relationship with the Members arising from their memberships in Eurex.
4. Eurex is responsible for regulation and market surveillance, while EFAG is responsible for exchange operations. This division of responsibility between the exchange and its operating company is one of the core principles of the *German Exchange Act*. It combines the advantages of private enterprise with the delegation of legislative authority and comprehensive enforcement powers of an SRO.
5. Eurex is a futures and options exchange under public law operated through an electronic trading platform. Eurex is one of the world’s largest futures and options exchanges. Members are connected to Eurex from about 700 locations around the world. Transactions on Eurex are cleared through Eurex Clearing AG (“**ECAG**”), a German wholly-owned subsidiary of EFAG.
6. The Eurex market platform is fully computerized, with Members being linked by a dedicated communications network. Members might have access to the exchange from any location, thereby creating a global liquidity network. To facilitate access to Eurex outside Germany, access points



have so far been installed in a number of financial centres such as Amsterdam, Dublin, Frankfurt, Gibraltar, Helsinki, London, Madrid, Paris, Vienna, Zurich, Singapore, Dublin, New York and Chicago.

7. Eurex offers trading in a wide array of liquid products that are listed for trading on Eurex ("**Eurex Contracts**").
8. Eurex Contracts are purchased by a Member by inserting the order into Eurex's central order book, where all orders are automatically sorted by type, price and entry time. Market orders always have the highest matching priority. Limit orders and quotes are sorted with the highest bids and lowest offers ranked first.
9. The ten best bid and ask prices and their respective bid and offer sizes can be called up at any time, allowing Members to constantly monitor market depth and to keep abreast of the latest price trends on a real-time basis. Under the *German Exchange Act*, prices of trades and turn-over must be promptly notified to trading participants. In addition, trading participants must be informed of the highest bid price and lowest ask price.
10. In addition to operating as an exchange in Germany, Eurex has secured relevant regulatory approvals or statements of non-objection, or has satisfied itself that it does not require regulatory approvals, to allow direct access to Eurex from Switzerland, Australia, Singapore, Hong Kong, Japan, Taiwan, Dubai Financial Center, United Arab Emirates, Israel and the United States. No jurisdiction has denied a request by Eurex for an approval or a statement of non-objection of this type. Member States of the European Union (the "**EU**") have also incorporated into their domestic laws the European Investment Services Directive (Council Directive 93/22/EC) and the European Markets in Financial Instruments Directive (Council Directive 2004/39/EC). Under these directives, Eurex and other regulated markets within the EU are authorized to admit members having their offices in other EU countries without having to obtain the clearance of foreign regulators under a concept known as "passporting". Article 16 of the European Investment Services Directive authorizes each member state to compile a list of the regulated markets for which it is the home member state and which comply with its regulations. The Official Journal of the European Union lists Eurex as a regulated market in Germany under the directive and lists EFAG as its operating entity.

B. Approval Criteria

The discussion in this part of the application is based on criteria that have previously been applied in considering applications by foreign-based commodity futures exchanges for exemption from registration, which are set out in Schedule "A" to this application. The criteria fall under the following headings:

1. Regulation and Oversight of the Exchange
2. Corporate Governance
3. Fees
4. Regulation of Products



5. Access
6. Rulemaking
7. Systems and Technology
8. Financial Viability
9. Clearing and Settlement
10. Trading Practices
11. Compliance, Surveillance and Enforcement
12. Information Sharing and Oversight Arrangements
13. IOSCO Principles

C. Application of Approval Criteria to Eurex

1. REGULATION AND OVERSIGHT

1.1 Regulation of the Exchange – The Exchange is regulated in an appropriate manner in another jurisdiction by a Foreign Regulator. The regulatory scheme of the Foreign Regulator is transparent and generally comparable to those in Québec.

1.1.1 EFAG is approved to operate Eurex as a futures and options exchange under the *German Exchange Act* pursuant to the decision of the ESA in the State of Hesse dated May 26, 1998 (the "**Market Authorization**"). Eurex has never been declared to be in breach of its regulatory responsibilities by the ESA. The Market Authorization authorizes EFAG to operate Eurex under the *German Exchange Act* and German law.

1.1.2 The German regulatory regime is highly structured and clearly articulated. The relevant legislative, regulatory and policy instruments are available in written form in English. Information about the nature of the regime and the bodies that are responsible for its oversight is readily available from public sources. Participants in the regime are able to ascertain and understand their relevant rights and remedies under its precepts. We further understand that it is consistently applied and not subject to capricious change or arbitrary discretion.

1.2 Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the Exchange. This oversight includes regular, periodic regulatory examinations of the Exchange by the Foreign Regulator.

1.2.1 Standard of Regulation in Germany

1.2.2 Eurex is under the supervision of the ESA pursuant to the *German Exchange Act*. The Market Authorization sets out the conditions for EFAG to maintain its authorization to operate Eurex.



- 1.2.3 Broadly, there are three levels of rules and regulations of German exchanges:
- (i) the *German Exchange Act* and the *German Securities Trading Act* as well as the federal rules and regulations thereunder;
 - (ii) state regulations in relation to stock exchanges that have been adopted under the purview of the *German Exchange Act* (e.g., regulations concerning the election of the exchange council, and the establishment, composition and proceedings of an exchange's disciplinary committee); and
 - (iii) the rules and regulations of each exchange, in particular the constitution containing the particular exchange's essential operational rules.
- 1.2.4 The legal structure of the German capital market involves the close interaction of federal and state legislation and exchange rules and regulations. The federal regulator is responsible for the control of market activities and the monitoring of financial services institutions for the protection of clients, while the state regulators are responsible for supervising the exchanges. The following is a summary of the German regulatory regime.
- 1.2.5 Federal Regulation -- Federal Financial Supervisory Authority
- 1.2.6 In general, the business activities of the trading participants (banks, investment firms and other financial companies) are covered by federal law, with responsibility for regulatory oversight allocated to Bundesanstalt für Finanzdienstleistungsaufsicht ("**BaFin**").
- 1.2.7 An enterprise that intends to commence activities in Germany for clients in the securities business must file an application for a licence with BaFin pursuant to the provisions of the German *Banking Act*. After a license has been granted, the entity must be in continuous compliance with the capital and organizational requirements of the German *Banking Act*.
- 1.2.8 All trading activities of these enterprises are subject to the provisions of the German *Securities Trading Act*, including trade reporting obligations, insider trading rules, public disclosure rules and rules of conduct. The rationale behind the German *Securities Trading Act* is to establish a comprehensive regulatory scheme covering all business activities of investment services enterprises in order to maintain fair and orderly markets and ensure investor protection.
- 1.2.9 As provided in the German *Banking Act*, the supervisory powers of BaFin include:
- (a) licensing of German enterprises intending to provide securities services as well as ensuring that the admitted enterprises comply with the capital and organizational requirements of the German *Banking Act*;
 - (b) enforcing the German *Securities Trading Act*, having the general task to counter any irregularities that may impair the orderly conduct of securities trading, investment services or ancillary investment services, or that may significantly disrupt the securities market; and



- (c) the authority to request information and to compel the production of documents from exchange trading participants and their personnel in insider or market manipulation cases and to request information and documents from Members that are credit institutions or financial services institutions in other instances, such as disclosure of voting rights, rules of conduct and solvency.

1.2.10 BaFin is exclusively responsible for ensuring cooperation with competent supervisory authorities of other countries both within and outside the EU. Collaboration between BaFin and the ESA at the state level ensures that the ESA's expertise is provided to BaFin for use at the international level.

1.2.11 State Regulation -- ESA

1.2.12 In the State of Hesse, where Eurex is based, the ESA supervises Eurex under the *German Exchange Act*. The *German Exchange Act* is designed to provide the means and measures necessary to maintain efficient and orderly trading and to protect investors and the public. To meet these objectives, the *German Exchange Act* establishes rules governing the establishment, organization and supervision of exchanges, delegates self-regulatory authority to the exchanges, and regulates the admission of trading participants and securities to exchange trading.

1.2.13 The ESA has a wide range of powers including:

- (a) overseeing compliance by operating and administering bodies and exchange trading participants with the *German Exchange Act* and other relevant laws and regulations and, in part, enforcing state regulations adopted under the purview of the *German Exchange Act* (e.g., regulations concerning the election of an exchange council, and the establishment, composition and proceedings of an exchange disciplinary committee);
- (b) determining the criteria that must be satisfied by an applicant to operate an exchange;
- (c) determining the minimum requirements for the content of an exchange's operating rules and procedures (including approving the exchange's rules as a pre-condition to their implementation by the exchange), and the ability to demand the amendment of those rules and procedures; and
- (d) the right to (i) demand, without giving specific reason, information and documents from the exchange and its members and to conduct its own inspections; and (ii) give orders to the exchange or its members to eliminate or prevent breaches of regulations or abuses that may impair orderly trading and settlement of transactions.

1.2.14 The *German Exchange Act* prescribes numerous criteria that have to be met by an applicant making an application for establishment of an exchange to the ESA, including:

- the minimum content for the exchange's rules (section 16) and fee regulations (section 17);
- appropriate procedures for admission of participants to the exchange (section 19);



- appropriate security measures (section 20) (dealt with at the clearinghouse level for Eurex); and
- suitable disciplinary mechanisms (section 22).

1.2.15 When making an application for establishment of an exchange to the ESA, the applicant must demonstrate that it will have in place the structures, resources, procedures and mechanisms to ensure that the matters listed above will be properly implemented.

1.2.16 We are not aware of any conflict between legislation in Germany applicable to members of Eurex and Canadian SRO regulation. The provisions of the German *Banking Act* and German *Securities Trading Act* would not apply to members of Canadian SRO's that are domiciled in Canada and whose clients are residents of Canada. The *German Exchange Act* regulates exchanges, exchange bodies and electronic trading systems, the determination of exchange prices, and the admission of securities to trading.

2. CORPORATE GOVERNANCE

2.1 Fair Representation – The governance structure of the Exchange provides for:

- i appropriate, fair and meaningful representation on its Board and any committee thereof; and
- ii appropriate representation by independent directors on the Board and any committee thereof.

2.1.1 Eurex is an SRO that is responsible for regulation, while EFAG is a separate entity responsible for exchange operations. The *German Exchange Act* requires Eurex to be organized according to the principle of internal “checks and balances”. The management of Eurex is divided between two bodies, (i) the Exchange Council and (ii) the Board of Management. The management of EFAG is similarly divided between two bodies: (i) the Supervisory Board and (ii) the Executive Board.

