

# 7.3

Réglementation des bourses, des  
chambres de compensation, des OAR et  
d'autres entités réglementées

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### 7.3. RÉGLEMENTATION DES BOURSES, DES CHAMBRES DE COMPENSATION, DES OAR ET D'AUTRES ENTITÉS RÉGLEMENTÉES

#### 7.3.1 Consultation

##### Note au lecteur

##### Réglementation des bourses, des chambres de compensations, des OAR et d'autres entités réglementées - Consultation (Section 7.3.1)

Veuillez noter que les documents explicatifs (*Circulaire 051-22, 052-22 et 053-22*) concernant les modifications des règles de la Bourse de Montréal Inc. ont été omis à la section 7.3.1 du bulletin du 12 mai 2022 (vol. 19, n° 18). Le texte de ces documents est publié ci-dessous.

Fait le 19 mai 2022.

**CIRCULAIRE 052-22**

Le 6 mai 2022

**SOLLICITATION DE COMMENTAIRES****MODIFICATION DES RÈGLES DE BOURSE DE MONTRÉAL INC.  
RELATIVES À L'INTRODUCTION  
D'UN MARQUEUR À LA SAISIE DES ORDRES POUR LES OPÉRATIONS PRÉARRANGÉES**

Le comité des règles et politiques de Bourse de Montréal Inc. (la « **Bourse** ») et le Comité Spécial de la Division de la réglementation de la Bourse ont approuvé des modifications aux règles de la Bourse afin d'introduire un nouveau marqueur d'ordre lors de la saisie dans le Système de Négociation de chaque ordre transmis.

Les commentaires relatifs aux modifications proposées doivent nous être présentés au plus tard le **6 JUIN 2022**.  
Prière de soumettre ces commentaires à :

Dima Ghozaïel  
Conseillère juridique  
Bourse de Montréal Inc.  
1800-1190 av. des Canadiens-de-Montréal  
C.P. 37  
Montréal QC H3B 0G7  
Courriel : [legal@tmx.com](mailto:legal@tmx.com)

Ces commentaires devront également être transmis à l'Autorité des marchés financiers (l'« **Autorité** ») à l'attention de :

M<sup>e</sup> Philippe Lebel  
Secrétaire général et directeur général  
des affaires juridiques  
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Place de la Cité, tour Cominar  
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Télécopieur : (514) 864-8381  
Courriel : [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Veillez noter que les commentaires reçus par un de ces destinataires seront transmis à l'autre destinataire et que la Bourse pourrait publier un résumé des commentaires qu'elle aura reçus dans le cadre du processus d'autocertification du présent projet. À moins d'indication contraire de votre part, les commentaires seront publiés de manière anonyme par la Bourse.

## Annexes

Vous trouverez en annexe le document d'analyse ainsi que le texte des modifications proposées. La date d'entrée en vigueur des modifications proposées sera déterminée par la Bourse conformément au processus d'autocertification, tel que prévu par la *Loi sur les instruments dérivés* (RLRQ, chapitre I-14.01).

### Processus d'établissement de règles

La Bourse est autorisée à exercer l'activité de bourse et est reconnue à titre d'organisme d'autoréglementation (« **OAR** ») par l'Autorité. Le conseil d'administration de la Bourse a délégué au comité des règles et politiques l'approbation des règles, des politiques et des procédures, lesquelles sont par la suite soumises à l'Autorité conformément au processus d'autocertification, tel que prévu par la *Loi sur les instruments dérivés* (RLRQ, chapitre I-14.01).

À titre d'OAR, la Bourse assume des responsabilités de réglementation de marché et d'encadrement des participants agréés. L'encadrement du marché et des participants agréés relève de la Division de la réglementation de la Bourse (la « **Division** »). La Division exerce ses activités de façon autonome par rapport à la Bourse, ayant une structure administrative distincte.

La Division est sous l'autorité d'un comité spécial (le « **Comité Spécial** ») nommé par le conseil d'administration de la Bourse. Le Comité Spécial a le pouvoir de recommander au conseil d'administration de la Bourse d'adopter ou de modifier les règles de la Bourse concernant certains aspects de l'encadrement des participants agréés de la Bourse. Le conseil d'administration de la Bourse a délégué au comité des règles et politiques de la Bourse le pouvoir d'adopter ou de modifier ces règles sur recommandation du Comité Spécial.

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**MODIFICATION DES RÈGLES DE BOURSE DE MONTRÉAL INC. RELATIVE À L'INTRODUCTION  
D'UN MARQUEUR À LA SAISIE DES ORDRES POUR LES OPÉRATIONS PRÉARRANGÉES**

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## 1. DESCRIPTION

La Division de la réglementation (la « Division ») de la Bourse de Montréal Inc. (la « Bourse ») propose l'introduction d'un nouveau marqueur d'ordre (le « Marqueur proposé ») lors de la saisie dans le Système de Négociation de chaque ordre transmis conformément à l'article 6.202<sup>1</sup> ou à l'article 6.205<sup>2</sup> des Règles de la Bourse (les « Règles »). La présente proposition vise à accroître l'efficacité globale de la Division dans l'exercice de ses fonctions réglementaires principales d'après les dispositions de l'article 2.101<sup>3</sup> des Règles. Le Marqueur proposé enrichira les données de nature réglementaire et, conséquemment, améliorera l'exercice de la surveillance et des activités de réglementation par la Division, tout en facilitant le respect des exigences de maintien des dossiers des ordres pour l'ensemble des Participants Agréés canadiens et étrangers (collectivement, les « Participants Agréés ») en ce qui a trait à l'identification des ordres lors de leur saisie dans le Système de Négociation<sup>4</sup>.

La date cible de la mise en œuvre du Marqueur proposé est le 31 décembre 2022, au plus tard.

## II. MODIFICATION PROPOSÉE

La Division propose de modifier l'article 6.115<sup>5</sup> des Règles en ajoutant l'exigence du Marqueur proposé<sup>6</sup> comme suit :

*“Les Participants Agréés doivent utiliser le « marqueur d'opération préarrangée » lors de la saisie dans le Système de Négociation de chaque ordre transmis conformément à l'article 6.202 ou l'article 6.205. Cette exigence ne s'applique pas au paragraphe (c), au sous-paragraphe (d)(i) ou au paragraphe (e) de l'article 6.205.”*

Plus précisément, cette exigence s'applique à tous les ordres négociés de gré à gré saisis dans le registre central des ordres à cours limité, qu'un seul ou plus d'un participant agréé y prenne part, peu importe que l'ordre soit exécuté avec succès ou non, en partie ou en totalité.

Les ordres fermes<sup>7</sup> saisis dans le Système de Négociation aux termes du paragraphe (c) ou de l'alinéa (d)(i) de l'article 6.205 ne seront pas assujettis à l'exigence du Marqueur proposé, puisque ces ordres sont déjà identifiés par la Bourse avec un marqueur d'ordre ferme spécifique.

<sup>1</sup> [Article 6.202 Négociation contre l'ordre d'un client \(application\)](#)

<sup>2</sup> [Article 6.205 Opérations préarrangées](#)

<sup>3</sup> [Article 2.101 - Fonctions de la Division de la Réglementation](#)

<sup>4</sup> [Article 6.118 – Maintien des dossiers des ordres, paragraphes \(b\) et \(f\)](#)

<sup>5</sup> [Article 6.115 – Identification des ordres](#)

<sup>6</sup> Voir l'Annexe 1 pour la modification proposée.

<sup>7</sup> [Article 6.110 Ordres \(sous-paragraphe \(b\)\(vii\)\)](#)

Par ailleurs, les opérations de stratégie visant des options préarrangées conformément au paragraphe (e) de l'article 6.205 ne seront pas assujetties à l'exigence du Marqueur proposé, puisqu'elles nécessitent l'intervention d'un superviseur de marché de la Bourse et qu'elles ne sont donc pas saisies directement par les Participants Agréés dans le Système de Négociation.

### III. ANALYSE

#### a. Contexte

En juin 2021, la Division a publié un document de consultation<sup>8</sup> faisant état de la proposition d'introduction d'un nouvel identificateur client et d'autres marqueurs au moment de la saisie des ordres (« l'initiative relative aux identificateurs clients »). À l'origine, le Marqueur proposé dans la présente analyse faisait partie de l'Initiative relative aux identificateurs clients. Dans le cadre de cette initiative, la Division a créé le Groupe de travail sur les identificateurs clients<sup>9</sup> dans le but d'offrir à la Division, aux participants et aux autres parties prenantes une tribune leur permettant d'échanger des idées, des réflexions et des perspectives.

À la fin de 2021, le Marqueur proposé fut retiré de l'Initiative relative aux identificateurs clients afin de devancer la date cible de mise en œuvre du Marqueur proposé au 31 décembre 2022, au plus tard. Quant à l'Initiative relative aux identificateurs clients, la date prévue de mise en œuvre est le 31 décembre 2023.

#### b. Objectifs

L'introduction du Marqueur proposé permettra :

- 1) l'enrichissement des données de nature réglementaire;
- 2) l'amélioration de l'exercice de la surveillance et des activités de réglementation par la Division;
- 3) le respect des exigences de maintien des dossiers des ordres<sup>10</sup> pour l'ensemble des participants agréés en ce qui a trait à l'identification des ordres au moment de leur saisie dans le Système de Négociation;

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<sup>8</sup> [Document de consultation: introduction d'un nouvel identificateur client et d'autres marqueurs au moment de la saisie des ordres](#)

<sup>9</sup> [Groupe de travail sur les identificateurs clients](#)

<sup>10</sup> [Article 6.118 – Maintien des dossiers des ordres paragraphes \(b\) et \(f\)](#)

- 4) l'harmonisation avec les exigences actuelles en matière de maintien des dossiers par les marchés situés au Canada.<sup>11</sup>

### **c. Analyse comparative**

À la suite d'une analyse comparative, la Bourse en est venue à la conclusion que l'identification des opérations préarrangées permises sur diverses bourses de dérivés internationales<sup>12</sup> est une pratique courante, chaque bourse ayant établi ses propres protocoles permettant l'identification des différents types d'opérations préarrangées admissibles.