2.1.2 Exchange Council

2.1.3 The highest executive body of Eurex is the Exchange Council, composed of up to 18 representatives of Members, issuers and investors. The Exchange Council represents the interests of both the public and the trading community and is involved in material decisions related to exchange regulation. It is responsible for all decisions of major importance, including the adoption of Eurex's rules and regulations, the appointment and supervision of the Board of Management, and the introduction of new trading and settlement systems. The members of the Exchange Council are elected to a three-year term. Exchange Council members include nominees of banks, financial services institutions, other issuers and investors. Its diverse composition ensures that the interests of a broad range of Members and other stakeholders are taken into account when material policy decisions concerning Eurex are made. The current members of the Exchange Council are listed at http://www.eurexchange.com/about/corporate/exchange_council_en.html.



2.1.4 Board of Management

2.1.5 Ongoing exchange management is delegated to the Board of Management, which carries out its duties under the discretion it has been given pursuant to the *German Exchange Act* and the exchange rules for Eurex (the “**Exchange Rules**”). Members of the Board of Management are appointed for a term of up to five years. The Board of Management’s responsibilities include, among others, admission of Members, determination of the operating conditions of the exchange (such as trading hours and trading halts) and maintenance of order at Eurex. The current members of the Board of Management are listed at http://www.eurexchange.com/about/corporate/general_managers_en.html.

2.1.6 In order to maintain its status as an exchange, Eurex must continue to comply with exchange laws. The ESA monitors Eurex on an ongoing basis to confirm compliance with this requirement by reviewing the effectiveness of Eurex’s management in overseeing regulatory functions, and avenues of communication between the Exchange Council and the Board of Management.

2.1.7 Supervisory Board and Executive Board of EFAG

2.1.8 The Supervisory Board of EFAG has 12 members who are elected for a term of three years by its members. The members of the Supervisory Board of EFAG are the same as the members of the supervisory boards of ECAG and of Eurex Zürich AG, an affiliate of EFAG. The Supervisory Board oversees the work of the Executive Board and appoints its members, and also approves important corporate decisions and company planning. The current members of the Supervisory Board and Executive Board of EFAG are listed at http://www.eurexchange.com/about/corporate/eurex_frankfurt_en.html.

2.2 **Appropriate Provisions for Directors and Officers – There are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors and officers.**

2.2.1 The members of the Exchange Council are elected by members of the groups represented on the Exchange Council. The members of the Board of Management are appointed by the Exchange Council. The directors of EFAG are elected by the Supervisory Board of EFAG. The officers of EFAG are appointed by its directors.

2.2.2 The remuneration of the members of the Board of Management is in general determined by the operating institution of Eurex.

2.2.3 The global insurance program of the Deutsche Börse group provides coverage to members of the Exchange Council and Board of Management and the directors and officers of EFAG.

2.3 **Fitness – The Exchange takes reasonable steps to ensure that each officer and director is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.**

2.3.1 Nominees to the Exchange Council are scrutinized by the ESA to ensure that all members have adequate levels of competence and integrity so that Eurex will continue to meet the *German Exchange Act* requirements. The ESA conducts a due diligence investigation of each candidate’s



past conduct, including, with respect to former employees of Members, a review of any disciplinary history under Exchange Rules.

2.3.2 All appointees to the Board of Management, employees and officers of Eurex are subject to detailed pre-screening, which includes, *inter alia*, credit review, verification of academic qualifications and employment history and a review of the information supplied in support of the individual's application (including references). In addition, senior management appointees are subject to further checks on their professional memberships, qualifications and directorships and, where appropriate, checks of any criminal records.

2.4 Conflicts of Interest – The Exchange has appropriate conflict of interest provisions for all directors, officers and employees.

2.4.1 Eurex is subject to the ESA's guidance on the management of conflicts of interest. Factors subject to the ESA's scrutiny include the size and composition of the Exchange Council and relevant committees; responsibilities of key individuals, especially where they also have responsibilities in other organizations; arrangements for transferring decisions or responsibilities to alternates; and arrangements to exclude individuals with a permanent conflict of interest from the process of making regulatory decisions about matters in which the conflict of interest would be relevant.

3. FEES

3.1 The Exchange's process for setting fees is fair, transparent and appropriate. Any and all fees imposed by the Exchange on its participants are equitably allocated, do not have the effect of creating barriers to access and are balanced with the criteria that the Exchange has sufficient revenues to satisfy its responsibilities.

3.1.1 Changes in fee levels (including incentive schemes or market-making arrangements) are approved by the Board of Management. Fees are applied equally across all Members trading the same Eurex Contract. All proposed changes to fees and incentives are communicated in advance by a circular distributed to all Members and to the ESA. A full list of transaction charges, subscriptions, entrance fees and other relevant charges is located on Eurex's website at http://www.eurexchange.com/download/documents/regulations/price_list/price_list_frankfurt_en.pdf and http://www.eurexchange.com/download/documents/regulations/price_list/price_list_clearing_en.pdf. A list of the fees Eurex charges to the members for client business can be found at http://www.eurexchange.com/trading/fees_en.html.

4. REGULATION OF PRODUCTS

4.1 Approval of Products – The products traded on the Exchange are approved by the appropriate authority.

4.1.1 Eurex Contracts consist mainly of interest rate options and futures; individual equity options and single stock futures; equity index options and futures, and exchange traded fund options and futures. Other Eurex Contracts are credit futures, equity index dividend futures, volatility index futures, inflation-linked futures, commodity derivatives, property index futures and weather



derivatives. The following summary of Eurex Contracts is provided as of July 1, 2009. Current information about Eurex Contracts is available at http://www.eurexchange.com/trading/products_en.html and the links available on the left side of that page to descriptions of the various Eurex Contracts. The references in parentheses show whether a particular product falls within former paragraph 4 or 5 of section 1 of the Securities Act (Québec) ("QSA") or former section 1.1 of the Regulation made under the QSA as these provisions existed prior to February 1, 2009. The absence of parentheses indicates that a product did not fall under any of these provisions.

4.1.2 Interest rate options and futures listed for trading on Eurex are as follows:

- (a) Futures based on notional short, medium and long-term debt instruments issued by the German and Swiss governments (s. 1.1).
- (b) Options on futures based on notional short, medium and long-term debt instruments issued by the German and Swiss governments (para. 5).
- (c) Futures based on the average rate of the effective overnight reference rate for the Euro (s. 1.1).
- (d) Futures based on the European Interbank Offered Rate (EURIBOR) for three-month euro term deposits (s. 1.1).
- (e) Options on futures based on EURIBOR for three-month euro term deposits (para. 5).

4.1.3 Individual equities for which Eurex provides options are all equities issued by European companies and listed for trading on a stock exchange in a country that is a member of the European Union ("EU") (para. 4). Individual equities for which Eurex provides single stock futures include (i) such European equities, and (ii) equities issued by U.S. companies, nearly 95% of which are components of the S&P 500 index. The underlying individual equities for both options and futures include equities of Russian companies, all of which are listed for trading on the London Stock Exchange. The underlying equities also are constituents of an index when selected for launch on Eurex.

4.1.4 Equity indices on which Eurex provides options (para. 4) and futures (s. 1.1) are:

- (a) Indices comprised of equities representing the German, Swiss, Finnish and Russian markets, including various subsets of the German and Swiss markets.
- (b) Various Dow Jones indices comprised of equities issued by companies from various European countries, including sector and size indices.
- (c) A Dow Jones index of internationally based, globally oriented companies and various Dow Jones global indices of market leaders in certain sectors.

4.1.5 Exchange traded funds on which Eurex provides options and futures are based on German and Swiss market indices and an index comprised of equities issued by 50 of the largest European companies (para. 4).



- 4.1.6 Eurex provides three credit futures based on credit default swap indices comprised of the most liquid names in the European market (s. 1.1): a portfolio of sub-investment grade entities, a portfolio of investment grade credit default swap entities, and a portfolio of entities with the highest spread from an index. These products are the world's first exchange-traded credit derivatives contracts. They closely mimic the risk structure of credit default swaps traded in the over-the-counter ("OTC") market.
- 4.1.7 Eurex offers equity index dividend futures, which are based on dividends of indices comprised of equities issued by 50 of the largest European companies and equities listed on the Deutsche Börse and the SIX Swiss Exchange (para. 4). Eurex created the first exchange-traded product that represents only the dividend component of a blue chip index.
- 4.1.8 The volatility index on which Eurex provides futures is based on option prices of a recognized index comprised of 50 of the largest European companies (s. 1.1). Volatility index futures enable investors to hedge the volatility exposure of a portfolio.
- 4.1.9 The inflation-linked future listed for trading on Eurex is based on the unrevised Harmonized Index of Consumer Prices excluding tobacco, which measures inflation in the Eurozone (s. 1.1). They enable an investor to hedge against short-term risks arising from inflation-linked products or to speculate on changes in the Eurozone inflation rate in a targeted manner, as well as to actively implement the investor's own views on inflation.
- 4.1.10 The commodity derivatives traded on Eurex are futures on commodity indices (s. 1.1), gold and silver futures (s. 1.1), and gold and silver options. The gold and silver derivatives traded on Eurex are US dollar denominated contracts based on the spot price of gold on the London Bullion Market and the spot price of silver on the London Silver Market, respectively, on the settlement date and settled in cash.
- 4.1.11 The property futures (s. 1.1) traded on Eurex are annual contracts based on the total returns of the IPD[®] UK Annual All Property index for individual calendar years. They are settled in cash.
- 4.1.12 The weather derivative traded on Eurex is hurricane futures. Hurricane futures settle based on industry-wide insurance loss estimates that reference insurance damage caused by single wind catastrophes occurring in a specific region of the United States.
- 4.1.13 Eurex follows a stringent and consistent product development process that involves both internal and external resources. Prior to listing any new Eurex Contract, Eurex conducts a substantial market review to confirm that there will be a "proper market" for the product. It engages in a consultation process with the Members, industry specialists and other interested parties, both on the buy side and on the sell side, including banks, brokers, proprietary traders, options market makers and algorithmic traders.
- 4.1.14 In analyzing a potential new product, Eurex considers (i) the size, liquidity and volatility of the underlying market, (ii) the competitive environment, including offerings on other exchanges, any splitting of liquidity, and complementary OTC markets, (iii) the market access of potential clients, (iv) the regulatory environment, (v) the standardization of existing products, (vi) the availability of a market price (*i.e.*, access to trading data from the home market), (vii) the basis of liquidity, (viii)



Eurex's system capability, and (ix) contract pricing. If the Eurex Contract is an option or future on a product traded on another exchange, Eurex relies on the other exchange and its regulator for the regulation of the underlying product, including the determination of whether the listing criteria are met.

- 4.1.15 More specifically, all individual equities for which Eurex provides options and the great majority of equities for which Eurex provides single stock futures are listed on exchanges in the EU, which subjects the underlying equity to the minimum criteria applicable in the EU and allows passporting throughout the EU. Issuers of the underlying equities are required to comply with the legislation in member countries of the EU, which is derived from EU directives and therefore is generally harmonized with the EU based on "minimum levels". The remaining equities on which Eurex provides single stock futures are listed on an exchange in the United States, which subjects the underlying equity to regulation under U.S. securities legislation. In all cases an exchange of information capability is available on a regulatory level pursuant to IOSCO principles. Market capitalization, volatility and liquidity are among the criteria Eurex considers in determining which options on individual equities and single stock futures to list. Eurex generally selects underlying equities that are components of a recognized index, which adds another level of evaluation by a third party.
- 4.1.16 The selection of an index or exchange-traded fund for which Eurex provides options or futures involves similar considerations. Eurex selects the index or exchange-traded fund, but does not select its components.
- 4.1.17 Pursuant to section 4.1 of the Exchange Rules, admission of a product is permitted only if Eurex expects that orderly options and futures trading will be maintained. The Board of Management of Eurex is responsible for determining which options and futures contracts are admitted to trading on Eurex. Eurex distributes a circular to all Members and the ESA regarding any proposed new contract. Approval by the ESA is required for new categories of products. Any changes to Exchange Rules as a result of a new Eurex Contract are also subject to a consultation process with the Members and must be approved by the Board of Management.

4.2 Product Specifications – The terms and conditions of trading the products are in conformity with normal commercial business practices for the trade in the product.

- 4.2.1 Once Eurex identifies a new product or service, it sets up product specifications, does a cost/benefit analysis and prepares a business plan. Any new product specifications and proposed system changes are then verified by Eurex's interest rate committee or equity market practice committees. This verification includes consideration that terms and conditions of trading proposed products are in conformity with best business practices for trade in the products, the Exchange Rules and applicable law. The membership of these committees includes investor representatives and extensive market consultation also is done with the investment community, both the buy side and the sell side, outside the memberships of these committees.
- 4.2.2 Extensive market consultation and Board of Management approval processes to which all Eurex Contracts are subject ensures that the terms and conditions of Eurex Contracts are in conformity with best business practices for trades in such products, that they meet the needs of the relevant sector and have widely accepted specifications.



4.3 Risks Associated with Trading Products – The Exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the Exchange, including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

4.3.1 All Eurex Contracts are cleared by ECAG, which is recognized by BaFin, as central counterparty under the German *Banking Act*. ECAG acts as counterparty and guarantor to each transaction executed on Eurex. Eurex cooperates with ECAG when developing new Eurex Contracts to ensure that all potential risks have been thoroughly evaluated and can be managed. ECAG sets margin requirements for and makes margin calls of its clearing members, which might also be Members ("**Clearing Members**"). In addition to transactions executed on Eurex, ECAG clears transactions on the Frankfurt Stock Exchange, Eurex Bonds GmbH trading platform, Eurex Repo GmbH trading platform, Irish Stock Exchange, European Energy Exchange and certain energy transactions executed on the German Energy Exchange in Leipzig. ECAG also clears OTC transactions based on Eurex look-alike products. Among other internal controls, Eurex carries out daily stress tests. Further information about the clearing of Eurex Contracts can be found at <http://www.eurexclearing.com/index.html>.

4.3.2 Clearing Members must have risk management procedures in place that comply with the ECAG Rules, including procedures that confirm qualification to clear. Clearing Members may set trading, price and position limits for those Eurex Members that have entered into arrangements with them ("**Non-Clearing Members**") using specific web-based clearing support functionalities. Clearing Members have access to user guides and circulars published by ECAG to assist them in carrying out their internal risk management. Clearing Members set margin requirements for the Non-Clearing Members in connection with transactions on Eurex by Non-Clearing Members, which must be at least as high as the margin requirements set by ECAG. These transactions are cleared by Clearing Members together with ECAG acting as central counterparty.

4.3.3 ECAG prescribes default rules applicable to Clearing Members that set out the circumstances under which a Member may be declared in default and the actions that may be taken in the event of default. ECAG rules take precedence in relation to Eurex Contracts to which ECAG is a party in the event of a default.

5. ACCESS

5.1 Fair Access – The requirements of the Exchange relating to access to the facilities of the Exchange, the imposition of limitations or conditions on access and denial of access are approved by the Foreign Regulator and are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of records, the giving of reasons and the provisions for appeals.

5.1.1 As a recognized exchange, Eurex is required under the *German Exchange Act* to ensure that access to Eurex is subject to criteria designed to protect the orderly functioning of its market and the interests of investors. In assessing whether Eurex's access criteria satisfy these requirements, the ESA evaluates, among other things, whether its membership criteria are objective and applied in an objective and non-discriminatory manner. Eurex has developed a rigorous membership approval process supervised by the Board of Management, the details of which are outlined in sections 5.2.2–



5.2.4 below. This process is designed to ensure that all Members are appropriately identified, are qualified to trade in commodity futures in their jurisdiction, have adequate financial resources and have exhibited proper conduct in other capital markets activities.

- 5.1.2 The requirements for Eurex membership are provided at http://www.eurexchange.com/trading/exchange_membership/faq/general_en.html?id=4. These requirements include proficiency requirements for traders. Application packages are available at http://www.eurexchange.com/documents/forms/trading_derivatives/packages_en.html. A list of Members is available at http://www.eurexchange.com/documents/lists/members_en.html.
- 5.1.3 Any applicant that is denied membership to Eurex and any Member whose membership or access to the exchange is suspended is entitled to an explanation/reasons for the decision, and the opportunity to make representations and to appeal the decision. The Board of Management maintains records of its membership application reviews and any resulting hearings or appeals.
- 5.1.4 There is no obligation under German law or regulations that would require Members resident in Québec to be registered or licensed with any German government body or governmental agency or to become a member of any SRO or entity in Germany other than Eurex.

5.2 Details of Access Criteria – In particular, the Exchange:

- i **has written standards for granting access to trading on its facilities to ensure users have appropriate integrity and fitness;**
 - ii **has and enforces financial integrity standards for those persons who enter orders for execution on the system, including, but not limited to, credit or position limits and clearing membership;**
 - iii **does not unreasonably prohibit or limit access by a person or company to services offered by it;**
 - iv **keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access; and**
 - v **restricts access to adequately trained system users who have demonstrated competence in the functions that they perform.**
- 5.2.1 Eurex has developed rigorous membership criteria that must be complied with by all applicants before their applications are considered by the Board of Management. Section 3 of the Exchange Rules provides that each applicant for Eurex membership must:
- (a) Conduct derivatives trading in a commercial manner and provide evidence that it is subject to banking or exchange regulation in its country of origin, provided that there are arrangements for the exchange of information between the exchange supervisory authorities in Germany and the country of origin.
 - (b) Have at least one registered Exchange Trader (with sufficient professional experience).



- (c) Register at least one qualified back office staff member.
- (d) Have minimum equity capital of €50,000, unless the applicant is a bank.
- (e) Comply with mandatory technical requirements for connection to the Eurex system.

- 5.2.2 Eurex applies its membership criteria by subjecting each applying enterprise to an intensive due diligence process, including review of constituent documentation and financial statements, and confirmation that all Exchange Traders (see section 5.2.6 below) have appropriate qualifications in place (including any registration or licensing requirements for trading in commodity futures). Where appropriate, a third party agency may be commissioned to prepare a company report regarding an applicant. Once the due diligence review is complete, each enterprise applicant and each of its Exchange Traders must be approved by the Board of Management.
- 5.2.3 Members must obtain a “**General Clearing Licence**” in order to clear and settle transactions on the market as Clearing Members. The prerequisite for obtaining a General Clearing Licence is a liable equity capital in an amount determined by ECAG, which is at least €125 million. If an institution has insufficient funds to provide such a deposit, ECAG may determine that the shortfall can be made up by a bank guarantee or collateral in cash and securities or both. ECAG determines the type, content and form of acceptable bank guarantees. Nevertheless, they must be from a third party and must contain an unconditional and irrevocable obligation to provide for payment for the guaranteed amount into an account specified by ECAG.
- 5.2.4 Enterprises may become Non-Clearing Members without having a General Clearing License. Non-Clearing Members must conclude a clearing agreement with a Clearing Member. Clearing Members may handle their own transactions as well as those executed on behalf of their clients and the trades of Non-Clearing Members. Non-Clearing Members may enter their own and their clients’ orders as well as exercise and perform trade and position management functions online, and at all times be able to maintain a system-side overview of the payment and delivery obligations that result from their trading activities. Under the requested relief, it is proposed that all Members of Eurex resident in Canada would be Non-Clearing Members.
- 5.2.5 Since Non-Clearing Members have no contractual relationship with ECAG, transactions are essentially concluded between ECAG and a given Clearing Member, and in turn between that Clearing Member and the specific Non-Clearing Member. Margin deposits and fee payments are made to the clearing house via the contractually stipulated Clearing Member.
- 5.2.6 The authorization of persons to enter into options and futures transactions on Eurex on behalf of a Member (“**Exchange Traders**”) are addressed in the Exchange Rules and in the Admission Regulations for Exchange Traders at Eurex Deutschland, which are available at http://www.eurexchange.com/download/documents/regulations/admission_regulations/admission_reg_en.pdf. Exchange Traders are required to be reliable and have the necessary professional qualifications, which are the expertise and practical knowledge necessary for trading on Eurex. The requisite expertise is demonstrated by passing the Eurex Exchange Trader examination within the two year period before the date of application or comparable evidence. The requisite practical knowledge is successful participation in a functional Eurex system training program or participation in a multilateral trading system for at least six months within the preceding two years.