### **d. Analyse des incidences**

#### **i. Incidences sur le marché**

La modification proposée n'aura aucune incidence directe sur les marchés des dérivés hormis le fait qu'elle permettra à la Bourse et à la Division de mieux réglementer les activités du marché en améliorant l'exercice de la surveillance et des fonctions réglementaires par la Division.

#### **ii. Incidences sur les systèmes technologiques**

Le Marqueur proposé nécessitera des changements de nature technologique au protocole de la Bourse. Les Participants Agréés devront faire une migration vers le nouveau protocole. Les Participants Agréés et les fournisseurs devront procéder à l'ajustement de la fonctionnalité afin de permettre aux négociateurs de respecter la nouvelle exigence, le cas échéant. L'annonce des exigences techniques aux Participants Agréés devrait avoir lieu au deuxième trimestre de 2022 (d'ici le 30 juin). Les exigences définitives devraient être communiquées au cours du troisième trimestre de 2022 (d'ici le 30 septembre). La mise à l'essai est prévue pour le dernier trimestre de 2022 (à compter du 1<sup>er</sup> octobre) et la date de mise en œuvre est le 31 décembre 2022, au plus tard.

#### **iii. Incidences sur les fonctions réglementaires**

La modification proposée permettra d'améliorer les activités de surveillance de la Division. Les procédures seront mises à jour et le système de surveillance sera rajusté (au moyen notamment de la création d'une nouvelle alerte) afin de faire état de la modification proposée. Le Marqueur proposé fournira plus de renseignements qui serviront à l'analyse des opérations préarrangées, ce qui, en conséquence, diminuera le temps nécessaire à l'analyse ainsi que le nombre de demandes de renseignements que la Division fait auprès des Participants Agréés.

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<sup>11</sup> [Règlement 21-101 sur le fonctionnement du marché \(partie 11 – Les règles de tenue de dossiers pour les marchés\)](#)

<sup>12</sup> Australian Securities Exchange, CME Group et ICE Futures U.S.



**iv. Intérêt public**

La Bourse est d'avis que la modification proposée n'est pas contraire à l'intérêt public. Elle permettra à la Bourse et à la Division de promouvoir l'intégrité du marché en améliorant l'exercice de la surveillance et des fonctions réglementaires par la Division.

**IV. PROCESSUS**

La modification proposée est assujettie à l'approbation du Comité spécial de la Division et du Comité de règles et politiques de la Bourse. Elle sera également soumise à l'Autorité des marchés financiers, conformément à la procédure d'autocertification, et à la Commission des valeurs mobilières de l'Ontario, à titre informatif.

**V. DOCUMENTS EN ANNEXE**

Annexe 1 – Modification proposée

**ANNEXE 1 – MODIFICATION PROPOSÉE****VERSION MODIFIÉE****Article 6.115 Identification des ordres**

(a) Les Participants Agréés doivent s'assurer de l'identification correcte des ordres lors de leur saisie dans le Système de Négociation afin d'assurer le respect des dispositions de l'Article 6.114 relatives à la gestion des priorités.

(i) « Ordre pour le Compte Client » signifie un ordre pour une Valeur Mobilière ou pour un Instrument Dérivé pour le Compte Client du Participant Agréé ou d'un client d'une Entreprise Liée au Participant Agréé, mais non un ordre pour un compte dans lequel le Participant Agréé, une Entreprise Liée au Participant Agréé ou une Personne Approuvée par la Bourse a un intérêt direct ou indirect, autre qu'un intérêt dans le courtage facturé;

(ii) « Ordre pour le compte d'un professionnel » signifie un ordre pour une Valeur Mobilière ou pour un Instrument Dérivé pour un compte dans lequel un administrateur, Dirigeant, associé, employé ou mandataire d'un Participant Agréé ou d'une Entreprise Liée au Participant Agréé ou une Personne Approuvée par la Bourse a un intérêt direct ou indirect, autre qu'un intérêt dans le courtage facturé. La Bourse peut désigner tout ordre comme étant un ordre pour le compte d'un professionnel si, de son avis, les circonstances le justifient;

(iii) « Ordre pour le compte d'une firme » signifie un ordre pour une Valeur Mobilière ou pour un Instrument Dérivé pour un compte dans lequel un Participant Agréé ou une Entreprise Liée au Participant Agréé a un intérêt direct ou indirect, autre qu'un intérêt dans le courtage facturé;

(iv) « Ordre pour le compte d'un initié ou actionnaire important » signifie un ordre pour une Valeur Mobilière ou pour un Instrument Dérivé pour le Compte Client, d'un professionnel ou d'une firme lorsque ce client, ce professionnel ou cette firme est un initié et/ou un actionnaire important de l'émetteur du titre sous-jacent visé par l'ordre. Si ce client, ce professionnel ou cette firme est à la fois un initié et un actionnaire important, la désignation d'actionnaire important prévaut.

(b) Les Participants Agréés doivent utiliser le « marqueur d'opération préarrangée » lors de la saisie dans le Système de Négociation de chaque ordre transmis conformément à l'article 6.202 ou l'article 6.205. Cette exigence ne s'applique pas au paragraphe (c), au sous-paragraphe (d)(i) ou au paragraphe (e) de l'article 6.205.

~~(c)~~ Pour les fins du présent Article :

(i) « initié » désigne une Personne qui est un initié, en vertu des lois sur les valeurs mobilières pertinentes, de l'émetteur du titre sous-jacent à la Valeur Mobilière ou à l'Instrument Dérivé négocié;

(ii) « actionnaire important » désigne une Personne détenant seule ou conjointement avec d'autres plus de 20 pour cent des titres comportant droit de vote en circulation de l'émetteur dont le titre est sous-jacent à la Valeur Mobilière ou à l'Instrument Dérivé négocié; et

(iii) « Entreprise Liée » a le sens donné à cette expression dans les définitions de l'Article 1.101 des Règles.

**VERSION AU PROPRE****Article 6.115 Identification des ordres**

(a) Les Participants Agréés doivent s'assurer de l'identification correcte des ordres lors de leur saisie dans le Système de Négociation afin d'assurer le respect des dispositions de l'Article 6.114 relatives à la gestion des priorités.

(i) « Ordre pour le Compte Client » signifie un ordre pour une Valeur Mobilière ou pour un Instrument Dérivé pour le Compte Client du Participant Agréé ou d'un client d'une Entreprise Liée au Participant Agréé, mais non un ordre pour un compte dans lequel le Participant Agréé, une Entreprise Liée au Participant Agréé ou une Personne Approuvée par la Bourse a un intérêt direct ou indirect, autre qu'un intérêt dans le courtage facturé;

(ii) « Ordre pour le compte d'un professionnel » signifie un ordre pour une Valeur Mobilière ou pour un Instrument Dérivé pour un compte dans lequel un administrateur, Dirigeant, associé, employé ou mandataire d'un Participant Agréé ou d'une Entreprise Liée au Participant Agréé ou une Personne Approuvée par la Bourse a un intérêt direct ou indirect, autre qu'un intérêt dans le courtage facturé. La Bourse peut désigner tout ordre comme étant un ordre pour le compte d'un professionnel si, de son avis, les circonstances le justifient;

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(iv) « Ordre pour le compte d'un initié ou actionnaire important » signifie un ordre pour une Valeur Mobilière ou pour un Instrument Dérivé pour le Compte Client, d'un professionnel ou d'une firme lorsque ce client, ce professionnel ou cette firme est un initié et/ou un actionnaire important de l'émetteur du titre sous-jacent visé par l'ordre. Si ce client, ce professionnel ou cette firme est à la fois un initié et un actionnaire important, la désignation d'actionnaire important prévaut.

(b) Les Participants Agréés doivent utiliser le « marqueur d'opération préarrangée » lors de la saisie dans le Système de Négociation de chaque ordre transmis conformément à l'article 6.202 ou l'article 6.205. Cette exigence ne s'applique pas au paragraphe (c), au sous-paragraphe (d)(i) ou au paragraphe (e) de l'article 6.205.

(c) Pour les fins du présent Article :

(i) « initié » désigne une Personne qui est un initié, en vertu des lois sur les valeurs mobilières pertinentes, de l'émetteur du titre sous-jacent à la Valeur Mobilière ou à l'Instrument Dérivé négocié;

(ii) « actionnaire important » désigne une Personne détenant seule ou conjointement avec d'autres plus de 20 pour cent des titres comportant droit de vote en circulation de l'émetteur dont le titre est sous-jacent à la Valeur Mobilière ou à l'Instrument Dérivé négocié; et

(iii) « Entreprise Liée » a le sens donné à cette expression dans les définitions de l'Article 1.101 des Règles.

**CIRCULAIRE 053-22**

Le 6 mai 2022

**SOLLICITATION DE COMMENTAIRES****MODIFICATION DES RÈGLES DE BOURSE DE MONTRÉAL INC.  
CONCERNANT LES LIMITES DE POSITIONS DES CONTRATS À TERME SUR INDICE ÉTROIT**

Le comité des règles et politiques de Bourse de Montréal Inc. (la « **Bourse** ») et le Comité Spécial de la Division de la réglementation de la Bourse ont approuvé des modifications aux règles de la Bourse afin de modifier les limites de positions visant les contrats à terme sur indice étroit et de permettre les limites de position définies en fonction de chaque produit, plutôt que selon le seuil fixe actuel de 20 000 contrats.