5.2.7 The Exchange Rules contain specific rules relating to Members and applicants, including requirements to disclose in advance the locations of all screens and order routing arrangements and applying for the consent of Eurex. Eurex will grant approval if Eurex screens and order routing systems are located in jurisdictions that have granted approval or provided a statement of non-objection, or in relation to which Eurex has obtained a legal opinion with respect to the trading of Eurex Contracts in that jurisdiction.

5.3 Access for Persons in Québec – The Exchange provides direct access, either through terminals, data feeds or third party provided interfaces, to only those persons in Québec that are duly registered or licensed under the laws of Québec.

5.3.1 Market participants of Eurex in Québec seeking access to trade Eurex Contracts would have to apply to become Members or enter into an order routing arrangement with a Member. In order for an applicant in Québec to become a Member, under existing requirements the applicant would be required to confirm to Eurex that (a) it is subject to banking or exchange regulation in its home jurisdiction, (b) it only concludes options and futures transactions for its own account (proprietary transactions) or in its own name for the account of third parties (client transactions) on a commercial basis; and (c) its business operations are of such nature and scale that it meets the criteria of a commercially organized business establishment that may be admitted to options and futures trading in accordance with section 3.1.1.1 of the Exchange Rules.

5.3.2 In addition to dealers, Members include banks, as well as proprietary trading firms and hedge funds, some of which are registered in their home jurisdictions as advisers. The Applicants are not seeking an exemption to permit dealers registered under the QSA, advisers registered under the Act or under the QSA acting on behalf of fully managed accounts, banks, proprietary trading firms and hedge funds to become Members based on the Applicants' understanding that, pursuant to section 232 of the Act, if such entities purchased derivatives as principal and were Accredited Investors, they could avail themselves of section 2.3 of 45-106 (as in force on February 1, 2009).

5.3.3 Otherwise residents of Québec would be able to access Eurex only indirectly as clients of Members through Eurex's order routing procedures. The Applicants are not seeking an exemption to permit residents of Québec that are Accredited Investors to trade Eurex Contracts through any Member based on the Applicants' understanding that, pursuant to section 232 of the Act, Members and Accredited Investors could avail themselves of section 2.3 of 45-106 (as in force on February 1, 2009). Residents of Québec that are not Accredited Investors would be able to trade Eurex Contracts only through Members having a registration with the AMF that permits them to trade derivatives.

5.3.4 The Applicants understand that the reliance on 45-106 set out in paragraphs 5.3.2 and 5.3.3 above will continue to apply until a regulation on the same matter is made and brought into force in accordance with the Act, notwithstanding the implementation of National Instrument 31-103 *Registration Requirements* under the QSA and subsequent amendment to 45-106.

5.3.5 Applicants for membership resident in Québec would only be entitled to become Non-Clearing Members because ECAG does not intend to seek to be entitled to approve them as Clearing Members.



5.3.6 We are not aware of any conflict between the Exchange Rules and Canadian SRO regulation. The Exchange Rules contain some provisions that would apply directly to Canadian SRO members that become Members, such as minimum capital requirements, but these would not conflict with Canadian SRO regulation.

6. RULEMAKING

6.1 **Purpose of Rules – The Exchange maintains rules, policies and other similar instruments as are necessary or appropriate to govern and regulate all aspects of its business and affairs and that such rules are designed to, in particular:**

- i ensure compliance with the rules of the Exchange and securities legislation;
- ii prevent fraudulent and manipulative acts and practices;
- iii promote just and equitable principles of trade;
- iv foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, the products traded on the Exchange;
- v provide for appropriate discipline;
- vi ensure a fair and orderly market; and
- vii ensure that the Exchange business is conducted in a manner so as to afford protection to investors.

6.1.1 All trading in Eurex Contracts is conducted in accordance with the Exchange Rules and the Conditions for Trading at Eurex Deutschland ("**Conditions for Trading**" and together with the Exchange Rules, the "**Eurex Rules**"). The Eurex Rules are applicable to Members without regard to jurisdictional boundaries as such obligations arise by virtue of the contractual relationship between Eurex and the Members. Eurex Rules contain substantive provisions relating to membership requirements, training and competence, trading procedures, and business conduct standards. Members are required to act in accordance with the spirit as well as the letter of the Eurex Rules. The Conditions of Trading can be found at http://www.eurexchange.com/download/documents/regulations/trading_conditions/trading_conditions_en.pdf and the Exchange Rules can be found at http://www.eurexchange.com/download/documents/regulations/exchange/exchange_en.pdf.

6.1.2 Eurex Rules are designed to enable Eurex to provide a fair and orderly market that is operated with due regard to investor protection.

6.1.3 Members and their Exchange Traders are both subject to disciplinary action for the violation of Eurex Rules, orders or established principles of commercial trust. Disciplinary action may result in suspension or fines of up to €250,000. Members are accountable for the actions of their Exchange Traders relating to trades executed on Eurex.



6.1.4 The independent Trading Surveillance Office (“**TSO**”) of Eurex is in charge of monitoring trading on Eurex and the settlement of exchange transactions. The TSO systematically records all data regarding trading and settlement and evaluates that data. It conducts investigations in cases where circumstances indicate a violation of the Exchange Rules. The TSO regularly reports to the ESA. If the TSO discovers that violations of the Exchange Rules are occurring or that other conditions exist that may impair the orderly conduct of the trading or settlement of transactions, it must report the violations to the Board of Management of Eurex and the ESA. In cases of detection of breaches of securities trading laws within the purview of BaFin, the TSO must promptly inform BaFin of such facts. If manipulation, fraud, insider trading or other illegal activities to which criminal sanctions may potentially attach are detected, the TSO is required to inform BaFin and BaFin, in turn, is required to inform the public prosecutor. Among other investigatory means at its disposal, the TSO observes Member positions. Unusual trading activities can be identified and reconstructed through the Eurex databank and through the day-to-day monitoring of Eurex. The TSO has access to the electronic trading system of Eurex and is thereby able to monitor exchange trading on-line in real time. The ESA approves the appointment and dismissal of the head of the TSO. If the Board of Management is of the opinion that a rule breach likely happened, the TSO might recommend that the case be brought to the Disciplinary Committee, which is an independent body. The Disciplinary Committee assesses the penalty, which can include a reprimand, fine or exclusion from trading for up to 30 days. If facts revealed during proceedings before the Disciplinary Committee might justify the withdrawal or revocation of the admission of a trading participant, the proceedings are transferred to the Management Board.

6.2 No Discrimination or Burden on Competition – The rules of the Exchange do not:

- i permit unreasonable discrimination among issuers and participants; or**
- ii impose any burden on competition that is not reasonably necessary or appropriate.**

6.2.1 The Eurex Rules apply equally to all Members.

6.2.2 The Exchange Council is responsible for reviewing certain Eurex Rules to ensure they are compliant with Eurex’s legal and regulatory obligations under the *German Exchange Act*. The Exchange Council is comprised of representatives from a cross-section of Members. This structure ensures that all constituents in Eurex’s trading community are represented in order to benefit from the widest possible range of expertise and also to avoid discrimination or any burden on competition when considering an applicant for Eurex Membership. Members may submit a complaint in regard to regulatory functions, contracts or business of Eurex to the TSO. Once the TSO has completed an investigation, a report and recommendations are forwarded to the Board of Management and a copy is provided to the ESA. The recommendations may, among other things, call upon Eurex to make a compensatory payment to the complainant or call for some form of remedial action.



7. SYSTEMS AND TECHNOLOGY

7.1 System Capability/Scalability – For each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, the Exchange:

- i makes reasonable current and future capacity estimates;
- ii conducts capacity stress tests of critical systems to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- iii reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;
- iv ensures that safeguards which protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- v ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- vi maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- vii maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

7.1.1 All Eurex Contracts are traded solely electronically on the Eurex platform, which is operated by EFAG. EFAG has subcontracted with Deutsche Börse System AG, a subsidiary within Deutsche Börse Group. Further information on the Eurex platform is available at http://www.eurexchange.com/technology_en.html.

7.1.2 The Eurex platform technology was developed in compliance with the Principles for the Oversight of Screen-Based Trading Systems for Derivative Products developed by the Technical Committee of IOSCO.

7.1.3 The operational integrity of the Eurex platform has been thoroughly tested. The ESA has rigorously evaluated the capability of the Eurex platform prior to its launch to ensure that it adequately supports order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements.

7.1.4 The Board of Management regularly reviews the performance of the Eurex platform and its systems, backup and disaster recovery arrangements.



7.1.5 Eurex subjects the Eurex platform's critical systems to regular stress tests based on reasonable current and future capacity estimates. The Eurex platform is also tested for a range of externalities that may damage or impair the operation of the system, including but not limited to vulnerability to internal and external threats (including physical hazards and natural disasters), and it is safeguarded against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service. The Eurex platform is subject to independent and ongoing audit review by EFAG's auditors and an annual Statement of Auditing Standards 70 (SAS 70) review by an independent auditing firm. These reviews cover the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans, business contingency/disaster recovery arrangements and other matters.

7.2 Information Technology Risk Management Procedures – Procedures are in place that:

- i handle trading errors, trading halts and circuit breakers;**
- ii ensure the competence, integrity and authority of system users;**
- iii ensure that the system users are adequately supervised; and**
- iv ensure the competence, integrity and authority of system users, to ensure that system users are adequately supervised.**

7.2.1 The risk management procedures referred to in section 4.3.2 above set out processes to effectively deal with trading errors, trading halts and circuit breakers, ensure the competence, integrity and authority of users on the Eurex platform and ensure that users on the Eurex platform are adequately supervised. In addition, Eurex's mistrade rules include a range of system functionalities and procedures in order to prevent and, if necessary, handle trading errors. Routing Members are required to control and supervise all access to the Eurex platform and must be able to check all orders entered on the Eurex platform.

7.2.2 Eurex Rules impose appropriate sanctions for breaches of the Trading Procedures.

8. FINANCIAL VIABILITY

8.1 The Exchange has sufficient financial resources for the proper performance of its functions.

8.1.1 In accordance with section 5(1) of the *German Exchange Act*, EFAG must provide to Eurex the financial resources, staff and facilities necessary for the operation of the exchange. This is monitored by the ESA. Eurex and EFAG must satisfy the ESA on request that they have sufficient liquid financial resources.