Les commentaires relatifs aux modifications proposées doivent nous être présentés au plus tard le **6 JUIN 2022**.  
Prière de soumettre ces commentaires à :

Dima Ghozaïel  
Conseillère juridique  
Bourse de Montréal Inc.  
1800-1190 av. des Canadiens-de-Montréal  
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Ces commentaires devront également être transmis à l'Autorité des marchés financiers (l'« **Autorité** ») à l'attention de :

M<sup>e</sup> Philippe Lebel  
Secrétaire général et directeur général  
des affaires juridiques  
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Veuillez noter que les commentaires reçus par un de ces destinataires seront transmis à l'autre destinataire et que la Bourse pourrait publier un résumé des commentaires qu'elle aura reçus dans le cadre du processus d'autocertification du présent projet. À moins d'indication contraire de votre part, les commentaires seront publiés de manière anonyme par la Bourse.

## Annexes

Vous trouverez en annexe le document d'analyse ainsi que le texte des modifications proposées. La date d'entrée en vigueur des modifications proposées sera déterminée par la Bourse conformément au processus d'autocertification, tel que prévu par la *Loi sur les instruments dérivés* (RLRQ, chapitre I-14.01).

### Processus d'établissement de règles

La Bourse est autorisée à exercer l'activité de bourse et est reconnue à titre d'organisme d'autoréglementation (« **OAR** ») par l'Autorité. Le conseil d'administration de la Bourse a délégué au comité des règles et politiques l'approbation des règles, des politiques et des procédures, lesquelles sont par la suite soumises à l'Autorité conformément au processus d'autocertification, tel que prévu par la *Loi sur les instruments dérivés* (RLRQ, chapitre I-14.01).

À titre d'OAR, la Bourse assume des responsabilités de réglementation de marché et d'encadrement des participants agréés. L'encadrement du marché et des participants agréés relève de la Division de la réglementation de la Bourse (la « **Division** »). La Division exerce ses activités de façon autonome par rapport à la Bourse, ayant une structure administrative distincte.

La Division est sous l'autorité d'un comité spécial (le « **Comité Spécial** ») nommé par le conseil d'administration de la Bourse. Le Comité Spécial a le pouvoir de recommander au conseil d'administration de la Bourse d'adopter ou de modifier les règles de la Bourse concernant certains aspects de l'encadrement des participants agréés de la Bourse. Le conseil d'administration de la Bourse a délégué au comité des règles et politiques de la Bourse le pouvoir d'adopter ou de modifier ces règles sur recommandation du Comité Spécial.

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**MODIFICATIONS APPORTÉES AUX RÈGLES DE BOURSE DE MONTRÉAL INC. À L'ÉGARD DES  
LIMITES DE POSITION VISANT LES CONTRATS À TERME SUR INDICE ÉTROIT**

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## I. DESCRIPTION

Bourse de Montréal Inc. (la « Bourse ») propose de modifier les règles relatives aux limites de position visant les contrats à terme sur indice étroit, et de permettre les limites de position définies en fonction de chaque produit, plutôt que selon le seuil fixe actuel de 20 000 contrats. Par conséquent, la Bourse propose de modifier les limites de position visant les contrats à terme sur indice sectoriel existants (ci-après les « contrats ») :

- 1) Indice aurifère mondial S&P/TSX (SXA)
- 2) Indice plafonné de la finance S&P/TSX (SXB)
- 3) Indice plafonné des technologies de l'information S&P/TSX (SXH)
- 4) Indice plafonné de l'énergie S&P/TSX (SXY)
- 5) Indice composé S&P/TSX – Banques (secteur) (SXX)
- 6) Indice plafonné des services aux collectivités S&P/TSX (SXU)

## II. MODIFICATIONS PROPOSÉES

La Bourse propose de modifier le paragraphe 6.309B(d), dont le libellé actuel est « La limite de Positions Acheteur ou Position Vendeur nette pour tous les Mois de Règlement combinés d'un Contrat à Terme sur indice étroit désigné pouvant être détenue ou contrôlée par une personne conformément est de 20 000 contrats. », comme suit :

« La limite de Positions Acheteur ou Position Vendeur nette pour tous les Mois de Règlement combinés d'un Contrat à Terme sur indice étroit désigné pouvant être détenue ou contrôlée par une personne conformément est de 20 000 contrats, à moins qu'une limite de position différente ne soit définie dans les Règles. »

Les modifications des Règles sont par conséquent nécessaires pour qu'une limite de position différente puisse être appliquée aux contrats visés aux articles 12.707, 12.807, 12.907, 12.1007, 12.1107, 12.1207, comme décrit ci-après.

## III. ANALYSE

### A. Contexte

Les limites de position visant les contrats à terme sur indice étroit sont actuellement fixées à 20 000 contrats, conformément aux Règles de la Bourse. Étant donné que la valeur notionnelle d'un contrat à terme sur indice diffère en fonction des spécifications et des caractéristiques de son indice sous-jacent et de son multiplicateur, les limites de position statiques sont contraignantes, car elles ne sont pas adaptées à ces variations de l'exposition au sous-jacent.

Les limites de position visent à empêcher la manipulation du marché par un ou plusieurs participants. Par exemple, le fait qu'un participant détienne une grande proportion de l'intérêt en cours d'un contrat à terme peut entraîner un risque de concentration et de manipulation du marché. Étant donné que ces contrats à terme sur indice sectoriel sont réglés au comptant à l'échéance (ce qui signifie que le détenteur du contrat recevra des espèces plutôt que des parts



d'indice), ces contrats à terme sur indice ne peuvent pas servir à accroître une position sur les composantes sous-jacentes.

Les limites de position pourraient être utiles dans les situations où se manifesterait un risque de concentration dans le marché au comptant sous-jacent du fait que des participants qui détiennent un intérêt en cours important effectuent des opérations de grande taille afin de couvrir leurs positions. Dans ce cas, les limites de position proposées pour les nouveaux contrats feraient en sorte que même si un participant atteint la limite de position, l'exposition correspondante au marché au comptant sous-jacent ne représenterait pas une concentration importante de la propriété des titres sous-jacents de l'indice au regard de leur capitalisation boursière respective (par exemple, en 2021, les expositions au marché des titres sous-jacents les plus élevées de chaque indice se sont situées dans une fourchette de 4 % à 1 %).

Par conséquent, la Bourse propose de fixer la limite de position visant les contrats à terme sur indice étroit en fonction de chaque produit, plutôt que selon un seuil applicable à tous les contrats. De ce fait, la Bourse propose d'établir les limites selon les valeurs indiquées au tableau 1. Ces limites s'appliqueront à la position acheteur nette maximale ou à la position vendeur nette maximale pour l'ensemble des mois d'échéance combinés. Les tableaux ci-dessous font état de la valeur notionnelle de chaque contrat à terme sur indice sectoriel en fonction des limites de position selon la valeur des indices au 31 décembre 2021.

Tableau 1 : Limites de position sur contrats à terme sur indice sectoriel

Description du contrat sur indice sectoriel	Valeur de l'indice au 31 décembre 2021	Multiplicateur	Limite de position	Valeur notionnelle selon les limites de position
Contrat à terme sur indice aurifère mondial S&P/TSX (SXA)	292	200	70 000	4 087 860 000 \$
Contrat à terme sur l'indice plafonné de la finance S&P/TSX	403	200	50 000	4 031 200 000 \$
Contrat à terme sur l'indice plafonné des technologies de l'information S&P/TSX	212	500	40 000	4 245 000 000 \$
Contrat à terme sur l'indice composé S&P/TSX – Banques (secteur)	4 418	20	50 000	4 418 270 000 \$
Contrat à terme sur l'indice plafonné des services aux collectivités S&P/TSX	343	200	60 000	4 120 320 000 \$
Contrat à terme sur l'indice plafonné de l'énergie S&P/TSX	164	200	130 000	4 258 540 000 \$

Le tableau qui suit présente une comparaison des limites de position de cinq bourses, soit la bourse des contrats à terme de Taïwan (TAIFEX), la bourse de Hong Kong (HKEX), la Australian Securities Exchange (ASX), Eurex et CME Group, au 31 décembre 2021 :

Tableau 2 : Comparaison des limites de position

Exchange Name	Product	Position limits/ Notionals
TAIFEX	Electronic Sector Index Futures	3,000 / \$486M
	Finance & Insurance Sector Index Futures	3,000 / \$238M
	Non-Finance Non-Electronics Sector Index Futures	3,000 / \$238M
HKEX	Hang Seng Mainland Properties Index Futures	5,000 / \$169M
	Hang Seng Mainland Banks Index Futures	15,000 / \$334M
	Hang Seng Mainland Oil & Gas Index Futures	15,000 / \$144M
CME	S&P e-mini Energy	25,000 / \$1,8B
	S&P e-mini Financials	25,000 / \$3,8B
	S&P e-mini Technology	25,000 / \$5,5B
	S&P e-mini Consumer Discretionary	25,000 / \$6,5B

\* Remarque : La TAIFEX distingue ses limites de position par type de participant, seule la limite de position des participants « institutionnels » est indiquée dans le tableau.

Les résultats montrent des écarts importants entre les différentes bourses. Les bourses asiatiques ont des limites de position plus basses, et l'ASX<sup>1</sup> et Eurex<sup>2</sup> n'ont pas jugé utile d'imposer des limites de position à l'égard des contrats à terme sur indice.

## B. Analyse des incidences

### i. Incidences sur le marché

Les modifications proposées n'auront aucune incidence directe sur les marchés des dérivés, si ce n'est que d'intégrer aux règles de la Bourse une approche mieux adaptée et plus uniforme en ce qui a trait aux limites de position pour les contrats à terme sur indice sectoriel dans leur ensemble, en tenant compte du fait qu'une nouvelle méthode sera mise en place avec le lancement de contrats à terme sur indice sectoriel supplémentaires au cours du deuxième trimestre de cette année.

### ii. Incidences sur les systèmes technologiques

Aucune des modifications proposées n'aura d'incidence sur les systèmes technologiques de la Bourse ou ceux de ses participants agréés.

<sup>1</sup> Comme indiqué à la procédure 3400 des [ASX Operating Rules Procedures](#).

<sup>2</sup> Comme indiqué au <https://www.eurex.com/ex-en/data/trading-files/position-limits>.

**iii. Incidences sur les fonctions de réglementation**

Les modifications proposées devraient avoir peu d'incidence sur les activités de surveillance de la Division de la réglementation de la Bourse. Les procédures devront être mises à jour et les paramètres du système de surveillance devront être ajustés afin de refléter les nouvelles limites de position.

**iv. Intérêt public**

La Bourse estime que les modifications proposées ne vont pas à l'encontre de l'intérêt public.

**IV. PROCESSUS**

La modification proposée est assujettie à l'approbation du Comité spécial de la Division de la réglementation de la Bourse et du Comité de règles et politiques de la Bourse. Elle sera également soumise à l'Autorité des marchés financiers, conformément à la procédure d'autocertification, et à la Commission des valeurs mobilières de l'Ontario, à titre informatif.

**V. DOCUMENTS JOINTS**

ANNEXE 1: Modifications proposées des Règles de la Bourse

**ANNEXE 1**  
**VERSION AMENDÉE**

**PARTIE 6 – RÈGLES DE NÉGOCIATION**

**Chapitre D—Produits Inscrits**

**Article 6.309B Limites de positions applicables aux Contrats à Terme**

Sauf indication contraire et sauf pour les Contrats à Terme sur actions, les limites de positions applicables aux Contrats à Terme sont les suivantes :

(d) Contrats à Terme sur indice étroit

La limite de Positions Acheteur ou Position Vendeur nette pour tous les Mois de Règlement combinés d'un Contrat à Terme sur indice étroit désigné pouvant être détenue ou contrôlée par une personne conformément est de 20 000 contrats, à moins qu'une limite de position différente ne soit définie dans les Règles.

[...]

**Article 12.707 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice aurifère mondial S&P/TSX pouvant être détenus ou contrôlés par une personne est de 70 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client. Si applicable, la limite de positions pour les Contrats à Terme sur l'Indice aurifère mondial S&P/TSX est déterminée selon l'Article 6.309B.

[...]

**Article 12.807 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné de la finance S&P/TSX pouvant être détenus ou contrôlés par une personne est de 50 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client. Si applicable, la limite de positions pour les Contrats à Terme sur l'Indice plafonné de la finance S&P/TSX est déterminée selon l'Article 6.309B.

[...]

**Article 12.907 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné des technologies de l'information S&P/TSX pouvant être détenus ou contrôlés par une personne est de 40 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client. Si applicable, la limite de positions pour les Contrats à Terme sur l'Indice plafonné des technologies de l'information S&P/TSX est déterminée selon l'Article 6.309B.

[...]

#### **Article 12.1007 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné de l'énergie S&P/TSX pouvant être détenus ou contrôlés par une personne est de 130 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client. Si applicable, la limite de positions pour les Contrats à Terme sur l'Indice plafonné de l'énergie S&P/TSX est déterminée selon l'Article 6.309B.

[...]

#### **Article 12.1107 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice composé S&P/TSX- Banques (secteur) pouvant être détenus ou contrôlés par une personne est de 50 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client. Si applicable, la limite de positions pour les Contrats à Terme sur l'Indice composé S&P/TSX- Banques (secteur) est déterminée selon l'Article 6.309B.

[...]

#### **Article 12.1207 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné des services aux collectivités S&P/TSX pouvant être détenus ou contrôlés par une personne est de 60 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client. Si applicable, la limite de positions pour les Contrats à Terme sur l'Indice plafonné des services aux collectivités S&P/TSX est déterminée selon l'Article 6.309B.

[...]

**ANNEXE 1**  
**VERSION PROPRE**

**PARTIE 6 – RÈGLES DE NÉGOCIATION**

**Chapitre D—Produits Inscrits**

**Article 6.309B Limites de positions applicables aux Contrats à Terme**

Sauf indication contraire et sauf pour les Contrats à Terme sur actions, les limites de positions applicables aux Contrats à Terme sont les suivantes :

(d) Contrats à Terme sur indice étroit

La limite de Positions Acheteur ou Position Vendeur nette pour tous les Mois de Règlement combinés d'un Contrat à Terme sur indice étroit désigné pouvant être détenue ou contrôlée par une personne conformément est de 20 000 contrats à moins qu'une limite de position différente ne soit définie dans les Règles.

[...]

**Article 12.707 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice aurifère mondial S&P/TSX pouvant être détenus ou contrôlés par une personne est de 70 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client.

[...]

**Article 12.807 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné de la finance S&P/TSX pouvant être détenus ou contrôlés par une personne est de 50 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client.

[...]

**Article 12.907 Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné des technologies de l'information S&P/TSX pouvant être détenus ou contrôlés par une personne est de 40 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client.

[...]

**Article 12.1007      Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné de l'énergie S&P/TSX pouvant être détenus ou contrôlés par une personne est de 130 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client.

[...]

**Article 12.1107      Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice composé S&P/TSX- Banques (secteur) pouvant être détenus ou contrôlés par une personne est de 50 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client.

[...]

**Article 12.1207      Limites de positions**

La limite de positions nette acheteur ou vendeur pour tous les mois d'échéance combinés de Contrats à Terme sur l'Indice plafonné des services aux collectivités S&P/TSX pouvant être détenus ou contrôlés par une personne est de 60 000 contrats.

La Bourse peut imposer une limite de position différente à un participant agréé ou à son client.

[...]

**CIRCULAIRE 051-22**

Le 6 mai 2022

**SOLLICITATION DE COMMENTAIRES****MODIFICATION DES RÈGLES DE BOURSE DE MONTRÉAL INC.  
VISANT LA MISE EN PLACE D'EXIGENCES EN MATIÈRE DE SIGNALEMENT  
D'INCIDENTS DE CYBERSÉCURITÉ**

Le comité des règles et politiques de Bourse de Montréal Inc. (la « **Bourse** ») et le Comité Spécial de la Division de la réglementation de la Bourse ont approuvé des modifications aux règles de la Bourse afin de mettre en place des exigences en matière de signalement d'incidents de cybersécurité s'appliquant à tous les participants agréés canadiens et étrangers.

Les commentaires relatifs aux modifications proposées doivent nous être présentés au plus tard le **6 JUIN 2022**. Prière de soumettre ces commentaires à :

Dima Ghozaïel  
Conseillère juridique  
Bourse de Montréal Inc.  
1800-1190 av. des Canadiens-de-Montréal  
C.P. 37  
Montréal QC H3B 0G7  
Courriel : [legal@tmx.com](mailto:legal@tmx.com)

Ces commentaires devront également être transmis à l'Autorité des marchés financiers (l'« **Autorité** ») à l'attention de :

M<sup>e</sup> Philippe Lebel  
Secrétaire général et directeur général  
des affaires juridiques  
Autorité des marchés financiers  
Place de la Cité, tour Cominar  
2640, boulevard Laurier, bureau 400  
Québec (Québec) G1V 5C1  
Télécopieur : (514) 864-8381  
Courriel : [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

Veuillez noter que les commentaires reçus par un de ces destinataires seront transmis à l'autre destinataire et que la Bourse pourrait publier un résumé des commentaires qu'elle aura reçus dans le cadre du processus d'autocertification du présent projet. À moins d'indication contraire de votre part, les commentaires seront publiés de manière anonyme par la Bourse.



## Annexes

Vous trouverez en annexe le document d'analyse ainsi que le texte des modifications proposées. La date d'entrée en vigueur des modifications proposées sera déterminée par la Bourse conformément au processus d'autocertification, tel que prévu par la *Loi sur les instruments dérivés* (RLRQ, chapitre I-14.01).

### Processus d'établissement de règles

La Bourse est autorisée à exercer l'activité de bourse et est reconnue à titre d'organisme d'autoréglementation (« **OAR** ») par l'Autorité. Le conseil d'administration de la Bourse a délégué au comité des règles et politiques l'approbation des règles, des politiques et des procédures, lesquelles sont par la suite soumises à l'Autorité conformément au processus d'autocertification, tel que prévu par la *Loi sur les instruments dérivés* (RLRQ, chapitre I-14.01).

À titre d'OAR, la Bourse assume des responsabilités de réglementation de marché et d'encadrement des participants agréés. L'encadrement du marché et des participants agréés relève de la Division de la réglementation de la Bourse (la « **Division** »). La Division exerce ses activités de façon autonome par rapport à la Bourse, ayant une structure administrative distincte.

La Division est sous l'autorité d'un comité spécial (le « **Comité Spécial** ») nommé par le conseil d'administration de la Bourse. Le Comité Spécial a le pouvoir de recommander au conseil d'administration de la Bourse d'adopter ou de modifier les règles de la Bourse concernant certains aspects de l'encadrement des participants agréés de la Bourse. Le conseil d'administration de la Bourse a délégué au comité des règles et politiques de la Bourse le pouvoir d'adopter ou de modifier ces règles sur recommandation du Comité Spécial.

---

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**MODIFICATION DES RÈGLES DE BOURSE DE MONTRÉAL INC. VISANT LA MISE EN PLACE  
D'EXIGENCES EN MATIÈRE DE SIGNALEMENT D'INCIDENTS DE CYBERSÉCURITÉ**

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## I. DESCRIPTION

Dans un contexte où les menaces liées à la cybersécurité sont en constante évolution, la Division de la Réglementation (la « Division ») de Bourse de Montréal Inc. (la « Bourse ») propose de mettre en place des exigences en matière de signalement d'incidents de cybersécurité s'appliquant à tous les Participants Agréés canadiens et étrangers (collectivement, les « Participants Agréés »). La Division estime que ces exigences seraient bénéfiques pour tout Participant Agréé touché par un incident de cybersécurité qui aurait des répercussions importantes sur les activités de celui-ci à la Bourse, notamment au chapitre de sa conformité aux exigences réglementaires. Ces exigences de signalement permettraient à la Division et au Participant Agréé d'engager une discussion proactive au sujet des difficultés que ce dernier pourrait éprouver en ce qui concerne la conformité aux exigences réglementaires en raison de l'incident, et de mettre en œuvre des mesures de rechange temporaires au besoin.