8.1.2 In determining whether Eurex has financial resources sufficient for the proper performance of its functions, the ESA may assess at any time, among other things, the operational and other risks to which Eurex is exposed; the amount and composition of its capital, liquid financial assets and other financial resources; and the financial benefits, liabilities, risks and exposures arising from Eurex's connection with any person.



9. CLEARING AND SETTLEMENT

9.1 Relationship with Clearing House – The Exchange has a clearing relationship with an established clearing house (“Clearing House”) and all transactions executed on the Exchange are cleared through the Clearing House.

9.1.1 As described in section 4.3.1 above, all trades in Eurex Contracts executed on Eurex are settled and cleared through ECAG. All Members must be members of ECAG or have clearing agreements in place with Clearing Members. ECAG acts as counterparty and guarantor to each transaction executed on Eurex.

9.1.2 Each Clearing Member is also required to pay a contribution to the “**Clearing Fund**”. ECAG determines the amount of the contribution to be provided by each Clearing Member. The contribution is to be provided by bank guarantee and/or cash or securities collateral. ECAG may also use funds from its annual surplus to set aside reserves for the Clearing Fund. If a Clearing Member fails to comply with its obligations, and compensation has to be provided for the damage suffered, ECAG will realize the securities in the following order: (a) collateral provided by the defaulting Clearing Member (other than the contribution to the Clearing Fund); (b) the defaulting Clearing Member’s contribution to the Clearing Fund; (c) the reserves of ECAG in the Clearing Fund; and (d) the contributions of all other Clearing Members to the Clearing Fund (on a pro-rata basis). Clearing Members have an obligation to increase their contributions to the Clearing Fund back to their original amounts within ten business days of these funds being used due to default of a Clearing Member.

9.2 Regulation of the Clearing House – The Clearing House and direct clearing members are subject to acceptable regulation.

9.2.1 As described in section 4.3.1 above, ECAG is recognized by BaFin as a central counterparty under the German *Banking Act* and is subject to the regulation and oversight of BaFin.

9.3 Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the Clearing House. This oversight includes regular, periodic regulatory examinations of the Clearing House by the Foreign Regulator.

9.3.1 ECAG is subject to oversight by BaFin, and ECAG is required to provide regular and periodic reports to BaFin. BaFin may make examinations of ECAG at any time.

9.3.2 Sections 33-38 of the German *Banking Act* empower BaFin to enforce the ongoing compliance requirements applicable to clearing houses to ensure compliance by recognized clearing houses, such as ECAG. BaFin discharges this responsibility by conducting ongoing assessment of ECAG’s regulations, procedures and practices to confirm that they are adequate for the protection of investors and the maintenance of an orderly market.



9.4 Restrictions on Access to a Foreign Member– Any restrictions on access to the clearing system by a foreign member are adequately disclosed and justified by the legislation of the home jurisdiction, are not anticompetitive and do not unreasonably impose barriers to access.

9.4.1 A foreign applicant seeking membership to ECAG is subject to the same application process and requirements as German applicants, including financial resource, capital, risk management and fitness requirements, as well as requirements to confirm regulatory status and compliance.

9.5 Sophistication of Technology of Clearing House – The Exchange has assured itself that the information technology used by the Clearing House has been adequately reviewed and tested and provides at least the same level of safeguards as required of the Exchange.

9.5.1 Because Eurex and ECAG are both recognised bodies regulated by the ESA or BaFin, Eurex takes comfort that the ESA and BaFin subject the technology and risk management systems of ECAG to the same degree of scrutiny and oversight to which the technology and risk management systems of Eurex are subject.

9.5.2 As part of the software testing program leading up to the launch of each new Eurex Contract, Eurex arranges for joint system tests with ECAG to ensure that the matching and clearing systems used when processing trades in Eurex Contracts work appropriately in relation to the new Eurex Contract. Eurex works with ECAG to resolve any technical problems or other difficulties that are uncovered as a result of this advance testing program.

9.5.3 ECAG is a subsidiary of EFAG, the operator of Eurex. All Eurex entities are consolidated within the Deutsche Börse Group.

9.6 Risk Management of Clearing House – The Exchange has assured itself that the Clearing House has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

9.6.1 As described in section 9.5.1 above, Eurex takes comfort that BaFin subjects the risk management systems of ECAG, including policies and procedures, contingency plans, default procedures and internal controls, to the same degree of scrutiny and oversight to which the risk management systems of Eurex are subject.

10. TRADING PRACTICES

10.1 Trading practices are fair, properly supervised and not contrary to the public interest.

10.1.1 The ESA monitors trading practices on Eurex to confirm compliance with the *German Exchange Act*.

10.1.2 The Conditions for Trading set out in the Eurex Rules ensure that all trades are fair, properly supervised and not contrary to the public interest. The Conditions for Trading prescribe specific requirements applicable to market orders, limit orders, combination orders, stop orders on future contacts and orders for closing auction to ensure that market integrity is maintained.



10.2 Market Making Provisions – Market making provisions and other provisions to ensure market liquidity, if any, are fair and equitable to all market participants.

10.2.1 All Members are authorized to act as market makers without further application. The required terminal functionality is available to all Members.

10.3 Orders – Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

10.3.1 The Eurex platform's order-handling functionality was thoroughly assessed for fairness, robustness and transparency by the ESA prior to its launch in 1998.

10.3.2 The ESA approves all rules pertaining to order size and limits. All proposed rule changes are described in a circular distributed to Members. Eurex typically consults with industry specialists prior to developing or revising order rules.

10.3.3 Eurex also provides OTC trade entry facilities through ECAG with bilateral agreement of price and quantities. These facilities enable Members to enter off-order book trades in the Eurex system. An OTC trade is required to be entered into the Eurex clearing system immediately after conclusion. A period of up to 30 minutes is available between the entry of an OTC trade made by the Member initializing the transaction and the acceptance of that OTC trade by another Member. The contract price of OTC trades entered into the Eurex clearing system using one of the OTC trade entry facilities must lie within the price range of the daily high and low prices for the Eurex Contract on the day on which the OTC trade is made.

10.3.4 The OTC trade entry facilities are:

- (a) Exchange for Physicals (EFP) Trade Facilities for fixed income, inflation and credit and for index futures. In connection with the simultaneous purchase of an underlying asset and sale of futures contracts, or vice versa, concluded off-exchange, each of these facilities enables a Member to enter into the Eurex clearing system futures contracts admitted to the facility. In the case of the EFP for index futures, the underlying asset is a specified basket of shares.
- (b) An Exchange for Swaps (EFS) Trade Facility for fixed income, inflation and credit. This facility enables a Member to enter futures contracts into the Eurex clearing system concluded off-exchange that concern the simultaneous transaction of an interest rate swap and the sale or purchase of futures contracts admitted to the facility.
- (c) A Block Trade Facility. This facility enables a Member to enter transactions concluded off-exchange concerning Eurex Contracts that are admitted to the facility into the Eurex clearing system.
- (d) A Vola Trade Facility. After the conclusion of an options transaction that exists in the Eurex clearing system with a transaction number, this facility enables a Member to enter transactions concluded off-exchange concerning futures contracts pursuant to specified combinations into the Eurex clearing system.



- (e) A Flexible Options and Futures Facility. This facility enables a Member to enter and have cleared off-exchange transactions of Eurex Contracts that have been admitted to the facility.
- (f) A Block Auction Request Facility. This facility enables Members to enter requests for extra-large block transactions in a particular contract or strategy anonymously into the Eurex system. Such a request automatically triggers an auction, which allows other Members to enter quotes, also on an anonymous basis. The indicative auction price is visible on both sides, for all participants involved. This facility is available only for equity options on Dow Jones EURO STOXX 50 Index components listed on Eurex.

10.4 Transparency – Adequate provision has been made to record and publish details of pricing and trading.

10.4.1 All direct users of Eurex have access on a real-time basis via information vendors such as Reuters, Bloomberg, Comstock and Telerate to the following information: Eurex Contract bid/offer (including depth of market), daily high/low, last traded price (including volume and type of trade, *i.e.*, whether it was part of a spread or an outright trade) and weighted-average price. This data is also provided to information subscribers through the Consolidated Exchange Feed CEF. Globally, there are approximately 120,000 quote vendor screens that receive Eurex trading information. Post-trade information, including end-of day price and settlement volumes, is located on the Eurex website at http://www.eurexchange.com/market/quotes/overview_en.html.

10.5 Market Limits – Market limits have been established as to ensure the integrity of the Exchange during times of volatility.

- 10.5.1 Eurex may set or alter position limits in order to ensure orderly options and futures trading and to avoid risks for the spot market. A reasonable period of notice must be given of any such determination of position limits.
- 10.5.2 Eurex sets price and volume reasonability limits to reduce the likelihood of erroneous trades, prevent the execution of trades at unrepresentative prices and reduce the market impact of such trades. Eurex platform users may also configure their systems to provide pre-confirmation messages that appear before the execution of all trades and to designate quantities, rather than trading the total quantity that is available at a specified price.
- 10.5.3 If the last effected price of a futures contract is outside one of the price ranges with respect to specific time frames, the trading period in that futures product is interrupted (volatility interruption). Options and futures trading with respect to that futures product would resume with a pre-trading period and an opening period in price ranges and time frames determined by the Board of Management.



11. COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

11.1 Jurisdiction – The Exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

11.1.1 Eurex is a "front-line regulator" with jurisdiction over its markets and the Members, extending to rulemaking, compliance, market supervision and enforcement. As described in section 6.1.1 above, Eurex Rules are applicable to all Members without regard to jurisdictional boundaries, as such obligations arise by virtue of the contractual relationship between Eurex and the Members.

11.2 Member and Market Regulation – The Exchange or its Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with the Exchange and legislative requirements and disciplining participants.

11.2.1 Trading on Eurex is monitored in real time by the TSO. Market surveillance is conducted by analysing the positions of Members on a constant, random basis to identify any unusual exposure, reviewing daily reports on the exposure of clients of Members, and reviewing reports of Members regarding their open interests in all Eurex Contracts. In addition, Market Supervision of Eurex conducts trade audits of and routine visits to Members. Moreover, ECAG monitors the delivery process of deliverable Eurex Contracts and the settlement of large orders on the EFP/EFS facility.