## II. MODIFICATION PROPOSÉE

La Division propose d'ajouter aux Règles de la Bourse un nouvel article, soit l'article 3.113 intitulé Avis à la Division de la réglementation en cas d'incident de cybersécurité<sup>1</sup>.

Les Participants Agréés auront l'obligation de signaler à la Division, au moyen d'un résumé écrit, tout incident de cybersécurité au sens de l'article 3.113 dans les trois jours civils suivant la découverte de l'incident. Les Participants Agréés seront par ailleurs tenus de fournir un rapport d'incident plus détaillé dans les 30 jours civils suivant la découverte de l'incident.

Les exigences de signalement s'appliqueront uniquement aux incidents qui ont ou pourraient avoir des répercussions importantes sur les activités du Participant Agréé concerné sur la Bourse<sup>2</sup>, notamment en ce qui concerne sa capacité à se conformer aux exigences réglementaires de la Bourse<sup>3</sup>. Un Participant Agréé doit exercer son jugement lorsqu'il s'agit d'établir si un incident peut avoir des « répercussions importantes » sur ses activités à la Bourse, notamment en tenant compte de sa taille, de son modèle d'affaires et de la nature de l'incident de cybersécurité. Par exemple, un incident pourrait être considéré comme « important » si, dans le cours normal de ses activités, le Participant Agréé le porte à l'attention de son représentant attitré, de son chef de la conformité ou de l'un de ses dirigeants<sup>4</sup>.

<sup>1</sup> Se reporter à l'annexe 1 pour consulter la modification proposée.

<sup>2</sup> Dans le cas d'un Participant Agréé qui est aussi un membre de la Corporation canadienne de compensation de produits dérivés (« CDCC »), ces exigences viseraient aussi toute répercussion importante sur sa capacité à mener ses activités de compensation à l'égard d'un Instrument Dérivé inscrit à la cote de la Bourse.

<sup>3</sup> Exemples d'exigences réglementaires de la Bourse qui pourraient être touchées : Déclaration des positions en cours importantes; Supervision, surveillance et conformité; Avis obligatoires.

<sup>4</sup> Au sens de l'[article 1.101 des Règles de la Bourse](#).

La Division créera dans le portail des participants un nouveau module permettant la transmission de l'information nécessaire dans un environnement sécurisé. Ce nouveau module deviendra accessible au moment de la prise d'effet des nouvelles exigences. La Division permettra également aux Participants Agréés de faire parvenir l'information nécessaire à l'adresse courriel générale de la Division, [info.mxr@tmx.com](mailto:info.mxr@tmx.com).

### III. ANALYSE

#### a) Contexte

Des exigences de signalement des incidents de cybersécurité, dont la portée peut varier, sont déjà en place dans certains autres territoires ou marchés (par exemple, les Participants Agréés canadiens sont assujettis aux exigences de signalement des incidents de cybersécurité<sup>5</sup> de l'Organisme canadien de réglementation du commerce des valeurs mobilières (l'« OCRCVM »)). La Division propose d'uniformiser les exigences de signalement qui s'appliqueraient à l'ensemble de ses Participants Agréés, indépendamment du lieu où ils sont situés ou du type d'entreprise. Les exigences proposées sont semblables aux exigences de signalement actuelles de l'OCRCVM, avec les ajustements nécessaires pour tenir compte des incidents qui ont ou pourraient avoir des répercussions importantes sur les activités du Participant Agréé à la Bourse seulement. De plus, même si les délais de signalement sont les mêmes que ceux établis dans les règles de l'OCRCVM, la Division propose le recours à une approche flexible grâce à l'ajout de la mention « sauf accord contraire de la Division de la Réglementation ».

#### b) Objectifs

Les exigences de signalement proposées permettront à la Division d'engager une discussion proactive au sujet des difficultés qu'un Participant Agréé pourrait éprouver en ce qui concerne la conformité aux exigences réglementaires en raison d'un incident de cybersécurité, et de mettre en œuvre des mesures de rechange temporaires au besoin.

De plus, les renseignements fournis par le Participant Agréé permettront à la Division de mieux comprendre les menaces liées à la cybersécurité auxquelles sont exposés les Participants Agréés et de leur fournir des indications supplémentaires s'il y a lieu.

---

<sup>5</sup> [Signalement à faire par le courtier membre à l'OCRCVM - Article 3703 de la Règle 3700](#)

### c) Analyse comparative

Outre l'OCRCVM, qui a adopté des exigences de signalement des incidents de cybersécurité pour ses membres, la National Futures Association<sup>6</sup> des États-Unis et la Financial Conduct Authority<sup>7</sup> du Royaume-Uni ont établi des exigences en la matière pour les firmes sur lesquelles elles ont compétence, dans chaque cas selon des modalités et une portée qui leur sont propres.

La Division estime que la mise en place, à l'égard de ses Participants Agréés, des exigences de signalement des incidents de cybersécurité proposées, qui portent uniquement sur les incidents qui ont ou pourraient avoir des répercussions importantes sur les activités du Participant Agréé à la Bourse, constitue une mesure équilibrée et raisonnable.

### d) Analyse des incidences

#### i. Incidences sur le marché

La modification proposée n'aura aucune incidence directe sur le marché des dérivés, outre le fait qu'elle permettra à la Division de mieux coordonner les mesures appropriées à mettre en œuvre, le cas échéant, avec un Participant Agréé touché par un incident de cybersécurité qui entraîne des répercussions importantes sur ses activités à la Bourse.

#### ii. Incidences sur les systèmes technologiques

La modification proposée n'aura aucune incidence sur les systèmes technologiques des Participants Agréés. La Division créera dans le portail des participants un nouveau module permettant la transmission de l'information nécessaire dans un environnement sécurisé. Ce nouveau module deviendra accessible au moment de la prise d'effet des nouvelles exigences<sup>8</sup>.

#### iii. Incidences sur les fonctions réglementaires

La modification proposée aidera la Division à travailler avec un Participant Agréé qui éprouve de la difficulté à se conformer aux exigences réglementaires en raison d'un incident de cybersécurité, de manière à mettre en œuvre des mesures de rechange temporaires s'il y a lieu. La modification proposée permettra aussi à la Division de mieux comprendre les menaces liées à la cybersécurité auxquelles sont exposés les Participants Agréés et de leur fournir des indications supplémentaires s'il y a lieu.

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<sup>6</sup> [Cybersecurity | NFA](#)

<sup>7</sup> [Operational Resilience | FCA](#)

<sup>8</sup> La Division permettra également aux Participants Agréés de faire parvenir l'information nécessaire à l'adresse courriel générale de la Division : [info.mxr@tmx.com](mailto:info.mxr@tmx.com).

**iv. Intérêt public**

La Bourse est d'avis que la modification proposée n'est pas contraire à l'intérêt public.

**IV. PROCESSUS**

La modification proposée est soumise à l'approbation du Comité spécial de la Division et du Comité des règles et politiques de la Bourse. Elle sera également soumise à l'Autorité des marchés financiers, conformément au processus d'autocertification, et à la Commission des valeurs mobilières de l'Ontario, à titre informatif.

**V. DOCUMENTS EN ANNEXE**

Annexe 1 – Modification proposée

**ANNEXE 1 – MODIFICATION PROPOSÉE****VERSION MODIFIÉE****Article 3.113 Avis à la Division de la Réglementation en cas d'incident de cybersécurité**

- (a) Pour les fins du présent Article, un « incident de cybersécurité » comprend tout acte visant à obtenir un accès non autorisé au système informatique ou à l'information qui y est stockée d'un Participant Agréé, à désorganiser ce système informatique ou cette information ou à en faire mauvais usage et qui donne lieu, ou qui est raisonnablement susceptible de donner lieu, à des répercussions importantes touchant:
- (i) les activités normales du Participant Agréé relativement à son accès au Système de Négociation Électronique, ou
  - (ii) la capacité du Participant Agréé à se conformer à l'une ou l'autre de ses obligations prévues par la Réglementation de la Bourse.
- (b) Le Participant Agréé doit signaler par avis écrit à la Division de la Réglementation, de la façon prescrite par cette dernière, tout incident de cybersécurité,
- (i) dans les trois jours civils suivant la découverte d'un incident de cybersécurité, et y préciser, sauf accord contraire de la Division de la Réglementation, les renseignements suivants :
    - (1) une description de l'incident de cybersécurité;
    - (2) la date à laquelle, ou la période durant laquelle, l'incident de cybersécurité s'est produit et la date à laquelle le Participant Agréé l'a découvert;
    - (3) une évaluation provisoire de l'incident de cybersécurité, notamment les répercussions qu'il risque d'avoir sur les activités du Participant Agréé;
    - (4) la description des mesures d'intervention immédiate que le Participant Agréé a prises pour réduire les répercussions sur ses activités; et
    - (5) le nom et les coordonnées d'une personne physique chargée de répondre, au nom du Participant Agréé, aux demandes de renseignements de la Division de la Réglementation au sujet de l'incident de cybersécurité.
  - (ii) dans les 30 jours civils, sauf accord contraire de la Division de la Réglementation, suivant la découverte de l'incident de cybersécurité et y préciser les renseignements suivants :
    - (1) la description de la cause de l'incident de cybersécurité;
    - (2) une évaluation de l'étendue de l'incident de cybersécurité, notamment les répercussions sur les activités du Participant Agréé;

- (3) la description détaillée des mesures que le Participant Agréé a prises pour réduire les répercussions sur ses activités; et
- (4) les dispositions que le Participant Agréé a prises ou prendra pour améliorer son état de préparation à un incident de cybersécurité.