11.2.2 The TSO investigates reports of suspected misconduct and also carries out real-time monitoring on Eurex to identify suspicious trades or patterns of trading. In order to facilitate its investigations, the TSO produces a suite of daily reports that analyze possible price spikes, settlement trading and/or questionable trading or other business conduct practices. The data used to generate these daily reports is sourced from Eurex's databases, the trade registration system, Members' trading documentation and, where relevant, audio and telephone records. Upon detecting evidence of misconduct, Eurex Compliance will commence a formal investigation.

11.2.3 The TSO reports directly to the Board of Management. The TSO also reports directly to the ESA.

11.2.4 The Exchange Council supervises the compliance and regulatory functions of Eurex. Representatives of Members on the Exchange Council include legal and compliance specialists as well as market practitioners. The Exchange Council receives regular reports regarding the discharge of Eurex's regulatory and compliance functions.

11.2.5 The TSO considers the results of investigations and determines appropriate next steps, which may include the initiation of further investigation or a direct report of its findings to the Board of Management as well as to the ESA. The Disciplinary Committee of Eurex is empowered to conduct disciplinary proceedings. Sanctions for breach of Eurex Rules or exchange law provisions or orders range from a reprimand to a fine to suspension and, in extreme cases, revocation of Eurex membership, as set out in section 22 of the *German Exchange Act*.

11.2.6 In the event of a breach of a Eurex Rule or the *German Exchange Act*, the TSO will refer the case to the Board of Management as well as to the ESA under the *German Exchange Act*.



11.3 Record Keeping – The Exchange maintains adequate provisions for keeping of books and records, including operations of the Exchange, audit trail information on all trades and compliance and/or violations of the Exchange requirements and securities legislation.

11.3.1 Eurex ensures that satisfactory arrangements are made for recording transactions effected by, or cleared through, its facilities. When considering whether arrangements are satisfactory, the ESA considers whether arrangements are in place to create, maintain and safeguard an audit trail of transactions for a minimum of three years, and the quality and extent of the information recorded.

11.3.2 Members are required to maintain various records pursuant to the German *Securities Trading Act*. Members also must comply with certain disclosure requirements, reporting rules, insider trading prohibitions and rules of conduct. Members and ECAG must notify BaFin of each transaction in securities or derivatives traded on an organized market in a member state of the European Union or European Economic Area. Transactions executed on Eurex are cleared and settled by ECAG and Clearstream Banking AG, which are both banking institutions within the meaning of the German *Banking Act* and are regulated by BaFin. Both institutions have implemented anti-money laundering procedures.

11.4 Availability of Information to Regulator – The Exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory and enforcement purposes is available to the relevant regulatory authorities on a timely basis.

11.4.1 BaFin imposes numerous reporting obligations on Members. The Disciplinary Committee of Eurex is required to advise the ESA of disciplinary actions taken against any Members. The ESA also has access, upon request, to all records maintained by Eurex.

11.4.2 As the central counterparty of Eurex, ECAG reports all transactions on Eurex to BaFin.

11.4.3 In certain jurisdictions, Eurex is required as a condition of authorization to provide the local regulatory authority with regular reports regarding the trading activities of Members in their jurisdiction.

12. INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

12.1 Satisfactory information sharing and oversight agreements exist between the AMF and the Foreign Regulator.

12.1.1 The German *Securities Trading Act* requires BaFin to cooperate with any other regulatory authority, including making arrangements for information sharing.

12.1.2 BaFin and the AMF are both signatories to the Declaration on Cooperation and Supervision of International Futures Markets and Clearing Organisations, as amended, of March 1998 (commonly known as the "Boca Declaration"). BaFin and the AMF also are signatories to the IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information. BaFin is a signatory to the Tokyo Communique on Supervision of Commodity Futures Markets, which provides best practice guidance for exchanges and regulators in



relation to information sharing (including international information sharing) and a framework for undertaking market surveillance.

- 12.1.3 Eurex confirms that it has the power to co-operate and share information through the TSO with an SRO in Québec and it undertakes to furnish information on request in respect of its powers.

13. IOSCO PRINCIPLES

13.1 The Exchange adheres to the IOSCO principles to the extent consistent with the law of the foreign jurisdiction.

- 13.1.1 Eurex adheres to IOSCO principles.

D. Exemption from the Requirement to Be Recognized and Related Relief

Exemption from the Requirement to be Recognized Under Section 12 of the Act

1. Eurex satisfies the criteria for recognition or exemption from recognition as an exchange set out in Schedule "A", as described in Section C above. Market participants in Québec that trade derivatives would benefit from the ability to trade on Eurex, as they would have access to a range of exchange-traded derivatives that are not currently available in Québec. To the extent they can currently trade those products, it is through more costly and cumbersome arrangements under which the trade is made indirectly through intermediaries located outside of Canada that are Members. More direct access to Eurex could reduce costs, enhance market visibility and transparency for Québec firms, improve competition and reduce customer risk.
2. The range of products traded on Eurex expands the products generally available to investors in Québec in two ways. For some classes of products traded on Eurex, there are no equivalent products traded in Québec. For example, Eurex has developed equity index dividend derivatives that represent the pure dividend component of blue chip indices. These products enable investors to take a view on the total dividends that are announced and paid by the individual constituents of the reference equity index in each contract period. Separate trading of the dividend element can improve risk management and increase the ability of investors to focus on the fundamentals that determine equity values.
3. The other way in which Eurex expands the product range available to investors in Québec is through products equivalent to those that are currently traded in Québec, but for which the underlying securities are different. For example, large numbers of futures and options on single stocks listed on European stock exchanges are traded on Eurex. Futures and options on these stocks are not traded on the Montreal Exchange or other Canadian exchanges.
4. A greater portion of derivatives trading on regulated, liquid markets such as Eurex rather than in alternative settings increases the transparency of the participants trading derivatives.
5. Eurex offers a transparent, efficient and liquid market for investors in Québec to trade Eurex Contracts. Stringent ESA oversight of Eurex, as well as the sophisticated information systems, regulations and compliance functions that have been adopted by Eurex, will ensure that users of



Eurex in Québec are adequately protected in accordance with international standards set by IOSCO.

6. As set out in section 12.1.2 above, BaFin has entered into two information-sharing and cooperation agreements with the AMF and BaFin also is a signatory to the Tokyo Communique on Supervision of Commodity Futures Markets dealing with the exchange of information among commodity futures exchanges. Eurex confirms that the TSO, which is an independent body of Eurex, has the power to co-operate and share information with SROs in Québec.
7. As a condition to a decision of the AMF authorizing it to operate as a foreign-based exchange, Eurex would accept compliance with the requirements set out in section 5(E) of the Policy Statement Respecting the Authorization of Foreign-Based Exchanges of the AMF (the "**Authorization Policy Statement**").
8. Eurex confirms that it has the power to co-operate fully with the AMF and to provide information and documents respecting its operations, including the following:
 - (a) the annual report of Deutsche Börse Group, which includes its financial information;
 - (b) any amendment to the laws or regulations governing its activities in its home jurisdiction;
 - (c) any amendment to its internal by-laws, rules, policies or other similar instruments;
 - (d) any change respecting its right to operate in Germany;
 - (e) notice of any situation that could have an impact on its financial viability or its ability to operate and may result, in particular, from the bankruptcy or financial difficulties of a Member; and
 - (f) any disciplinary or administrative action taken by Eurex.
9. Based on the foregoing, Eurex seeks an exemption from the requirement of section 12 of the Act allowing it to carry on derivatives activities in Québec without being recognized by the AMF as an exchange, a published market or otherwise.
10. There are not yet any precedents under the Act. In respect of stock exchanges, on March 20, 2007, the AMF issued to London Stock Exchange plc a decision under section 169 of the QSA authorizing it as a foreign-based exchange.

Related Relief

11. Section 82 of the Act states that a person, other than a recognized regulated entity, who creates or markets a derivative must be qualified by the AMF before the derivative is offered to the public. Eurex further requests that it be exempted from the requirement to be qualified by the AMF in order for it to carry on derivatives activities within the conditions set out in this application. This relief would be conditional on Eurex informing its Members of their obligation to deliver to their clients in



Québec a copy of the Risk Information Document for Derivatives set out in Schedule A of the Derivatives Regulation enacted under the Act (the “**Risk Information Document**”).

12. Following exemption from recognition of Eurex by the AMF, a Member resident outside Québec without an establishment in Québec will be able to execute trades on Eurex with residents in Québec (see Part II below). The execution of a trade with a resident in Québec could be construed as carrying on business in Québec for the Member resident outside Québec, which could subject the Member resident outside Québec and its representatives to the registration requirements of sections 54 and 56 of the Act. We submit that it would not be detrimental to the protection of investors for the Member resident outside Québec and its representatives who execute trades on Eurex and do not operate an establishment in Québec to be granted an exemption from the requirements to register as a dealer and its representatives under sections 54 and 56 of the Act. The AMF granted a similar exemption under the QSA to the London Stock Exchange on March 20, 2007.

Exemptions from 21-101 and 23-101

13. Compliance by Eurex with the requirements set out in 21-101 and 23-101 would result in duplication of the German regulatory framework to which Eurex is subject. Exempting Eurex from the application of those provisions would further the policy concern set out in the Authorization Policy Statement over “burdensome and inefficient duplication where a foreign-based exchange is already subject to an equivalent process in its home jurisdiction (the jurisdiction in which the exchange mainly operates), particularly when the measures in place to ensure investor protection are equivalent to those in Québec”. Eurex seeks an exemption from the provisions of 21-101 and 23-101 so that it may continue to operate in accordance with its current regulatory framework without the need to separately comply with duplicative regulation.
14. Notwithstanding the preceding paragraph, EFAG and Eurex have submitted to the AMF Form 21-101F1.

PART II: Trading on Eurex by Entities Resident in Québec

The Applicants propose that investors resident in Québec would be able to trade on Eurex as follows:

- (a) Dealers registered under the Act would be able to become Members and trade on Eurex as principal or as agent for their clients under their registrations. Members resident in Québec would only be entitled to become Non-Clearing Members.
- (b) The Applicants consider membership on Eurex to trade as principal to be appropriate for registered dealers, registered advisers acting on behalf of fully managed accounts, banks, proprietary trading firms and hedge funds. They are not seeking an exemption to permit such entities to become Members based on the Applicants’ understanding that, pursuant to section 232 of the Act, if such entities purchased derivatives as principal and were Accredited Investors, they could avail themselves of section 2.3 of 45-106 (as in force on February 1, 2009).