**VERSION AU PROPRE****Article 3.113 Avis à la Division de la Réglementation en cas d'incident de cybersécurité**

- (a) Pour les fins du présent Article, un « incident de cybersécurité » comprend tout acte visant à obtenir un accès non autorisé au système informatique ou à l'information qui y est stockée d'un Participant Agréé, à désorganiser ce système informatique ou cette information ou à en faire mauvais usage et qui donne lieu, ou qui est raisonnablement susceptible de donner lieu, à des répercussions importantes touchant:
- (i) les activités normales du Participant Agréé relativement à son accès au Système de Négociation Électronique, ou
  - (ii) la capacité du Participant Agréé à se conformer à l'une ou l'autre de ses obligations prévues par la Réglementation de la Bourse.
- (b) Le Participant Agréé doit signaler par avis écrit à la Division de la Réglementation, de la façon prescrite par cette dernière, tout incident de cybersécurité,
- (i) dans les trois jours civils suivant la découverte d'un incident de cybersécurité, et y préciser, sauf accord contraire de la Division de la Réglementation, les renseignements suivants :
    - (1) une description de l'incident de cybersécurité;
    - (2) la date à laquelle, ou la période durant laquelle, l'incident de cybersécurité s'est produit et la date à laquelle le Participant Agréé l'a découvert;
    - (3) une évaluation provisoire de l'incident de cybersécurité, notamment les répercussions qu'il risque d'avoir sur les activités du Participant Agréé;
    - (4) la description des mesures d'intervention immédiate que le Participant Agréé a prises pour réduire les répercussions sur ses activités; et
    - (5) le nom et les coordonnées d'une personne physique chargée de répondre, au nom du Participant Agréé, aux demandes de renseignements de la Division de la Réglementation au sujet de l'incident de cybersécurité.
  - (ii) dans les 30 jours civils, sauf accord contraire de la Division de la Réglementation, suivant la découverte de l'incident de cybersécurité et y préciser les renseignements suivants :
    - (1) la description de la cause de l'incident de cybersécurité;
    - (2) une évaluation de l'étendue de l'incident de cybersécurité, notamment les répercussions sur les activités du Participant Agréé;

- (3) la description détaillée des mesures que le Participant Agréé a prises pour réduire les répercussions sur ses activités; et
- (4) les dispositions que le Participant Agréé a prises ou prendra pour améliorer son état de préparation à un incident de cybersécurité.

### 7.3. RÉGLEMENTATION DES BOURSES, DES CHAMBRES DE COMPENSATION, DES OAR ET D'AUTRES ENTITÉS RÉGLEMENTÉES

#### 7.3.1 Consultation

##### **CME Amsterdam B.V. - Demande de dispense de reconnaissance à titre de bourse et des obligations des Règlements 21-101 et 23-101**

L'Autorité des marchés financiers publie la demande de dispense (i) de reconnaissance à titre de bourse en vertu de la *Loi sur les instruments dérivés*, RLRQ, c. I-14.01, et en vertu de la *Loi sur les valeurs mobilières*, RLRQ, c. V-1.1, et (ii) des obligations du *Règlement 21-101 sur le fonctionnement du marché*, RLRQ, c. V-1.1, r. 5 et du *Règlement 23-101 sur les règles de négociation*, RLRQ, c. V-1.1, r. 6 déposée par CME Amsterdam B.V.

(Le texte est reproduit ci-après.)

##### **Commentaires**

Toute personne désirant soumettre des commentaires est invitée à les faire parvenir par écrit, au plus tard le 19 juin 2022 à :

Me Philippe Lebel  
Secrétaire général et directeur général des affaires juridiques  
Autorité des marchés financiers  
Place de la Cité, tour Cominar  
2640, boulevard Laurier, bureau 400  
Québec (Québec) G1V 5C1  
Télécopieur : 514 864-63811  
Courrier électronique : [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

##### **Information complémentaire**

Pour de plus amples renseignements, on peut s'adresser à :

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Analyste expert aux OAR  
Direction de l'encadrement des activités de négociation  
Autorité des marchés financiers  
Téléphone : 514 395-0337, poste 4354  
Numéro sans frais : 1 877 525-0337, poste 4354  
Télécopieur : 514 873-7455  
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Serge Boisvert  
Analyste expert à la réglementation  
Direction de l'encadrement des activités de négociation  
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Courrier électronique : [Serge.Boisvert@lautorite.qc.ca](mailto:Serge.Boisvert@lautorite.qc.ca)

### 7.3.2 Publication

Aucune information

CME Amsterdam B.V.  
Nieuwezijds Voorburgwal 104  
Units 1.04, 1.05 en 1.06  
Amsterdam 1012SG, The Netherlands

May 19, 2022

Autorité des marchés financiers  
800 Square Victoria, 22<sup>nd</sup> Floor  
C.P. 246, Tour de la Bourse  
Montréal, Québec  
Canada, H4Z 1G3

Attention: Monsieur Pascal Bancheri and Monsieur Serge Boisvert

**Re: CME Amsterdam B.V. – Application for Exemption from Recognition as an Exchange**

Dear Sirs:

CME Amsterdam B.V. (the “**Applicant**”) is filing this application with the *Autorité des marchés financiers* (the “**AMF**”) to obtain the following decisions (collectively, the “**Requested Relief**”):

- a decision under Section 86 of the *Derivatives Act* (Québec) (the “**Derivatives Act**”) exempting the Applicant from the requirement to be recognised by the AMF as an exchange under Section 12 of the *Derivatives Act* in relation to the operation of a multilateral trading facility (“**MTF**”) facilitating the trading of derivatives in the province;
- a decision under Section 263 of the *Securities Act* (Québec) (the “**Securities Act**”) exempting the Applicant from the requirement to be recognised by the AMF as an exchange under Section 169 of the *Securities Act* in relation to the operation of a Regulated Market (“**RM**”) facilitating the trading of fixed income securities (excluding fixed income securities issued by Canadian issuers) in the province;
- a decision exempting the Applicant from *Regulation 21-101 respecting Marketplace Operation* (“**Regulation 21-101**”);
- a decision exempting the Applicant from *Regulation 23-101 respecting Trading Rules* (“**Regulation 23-101**”); and
- a decision exempting the Applicant from *Regulation 23-103 respecting Electronic Trading and Direct Electronic Access to Marketplaces* (“**Regulation 23-103**”).

The Applicant is permitted to operate its MTF in Ontario under a full exemption order of the Ontario Securities Commission (“**OSC**”) dated August 25, 2020 exempting the

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Applicant from the requirement to be recognised as an exchange under subsection 21(1) of the *Securities Act* (Ontario) in relation to its operation of an MTF in the province of Ontario (the “**Ontario Decision**”). On January 25, 2022, the Applicant also filed an application to vary the Ontario Decision to permit the Applicant to operate the BrokerTec EU RM (as defined below) for the trading of European repurchase securities collateralized by European government bonds (and corporate bonds to be offered later in 2022) (“**EU Repos**”) and European government bonds (“**EGBs**”).

## **BACKGROUND OF THE APPLICANT**

The Applicant operates different trading platforms, including the EBS Direct and EBS Institutional FX platforms (together the “**EBS MTF**”) and the BrokerTec EU Regulated Market platform (the “**BrokerTec EU RM**”). The Applicant was approved as a “market operator” as defined in the European Markets in Financial Instruments Directive 2014/65/EU (“**MiFID**”) by the Dutch Minister of Finance on March 12, 2019 and is currently supervised and regulated by the Autoriteit Financiële Markten of the Netherlands (the “**AFM**”) to operate the BrokerTec EU RM and the EBS MTF (each a “**Facility**” and together, the “**Facilities**”) for trading fixed income securities, FX derivatives and other financial instruments.

### ***EBS***

The EBS Direct platform (“**EBS Direct**”) is a relationship based bilateral trading platform that offers curated liquidity to its participants, where participants are explicitly identified as makers or takers. The price maker (a “**Liquidity Provider**”) electronically quotes a price to the taker (a “**Liquidity Consumer**”). Participants on EBS Direct interact not only based on credit path, but also via explicit permissioning put in place by the Applicant (as the Market Operator) where trades matched are typically fully disclosed.

EBS Direct enables Liquidity Consumers to view and access prices streamed to the platform from Liquidity Providers with whom they have a trading relationship. The ability to execute on EBS Direct prices is managed by Liquidity Consumers. In addition, Liquidity Providers may check credit within their own systems on a real time basis at point of execution (as is common on other direct/relationship-based trading offerings).

EBS Direct enables the Liquidity Providers to provide prices to their chosen counterparties, the Liquidity Consumers, based on their assessment of the client relationship. This helps Liquidity Providers to manage operational and credit risk in the context of those bilateral relationships. EBS Direct allows Liquidity Providers to provide a price directly to their customers (similar to their own single dealer platform price) via the EBS trading interfaces. EBS Direct gives Liquidity Providers the ability to identify their counterparty prior to the execution of the trade and allows them to accept or reject a bilateral trade. This feature is standard on direct/bilateral relationship-based trading offerings in the market today. From a Liquidity Customer standpoint, they are able to see an aggregated view of the liquidity provided by their chosen Liquidity Providers. EBS Direct also allows Liquidity Consumers to trade using the credit of a prime bank.

EBS Direct offers Request for Stream/Request for Quote (RFS/RFQ) – RFS/RFQ supports trading in spot FX (made available for trading through an affiliate of the Applicant), FX forward outright and FX swaps (also known as an FX package transaction of forwards in accordance with MiFID). Under RFS/RFQ, Liquidity Consumers indicate their pair, size and tenor, and then receive a streaming two-way price from relationship liquidity sources for a short period, typically two-minute sessions.

The EBS Institutional FX platform (“**EBS Institutional**”) is another electronic trading platform, focused on asset managers, that offers bilateral/relationship based trading in FX derivatives in the same manner as described for EBS Direct above. It is a separate graphical user interface.

EBS Direct and EBS Institutional are market segments on the EBS MTF. They are fully electronic platforms which leverage a technology platform provided by an external vendor, FD Technologies plc and First Derivatives (Ireland) Limited (together, “**First Derivatives**”).

### ***BrokerTec***

The BrokerTec EU RM is the leading trading venue operating in the European sovereign debt repo market with an approximate 65% market share across all markets. On average 9,000 tickets per day are executed on the trading platform equating to circa €220 billion in nominal average daily volume. In EGBs, the BrokerTec EU RM has an estimated 10-12% market share, and is the second largest liquidity venue in Europe, with average daily volume of €1.1 billion.

The BrokerTec EU RM comprises a central limit order book (the “**BrokerTec CLOB**”) and a request for quote trading platform (the “**BrokerTec Quote**”). Participants of the BrokerTec EU RM are able to trade EU Repos and EGBs as listed in Annex A. Additional products may be made available for trading on the Facility by the Applicant in the future, subject to obtaining the required regulatory approvals.

The BrokerTec CLOB platform is the core BrokerTec liquidity pool where fixed income products are traded on a central limit order book. The prices are displayed on the BrokerTec CLOB anonymously. The BrokerTec CLOB is a fully electronic platform, with all orders entered by participants directly either via an Application Program Interface (“**API**”) or via a Graphical User Interface (“**GUI**”).

The Globex technology platform is used to provide the BrokerTec CLOB, and is provided and supported pursuant to an agreement between the Applicant and CME Inc. The Applicant maintains access to systems and both critical and general shared services through agreements with CME Inc.

Participants of the BrokerTec CLOB must be a member of at least one eligible central counterparty (“**CCP**”) and able to access LCH S.A. (“**LCH**”) as the main CCP to join the BrokerTec EU RM. Once transactions are formed, the Applicant passes the trade information to LCH, or other eligible CCP, as necessary. The counterparties remain

anonymous to each other post-trade. The Applicant does not become the party to the transaction or get involved in the settlement of the transaction.

The BrokerTec Quote platform is a dealer-to-client (“**D2C**”) request for quote (“**RFQ**”) trading solution for EU Repos. RFQ sessions can be commenced by participants (usually clients of dealer banks) in relevant instruments, setting out the parameters of the session, instruments and settlement methodology (cleared or bilateral trading). Recipients (usually dealer banks) then respond with executable quotes which can then be traded on by the initiator of the RFQ session. The RFQ solution enables automated execution in a D2C market where flow is largely executed through voice. BrokerTec Quote is a fully electronic platform which leverages a technology platform provided by an external vendor, Adaptive Financial Consulting Limited (“**Adaptive**”).

BrokerTec Quote is provided to participants via a web delivered GUI or FIX (Financial Information eXchange) API integration. API integration seeks to provide participants with a fully integrated service into their internal systems, minimizing touch points, and allowing quoting and execution automation. The flexible BrokerTec RFQ protocol captures the nuances of repo negotiation, as well as bringing operational and audit efficiencies. BrokerTec Quote aims to allow participants to select their preferred settlement methodology (i.e., bilateral, CCP-cleared or sponsored clearing) at an RFQ level.

Settlement takes place between the counterparties. Although the Facilities’ rules require counterparties to settle any deals, the Applicant is not involved in settlement and counterparties make their own bilateral arrangements with respect to settlement.

### ***Requested Relief***

Pursuant to the Requested Relief, the Applicant will make the Facilities available to participants in Québec, including a participant with its headquarters address in Québec or a legal address in Québec (e.g., as indicated by a participant’s Legal Entity Identifier (LEI)) and all traders conducting transactions on its behalf, regardless of the traders’ physical location (inclusive of non-Québec branches of Québec legal entities), as well as any trader physically located in Québec who conducts transactions on behalf of any other entity (“**Québec Participants**”).

The Applicant is currently authorised by the Dutch Minister of Finance to offer the Facilities in relation to all of the financial instruments listed in Annex B. Additional products may be made available for trading on the Facilities by the Applicant in the future, subject to obtaining required regulatory approvals.

The Applicant seeks the Requested Relief to cover trading of the financial instruments listed in Annex A (the “**Instruments**”) on the Facilities by Québec Participants. The financial instruments listed in Annex A include derivatives as defined in the Derivatives Act.

The Applicant seeks authorisation to offer direct access to trading on the Facilities to Québec Participants that satisfy the criteria for a “professional client” (“**PC**”) or an



“eligible counterparty” (“ECP”) as defined in MiFID (as defined herein) and set forth in Annex C, as described in Rule 4.1.3 of the Applicant’s EBS MTF rulebook (the “**EBS MTF Rulebook**”) and Rule 4.1.1 of the Applicant’s BrokerTec EU RM rulebook (the “**BrokerTec EU RM Rulebook**”, and together with the EBS MTF Rulebook, the “Facility Rulebooks” and each individually a “**Facility Rulebook**”) and as further described in this application.

The Applicant (formerly known as NEX Amsterdam B.V.) is a limited liability company organized under the laws of the Netherlands. The ultimate parent company of the Applicant is CME Group Inc.<sup>1</sup> (“**CME Group**”), a publicly traded for-profit corporation organized under the laws of Delaware and listed for trading on the NASDAQ National Market. CME Group acquired NEX Group plc and its group companies, including the Applicant, on November 2, 2018. CME Group provides electronic trading globally in futures, options, cash and over-the-counter markets and also offers clearing and settlement services across asset classes.

The Applicant has no physical presence in Québec and does not otherwise carry on business in Québec except as described herein.

Clients access a Facility directly either to enter transactions on their own behalf or, in relation to the EBS MTF only, on behalf of other participants as an “EBS Prime Bank”. Clients seeking direct access to a Facility as a “Participant”, including those who want to trade on behalf of their “EBS Prime Customers” and the EBS Prime Customers themselves in relation to the EBS MTF, must meet the Facility’s eligibility criteria, be authorised by the Applicant to participate on the Facility and enter into a Customer Agreement with the Applicant.

Participants include a wide range of sophisticated customers, including commercial and investment banks, corporations, proprietary trading firms, hedge funds and other institutional customers. Each customer of the Applicant that wishes to trade directly on a Facility must qualify as an ECP or PC.

### **EXEMPTION FROM SECTION 12 OF THE DERIVATIVES ACT, SECTION 169 OF THE SECURITIES ACT AND FROM REGULATIONS 21-101, 23-101 AND 23-103**

#### **Exemption from the Requirement to be Recognised as an Exchange under Section 12 of the Derivatives Act and Section 169 of the Securities Act**

As described in greater detail in this application, the Applicant is subject to the regulatory requirements of the Netherlands, as supervised and enforced by the AFM. Recognition

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<sup>1</sup> CME Group is the parent company of the four CMEG Exchanges (Chicago Mercantile Exchange Inc. (“**CME**”), Board of Trade of the City of Chicago, Inc., New York Mercantile Exchange, Inc., and Commodity Exchange, Inc.), and the cash markets businesses of EBS (for FX) and BrokerTec (for fixed income) (of which the Applicant forms a part).

requirements applied to the Facilities are stringent and take into consideration elements such as governance, fees, fair and equitable access, regulation, market operations, systems and technology as well as clearing and settlement, as prescribed by the AMF.

The Applicant confirms it has the power to cooperate fully with the AMF and self-regulatory organizations in the Province of Québec, and to provide information and documents with respect to its operations that could be reasonably requested by the AMF.

Pursuant to Canadian Securities Administrators (“CSA”) Staff Notice 21-328 – Regulatory Approach to Foreign Marketplaces Trading Fixed Income Securities (“CSA Staff Notice 21-328”), the CSA have developed a framework for granting exemptions from the exchange recognition requirements to foreign alternative trading systems (“ATSs”) and foreign MTFs in respect of trading fixed income securities. With respect to foreign MTFs, the CSA states that they will consider allowing foreign MTFs to trade fixed income securities under the current exemption regime applicable to derivatives trading by foreign derivatives exchanges, swap execution facilities and MTFs, but will include additional terms and conditions where appropriate.

The Applicant notes that exemptive relief in respect of trading fixed income securities has been granted to the following foreign ATS applicants pursuant to the regulatory framework described in CSA Staff Notice 21-328: (i) *In the Matter of Trumid Financial, LLC* (February 24, 2021), and (ii) *In the Matter of ICE Bonds Securities Corporation* June 19, 2020).

Based on the foregoing, the Applicant seeks an exemption from the requirement of Section 12 of the Derivatives Act and Section 169 of the Securities Act allowing it to carry on derivatives and fixed income activities in the Province of Québec without being recognised by the AMF as an exchange or otherwise. We believe this exemption would not be detrimental to the protection of investors in the Province of Québec and would contribute to the efficiency of Québec’s derivatives market.

#### **Exemption from Regulation 21-101, Regulation 23-101 and Regulation 23-103**

The Applicant submits to the AMF that the application of Regulation 21-101, Regulation 23-101 and Regulation 23-103 regarding marketplace operation, trading rules and electronic trading to the Applicant would result in duplication of the AFM regulatory framework and hereby seeks an exemption from Regulation 21-101, Regulation 23-101 and Regulation 23-103.

#### **CONFIDENTIALITY, CONSENT AND INFORMATION**

We request that this application be treated as confidential until such time as the AMF and the Applicant both agree to publish this application for public comment. Enclosed is a certificate of an authorised signatory of the Applicant certifying the truth and accuracy of the facts contained herein.

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You will find below, the following information about the Applicant's business and policies under the following headings, which comply with Part 5 of the AMF's "*Policy Statement Respecting the Authorization of Foreign-Based Exchanges*":

- Article 1 – Regulation of the Applicant in its Home Jurisdiction
- Article 2 – Recognition or Authorization Process of the Foreign Regulator in the Home Jurisdiction
- Article 3 – Power of the Applicant Regarding Cooperation
- Article 4 – Power of the Foreign Regulator in the Home Jurisdiction Regarding Cooperation
- Article 5 – Conditions of Compliance

If you have any questions or require anything further, please do not hesitate to contact us.

Yours very truly,

**CME AMSTERDAM B.V.**

DocuSigned by:  
  
08FFB4C119C8418...