- (c) Residents of Québec that are Accredited Investors would be able to trade Eurex Contracts through any Member. The Applicants are not seeking an exemption to permit such trading based on the Applicants' understanding that, pursuant to section 232 of the Act, Members and Accredited Investors could avail themselves of section 2.3 45-106 (as in force on February 1, 2009).
- (d) Residents of Québec that are not Accredited Investors would be able to trade Eurex Contracts only through Members having a registration with the AMF that permits them to trade derivatives.

A. Access as Members

1. Entities wishing to trade on Eurex directly on its integrated trading and clearing system must be admitted as Members. The Applicants consider membership in Eurex to be appropriate for the following:
 - (a) A dealer registered under the Act or under the QSA.
 - (b) An adviser registered under the Act or under the QSA acting on behalf of accounts fully managed by it.
 - (c) A bank listed in Schedule I, II or III to the Bank Act (Canada).
 - (d) Proprietary trading firms.
 - (e) Hedge funds.
2. Any applicant for membership in Eurex would be subject to the requirements and procedures for becoming a Member. The requirements currently applicable are outlined in section 5.2 in Part I.C above.
3. Traditionally membership in an exchange has been viewed as being within the purview of dealers who act as intermediaries for their clients wishing to trade the products listed on the exchange. With the growth of algorithmic (program) trading and a far greater array of products, such as derivative products and exchange-traded funds, that lend themselves to complex trading strategies in which instantaneous execution is of increasing importance, the Applicants take the view that limiting membership in exchanges to firms whose role is to act as intermediaries has become outdated.
4. In acting as intermediaries, dealers fulfill the following roles:
 - (a) They provide the technological connection to a marketplace.
 - (b) They act as gatekeepers in assessing such factors as credit risk and suitability of investments.
 - (c) They advise and guide their clients in their trading activities.



5. For a derivatives marketplace such as Eurex, these roles of dealers can be fulfilled in other ways for certain other types of entities if those other entities are themselves permitted to become members of exchanges directly without being required to trade through intermediaries:
 - (a) Technological advances obviate the need to limit direct connections to an exclusive group of dealers.
 - (b) The gatekeeper role of dealers can be performed in other ways. In the case of Eurex, there are two main classes of Members: Clearing Members and Non-Clearing Members. Non-Clearing Members are subject to the risk management procedures put in place by their Clearing Members through web-based clearing support functionalities, including trading, price and position limits, and margin requirements. The Clearing Member with which a Non-Clearing Member seeks to open an account for the purpose of trading on Eurex will complete credit, know-your-client and anti-money laundering checks, suitability analyses and other account supervision procedures prior to entering into clearing agreements with all clients and on an ongoing basis as required by applicable law. Under the requested relief, entities resident in Québec will be limited to becoming Non-Clearing Members.
 - (c) As discussed in greater detail in paragraphs 8 and 9 below, other types of entities with trading specialists can be as sophisticated as dealers in their trading activities, or even more sophisticated. All Members would be subject to the same proficiency requirements, whether or not they are dealers, including providing evidence of expertise, generally by passing the Eurex Exchange Trader examination, and the practical knowledge necessary for trading on Eurex.
6. Membership in Eurex does not itself permit an entity to trade as agent. Whether an entity is permitted to trade as agent or is restricted to trading as principal is a matter for the law of the jurisdiction in which it trades. Membership in Eurex is itself only a way to facilitate access. This is an important difference from the traditional model, which equates membership in an exchange with trading as agent for clients. That is no longer the case.
7. Eurex Products include interest rate options and futures that relate directly to the business of banking. Banks could be expected to have greater sophistication in understanding and trading these types of products than dealers.
8. Advisers in Québec with discretionary management authority over portfolios are subject to proficiency requirements at least as stringent as dealers. By becoming Members, advisers could enhance their ability to trade and reduce their trading costs, to the benefit of the portfolios they manage. Trading by hedge funds would be done by the advisers managing their portfolios. If hedge funds themselves become Members, bookkeeping and administration would additionally be facilitated because the order could be placed in the name of the hedge fund rather than in the name of its adviser that could be the manager for multiple hedge funds.
9. Proprietary trading firms, many of which specialize in low risk algorithmic trading, similarly can have greater sophistication in trading Eurex Contracts than dealers. Membership in Eurex can enable them to trade more efficiently at lower cost. Proprietary trading firms do not act for clients whose assets can be put at risk.



10. In enforcing the Eurex Rules, the status of an entity as a Member enables enforcement action to be taken directly against the entity and sanctions can be imposed against it.
11. In order to become a Member, a proprietary trading firm or hedge fund will be required to agree to submit to the jurisdiction of the AMF with respect to activities conducted as a Member and to provide, upon the request of the AMF, prompt access to its books and records.

B. Access by Order Routing Through Members

1. Entities that are not Members would have to access trading on Eurex by becoming a client of a Member. Access can take the form of automated order routing, which is an electronic order forwarding system under which client orders are routed to Eurex via the trader mnemonic of an Exchange Trader registered with the Member. Order routing systems may be connected to the Member's Front End System via a defined interface so that the orders transmitted via this system can be channelled directly into the Eurex trading system.
2. Section 3 of the Exchange Rules requires Members to ensure that the order routing facility is used properly, for the designated purpose and in accordance with the applicable requirements. The Member takes responsibility for such trades and accepts all contingent liabilities for those orders when routed onto the Eurex platform. The Member conducts its own due diligence of prospective order routing clients under applicable law to ensure that they satisfy relevant regulatory, financial, risk and anti-money laundering standards. The Member is responsible for the acts and conduct on Eurex of its order routing clients. The Member must satisfy the following prerequisites in order to use the order routing system:
 - (a) Before being channelled into the trading system, the orders transmitted via the order routing system must pass an electronic filter installed in the Member's Front End System. The filter is required to check and release orders for further transmission according to parameters defined by the Member, including that the structure of the order is consistent with the Eurex Rules.
 - (b) The Member must ensure that all users of the order routing system operated by it have access to the Exchange Rules and are informed about their obligation to comply with the Exchange Rules.
 - (c) In the event of a violation of the Exchange Rules, the Member must immediately give a written warning concerning the violation. In the event of a second violation, the Member must immediately exclude the user from usage of the order routing system for at least 20 Eurex trading days.
3. Eurex will be required to notify its Members whose address is not in Canada that those Members are entitled to provide order routing access to Eurex for clients resident in Québec so long as the clients are Accredited Investors and the Members provide them with the form of circular set out in Schedule "B" and a copy of the Risk Information Document.

**PART III Other Matters**

1. Enclosed is a certificate of an authorized signatory of Eurex certifying the truth of the facts contained herein and authorizing us to prepare and file this application.
2. Also enclosed are:
 - (a) English translations of the Market Authorization, approving Eurex to operate as a futures and options exchange in Germany, and the transfer of the Market Authorization to EFAG;
 - (b) a letter from the ESA confirming that Eurex is authorized in good standing as an exchange; and
 - (c) a cheque in payment of the applicable fee of \$500.
3. EFAG consents to the publication of this application for public comment in the AMF Bulletin.

Thank you for your assistance with this matter.

Please do not hesitate to contact Dr. Ekkehard M. Jaskulla, Director, Legal Affairs, Section Markets and Regulatory at 49-69-211-15133, the undersigned at 416-863-2226 or Ralph Lindzon at 416-863-2535 for any further information you may require in connection with this application.

Yours truly,

Pamela Hughes

Enclosures

c: Éline Lanouette
SRO Oversight, Autorité des marchés financiers

Monique Viranyi,
Analyst, SRO Oversight, Autorité des marchés financiers

Dr. Ekkehard M. Jaskulla
Director, Legal Affairs, Section Markets and Regulatory
Deutsche Börse AG / Eurex Deutschland

Lothar Kloster
Senior Vice President, Institutional Investor Business Development
Eurex Deutschland

Ralph Lindzon, Blake, Cassels & Graydon LLP

SCHEDULE "A"**Criteria for Exemption from Recognition as an Exchange****PART 1 REGULATION AND OVERSIGHT OF THE EXCHANGE****1.1 Regulation of the Exchange**

The Exchange is regulated in an appropriate manner in another jurisdiction by a Foreign Regulator. The regulatory scheme of the Foreign Regulator is transparent and generally comparable to that in Québec.

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the Exchange. This oversight includes regular, periodic regulatory examinations of the Exchange by the Foreign Regulator.

PART 2 CORPORATE GOVERNANCE**2.1 Fair Representation**

The governance structure of the Exchange provides for:

- (i) appropriate, fair and meaningful representation on its Board and any committee thereof, and
- (ii) appropriate representation by independent directors on the Board and any committee thereof.

2.2 Appropriate Provisions for Directors and Officers

There are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors and officers.

2.3 Fitness

The Exchange takes reasonable steps to ensure that each officer and director is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

2.4 Conflicts of Interest

The Exchange has appropriate conflict of interest provisions for all directors, officers and employees.

PART 3 FEES**3.1 Fees**

The Exchange's process for setting fees is fair, transparent and appropriate. Any and all fees imposed by the Exchange on its participants are equitably allocated, do not have the effect of creating barriers to access and are balanced with the criteria that the Exchange has sufficient revenues to satisfy its responsibilities.

PART 4 REGULATION OF PRODUCTS**4.1 Approval of Products**

The products traded on the Exchange are approved by the appropriate authority.

4.2 Product Specifications

The terms and conditions of trading the products are in conformity with normal commercial business practices for the trade in the product.

4.3 Risks Associated with Trading Products

The Exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the Exchange, including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

PART 5 ACCESS

5.1 Fair Access

The requirements of the Exchange relating to access to the facilities of the Exchange, the imposition of limitations or conditions on access and denial of access are approved by the Foreign Regulator and are fair and reasonable, including in respect of notice, an opportunity to be heard or make representations, the keeping of records, the giving of reasons and the provisions for appeals.

5.2 Details of Access Criteria

In particular, the Exchange:

- (i) has written standards for granting access to trading on its facilities to ensure users have appropriate integrity and fitness;
- (ii) has and enforces financial integrity standards for those persons who enter orders for execution on the system, including, but not limited to, credit or position limits and clearing membership;
- (iii) does not unreasonably prohibit or limit access by a person or company to services offered by it;
- (iv) keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access; and
- (v) restricts access to adequately trained system users who have demonstrated competence in the functions that they perform.

5.3 Access for Persons in Québec

The Exchange provides direct access, either through terminals, data feeds or third party provided interfaces, to only those persons in Québec that are duly registered or licensed under the laws of Québec.

PART 6 RULEMAKING

6.1 Purpose of Rules

The Exchange maintains rules, policies and other similar instruments as are necessary or appropriate to govern and regulate all aspects of its business and affairs and such rules are designed to, in particular:

- (i) ensure compliance with the rules of the Exchange and securities legislation;
- (ii) prevent fraudulent and manipulative acts and practices;
- (iii) promote just and equitable principles of trade;

- (iv) foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, the products traded on the Exchange;
- (v) provide for appropriate discipline;
- (vi) ensure a fair and orderly market; and
- (vii) ensure that the Exchange business is conducted in a manner so as to afford protection to investors.

6.2 No Discrimination or Burden on Competition

The rules of the Exchange do not:

- (i) permit unreasonable discrimination among issuers, if applicable, and participants; or
- (ii) impose any burden on competition that is not reasonably necessary or appropriate.

PART 7 SYSTEMS AND TECHNOLOGY

7.1 System Capability/Scalability

For each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, the Exchange:

- (i) makes reasonable current and future capacity estimates;
- (ii) conducts capacity stress tests of critical systems to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- (iii) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;
- (iv) ensures that safeguards which protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment. system capacity, operating system testing, documentation, internal controls and contingency plans;
- (v) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- (vi) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- (vii) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

7.2 Information Technology Risk Management Procedures are in place that

- (i) handle trading errors, trading halts and circuit breakers;
- (ii) ensure the competence, integrity and authority of system users;
- (iii) ensure that the system users are adequately supervised; and
- (iv) ensure the competence, integrity and authority of system users, to ensure that system users are adequately supervised.

PART 8 FINANCIAL VIABILITY**8.1 Financial Viability**

The Exchange has sufficient financial resources for the proper performance of its functions.

PART 9 CLEARING AND SETTLEMENT**9.1 Relationship with Clearing House**

The Exchange has a clearing relationship with an established Clearing House and all transactions executed on the Exchange are cleared through the Clearing House.

9.2 Regulation of the Clearing House

The Clearing House and direct clearing members are subject to acceptable regulation.

9.3 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the Clearing House. This oversight includes regular, periodic regulatory examinations of the Clearing House by the Foreign Regulator.

9.4 Restrictions on Access to a Foreign Member

Any restrictions on access to the clearing system by a foreign member are adequately disclosed and justified by the legislation of the home jurisdiction, are not anti-competitive and do not unreasonably impose barriers to access.

9.5 Sophistication of Technology of Clearing House

The Exchange has assured itself that the information technology used by the Clearing House has been adequately reviewed and tested and provides at least the same level of safeguards as required of the Exchange.

9.6 Risk Management of Clearing House

The Exchange has assured itself that the Clearing House has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 10 TRADING PRACTICES**10.1 Trading Practices**

Trading practices are fair, properly supervised and not contrary to the public interest.

10.2 Market Making Provisions

Market making provisions and other provisions to ensure market liquidity, if any, are fair and equitable to all market participants.

10.3 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

10.4 Transparency

Adequate provision has been made to record and publish details of pricing and trading.

10.5 Market Limits

Market limits have been established as to ensure the integrity of the Exchange during times of volatility.

PART 11 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

11.1 Jurisdiction

The Exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

11.2 Member and Market Regulation

The Exchange or its Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with Exchange and legislative requirements and disciplining participants.

11.3 Record Keeping

The Exchange maintains adequate provisions for keeping books and records, including operations of the exchange, audit trail information on all trades and compliance and/or violations of Exchange requirements and securities legislation.

11.4 Availability of Information to Regulator

The Exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory and enforcement purposes is available to the relevant regulatory authorities on a timely basis.

PART 12 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

12.1 Information Sharing and Oversight Agreement

Satisfactory information sharing and oversight agreements exist among the AMF and the Foreign Regulator.

PART 13 IOSCO PRINCIPLES

13.1 IOSCO Principles

The Exchange adheres to the IOSCO principles to the extent consistent with the law of the foreign jurisdiction.

SCHEDULE "B"**Form of Canadian Circular****Circular for Clients in Québec Who Trade on Eurex Deutschland**

[Name of Eurex member] _____ is permitted to provide access to accredited investors in Québec for trading on Eurex Deutschland. In order for you to be provided with access, you will need to complete, sign and return the attached certification.

In doing so, you will represent that you are an accredited investor in the category listed in the certification. Should you cease to fall within the category indicated in your certification, you are required to notify us before you place your next order on Eurex Deutschland.

We are also providing you with a Risk Information Document concerning certain risks and other significant aspects of trading in futures contracts, options or other derivatives.

There may be difficulty in enforcing any legal rights against us or any or our directors, officers or employees because we reside outside of Canada and all or substantially all of our assets are situated outside of Canada. We are not registered under the *Derivatives Act* (Québec) and, accordingly, the protection available to clients of a dealer under that statute will not be available to you.

Certification by Residents of Québec Who Trade on Eurex Deutschland

To: _____ [Name of Eurex Member]:

I/we represent that I/we fall within the indicated category of accredited investor as follows:

[Please put a \checkmark in the appropriate box.]

- 1) A bank named in Schedule I (domestic banks), Schedule II (subsidiaries of foreign banks) or Schedule III (foreign banks) of the Bank Act (Canada)
- 2) A loan corporation, trust company, trust corporation, insurance company, treasury branch, credit union, caisse populaire, financial services cooperative, or league that, in each case, is authorized by an enactment of Canada or a jurisdiction of Canada to carry on business in Canada or a jurisdiction of Canada
- 3) An association governed by the Cooperative Credit Associations Act (Canada) or a central cooperative society for which an order has been made under section 473(1) of that Act
- 4) The Business Development Bank of Canada incorporated under the Business Development Bank of Canada Act (Canada)
- 5) A subsidiary of any of the above companies, if the company owns all voting securities of the subsidiary, except the voting securities required by law to be owned by directors of that subsidiary
- 6) A person or company registered under the securities legislation of a jurisdiction of Canada as an adviser or dealer, other than a limited market dealer under one or both of the Ontario Act or the Securities Act (Newfoundland and Labrador)
- 7) An individual registered or formerly registered under the securities legislation of a jurisdiction of Canada as a representative of a person referred to in no. 6
- 8) The Government of Canada or a jurisdiction of Canada, or any crown corporation, agency or wholly owned entity of the Government of Canada or a jurisdiction of Canada
- 9) A municipality, public board or commission in Canada and a metropolitan, community, school board, the Comité de gestion de la taxe scolaire de l'île de Montréal or an intermunicipal management board in Québec
- 10) A national, federal, state, provincial, territorial or municipal government of or in any foreign jurisdiction, or an agency of that government
- 11) A pension fund that is regulated by either the Office of the Superintendent of Financial Institutions (Canada) or a pension commission or similar regulatory authority or a jurisdiction of Canada
- 12) An individual who, either alone or with a spouse, beneficially owns, directly or indirectly, financial assets (which includes the value of the individual's and the spouse's registered retirement savings plans) having an aggregate realizable value that before taxes, but net of any related liabilities, exceeds Cdn\$1 million
- 13) An individual whose net income before taxes exceeded Cdn\$200,000 in each of the two most recent calendar years or whose net income before taxes combined with that of a spouse exceeded Cdn\$300,000 if including a spouse) in each of the last two calendar years and who, in either case, reasonably expects to exceed that net income level in the

current calendar year

- 14) An individual who, either alone or with a spouse, has net assets of at least Cdn\$5 million
- 15) A person or company, other than an individual or investment fund, that has net assets of at least Cdn\$5 million as shown in its most recently prepared financial statements
- 16) A mutual fund or non-redeemable investment fund that distributes its securities or has distributed its securities only to a person or company that is or was an accredited investor at the time of the distribution or a person or company that acquires or acquired securities under the minimum amount investment exemption or certain other specified exemptions
- 17) A mutual fund or non-redeemable investment fund that distributes or has distributed securities under a prospectus in a jurisdiction for which the regulator has issued a receipt
- 18) A trust company or trust corporation registered or authorized to carry on business under the Trust and Loan Companies Act (Canada) or under comparable legislation in a jurisdiction of Canada or a foreign jurisdiction, acting on behalf of a fully managed account managed by the trust company or trust corporation
- 19) A person or company acting on behalf of a fully managed account managed by that person or company, if that person or company is registered or authorized to carry on business as an adviser or the equivalent under the securities legislation of a jurisdiction of Canada or a foreign jurisdiction, provided that, in Ontario, the person or company is purchasing a security that is not a security of a mutual fund or non-redeemable investment fund
- 20) A registered charity under the Income Tax Act (Canada) that, in regard to the trade, has obtained advice from a person or company that is registered as an investment dealer or in an equivalent category or registration under the securities legislation of the jurisdiction of a purchaser and authorized to give advice with respect to the type of security being distributed, or from an adviser registered under the securities legislation of the jurisdiction of the registered charity to give advice on the securities being traded
- 21) An entity organized in a foreign jurisdiction that is analogous to any of the entities referred to in nos. 1 through 6 or no. 11 above in form and function
- 22) A person or company in respect of which all of the owners of interests, direct, indirect or beneficial, except voting securities required by law to be owned by directors, are persons or companies that are accredited investors
- 23) A mutual fund or non-redeemable investment fund that is advised by a person or company registered as an adviser or a person or company that is exempt from registration as an adviser
- 24) A person or company recognized by the Autorité des marchés financiers as an accredited investor

I/We do not fall within one of the above categories, but an exemption from the registration requirement is otherwise available with respect to my/our trading on Eurex Deutschland. Please describe the exemption and, if applicable, provide a copy of the order granting the exemption: _____

* * * * *

Should there be a change in these representations, I/we will notify you before placing my/our next order on Eurex Deutschland. Should I/we cease to be an accredited investor, I/we will cancel any open orders and notify you that I/we are no longer an accredited investor.

Name of investor: _____

Signature of investor: _____
(or authorized signatory)

Title of authorized signatory: _____

Date: _____