Name: Mark Portlock

Title: Director

cc: Terence Doherty and Gawain Chan *Osler, Hoskin & Harcourt LLP*

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## ARTICLE 1 REGULATION OF THE APPLICANT IN ITS HOME JURISDICTION

### 1.1 Regulation of the Applicant

The Applicant is a “market operator” (“**Market Operator**”) as defined in the European Markets in Financial Instruments Directive 2004/39/EC and Directive 2014/65/EU (collectively, “**MiFID**”) and the relevant laws, rules and regulations of the Netherlands.

The Applicant operates an RM and an MTF, both of which are types of “trading venues” specified by MiFID. MiFID defines an RM as a “*multilateral system operated and/or managed by a market operator, which brings together or facilitates the bringing together of multiple third-party buying and selling interests in financial instruments – in the system and in accordance with its non-discretionary rules – in a way that results in a contract*”. MiFID defines an MTF as “*a multilateral system... which brings together multiple third-party buying and selling interests in financial instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract.*”

On March 12, 2019, the Dutch Minister of Finance authorised the Applicant to act as the Market Operator of the Facilities in the Netherlands and the AFM commenced supervising and regulating the Applicant on an ongoing, active basis. Financial instruments for which the Applicant is authorised by the AFM are set forth in Annex B.

Market Operators that are authorised by the Dutch Minister of Finance must comply with the Wft, the Markets in Financial Instruments Directive 2014/65/EU of the European Parliament and of the Council (“**MiFID II**”), which was implemented on January 3, 2018, Regulation (EU) 600/2014 of the European Parliament and of the Council (“**MiFIR**”), the rules pertaining to this legislation and the applicable guidance from the AFM (the “**Applicable Rules**”), particularly those in:

- (a) Chapter 1 of the Wft, which sets out the powers of investigation and enforcement of the AFM;
- (b) Chapter 2 of the Wft and the Decree on Market Access, which set out the organization requirements for Market Operators operating an MTF;
- (c) Chapter 3 of the Wft and the Decree on Prudential Supervision, which set out the prudential requirements imposed on Market Operators and implement part of the 4th EU Capital Requirements Directive;
- (d) Chapter 4 of the Wft and the Decree on Conduct of Business Supervision, which set out the conduct of business requirements imposed on Market Operators and implement MiFID II requirements related to the conduct of business; and
- (e) Chapter 5 of the Wft, which implements part of MiFID II as it relates to trading venues.

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The Applicant is obligated to comply with Dutch rules and requirements which require trading practices that are fair, properly supervised and not contrary to the public interest. Specifically, the Applicable Rules, which the Applicant adheres to, provides:

- (a) **Fair trading practices:** Section 4:91(a) of the Wft requires the Applicant to have “transparent rules and procedures for fair and orderly trading and establish objective criteria for the efficient execution of orders.”
- (b) **Properly supervised trading practices:** Section 4:91b(1) of the Wft requires the Applicant to: “(1) establish and maintain effective arrangements and procedures for the regular monitoring of the compliance by its participants with its rules and (2) monitor the transactions sent, including cancellations and the transactions undertaken by its participants under its systems to identify infringements of those rules, disorderly trading conditions, conduct that may indicate behavior that is prohibited under the Code of Market Conduct or system disruptions in relation to a financial instrument.” In addition, the Applicant is required under EU Market Abuse Regulation Article 16(1) to “establish and maintain effective arrangements, systems and procedures aimed at preventing and detecting insider dealing, market manipulation and attempted insider dealing and market manipulation.”
- (c) **Trading practices that are not contrary to the public interest:** Under Section 4:26 of the Wft, the Applicant is required to report to the AFM where (a) there is a significant breach of the Applicant’s rules; (b) there are disorderly trading conditions or (c) the Applicant identifies conduct that may involve market abuse. Furthermore, the Applicant has established, publishes, maintains and implements transparent and non-discriminatory rules, based on objective criteria, governing access to its facility (as required under Article 18(3) of MiFID II). As noted above, the Facility is required under the EU Market Abuse Regulation Article 16(1) to “establish and maintain effective arrangements, systems and procedures aimed at preventing and detecting insider dealing, market manipulation and attempted insider dealing and market manipulation.”

The Facility Rulebooks address trading practices, incorporating the Applicable Rules requirements outlined above and are designed to ensure fair and orderly markets accessible to all eligible Participants and that such markets are properly supervised and operated in a manner consistent with the public interest.

## 1.2 Authority of the Foreign Regulator in the Home Jurisdiction

The Applicant is subject to regulatory supervision by the AFM in conducting its activities for which it is permitted as set out in Section 1.1 above. In undertaking those activities, the Applicant is required to comply with the Applicable Rules, which include, among other things, rules on (i) the conduct of business (including rules regarding client categorization, communication with clients and other investor protections and client agreements) (ii) market conduct (including rules applicable to firms operating a trading venue) and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest).

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The AFM requires the Applicant to comply at all times with a set of threshold conditions for authorization and ongoing requirements, including requirements that the Applicant has sound business and controlled business operations to be authorised and that it has appropriate resources for the activities it carries on. Breach of a threshold condition could lead to enforcement action or the Applicant's authorization being revoked by the AFM.

In addition to complying with detailed AFM rules and guidance governing the organization and conduct of the Applicant's business, the Applicant is required to act in accordance with Section 4:90 of the Wft, which requires the Applicant to act honestly, fairly and professionally and refrain from actions that are detrimental to the integrity of the market. Additionally, pursuant to Section 4:14(2)(a) of the Wft, in conjunction with Article 29a(2) of the Decree on Conduct of Business Supervision (*Besluit Gedragstoezicht Financiële ondernemingen Wft*) and Article 15(5) of MiFID II, the Applicant must establish adequate risk management policies and procedures and adopt effective arrangements to manage the risks relating to its activities, processes and systems.

The Applicant is subject to prudential regulation, including minimum regulatory capital requirements, and is capitalized in excess of regulatory requirements.

### 1.3 Listing Criteria for Products

As a Market Operator, the Applicant requires specific permission from the AFM to offer the Facilities in respect of each class of financial instrument traded on the Facilities. AFM permission is granted either through an initial authorization process or through a subsequent "variation of permission" process.

As part of its initial authorization, the AFM granted permission on March 12, 2019 for the Applicant to offer the Facilities in respect of all of the financial instruments listed in Annex B. To the extent that the Applicant wishes to make available for trading additional classes of financial instruments on the Facilities, it would require prior AFM approval via a "variation of permission" process. For the purposes of this application, the Applicant seeks permission in respect of the financial instruments listed in Annex A.

Once an instrument is made available to trade on a European Union trading venue such as the Facilities, it is included in the database of instruments of the European Securities and Markets Authority ("ESMA") which are "traded on a trading venue" ("TOTV"). This has ramifications for Participants, as TOTV status triggers transparency/ transaction reporting requirements for trading in that instrument.

The Facility Rulebooks designate the financial instruments which the Applicant's participants may trade. Any changes to the Facility Rulebooks must be reviewed and approved by the AFM.

The Dutch Minister of Finance's requirements for authorization of market operators do not make reference to usual commercial customs and practices. Instead, the Dutch rules (which reflect requirements under MiFID) focus on maintaining and implementing transparent and non-discriminatory rules, based on objective criteria. The Facility Rulebooks are drafted in accordance with these criteria, which aim to give participants a clear understanding of the lifecycle of a trade. It is the Applicant's experience that the terms and conditions of the

financial instruments that trade on the Facilities are generally accepted and understood by participants.

In accordance with MiFID, the Facilities are required to provide ESMA, as delegated by the AFM, with reference data for all financial instruments that are admitted to trading or that are traded each trading day. The financial instrument reference data provided by the Facilities must be in the form prescribed by EU law (e.g., ISIN identifiers must be provided per instrument).

#### 1.4 IOSCO Principles

IOSCO Principles – To the extent it is consistent with the laws of the Netherlands and the European Union and incorporated into the Wft, the Applicant adheres to the standards of the International Organisation of Securities Commissions (“**IOSCO**”) including those set out in the “Principles for the Regulation and Supervision of Commodity Derivatives Markets” (2011).

### ARTICLE 2 RECOGNITION OR AUTHORIZATION PROCESS OF THE FOREIGN REGULATOR IN THE HOME JURISDICTION

#### 2.1 Corporate Governance

The Applicant has in place a Board of Directors/Management team (collectively, the “**Management Body**”), Compliance Officer, Risk Officer, Operations team, IT support and Sales force. The Applicant outsources the provision of any additional support functions to a CME Group service company, thereby ensuring operational continuity of the relevant businesses. The Management Body remains fully responsible for the tasks or functions that are outsourced or delegated; maintaining the ability to direct and control the relevant functions.

The Management Body defines and oversees the implementation of the governance arrangements of the Applicant, ensuring effective and prudent management of the Applicant, including the segregation of duties within the Applicant and the prevention of conflicts of interest, in a manner that promotes the integrity of the market. The Management Body is also responsible and accountable for the overall strategy of the Applicant, taking into account the Applicant’s business and risk profile.

#### 2.2 Board and Committee Representation

##### 2.2.1 The Boards of Directors

The Applicant maintains a one-tier board structure under Dutch law, with both Executive Directors and an independent Non-Executive Chairman. The Applicant’s Board of Directors (the “**Board**”) currently consists of two Executive Directors and one independent Non-Executive Chairman.



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### 2.2.2 Governance Arrangements

Consistent with CME Group's approach, broader strategic decisions are made at the CME Group level and day-to-day operational decisions are made at the Applicant entity level. This model recognises that the Applicant operates within a wider group framework, and acknowledges that the Applicant's Directors have obligations in relation to the Applicant, including its authorisation by the Dutch Minister of Finance and regulation and supervision by the AFM, and are able to exercise those obligations.

The Board is accountable to the Applicant's shareholders and the relevant regulatory authorities with oversight over the Applicant, such as the Dutch Minister of Finance and the AFM.

As a Market Operator authorised by the Dutch Minister of Finance and supervised and regulated by the AFM, the integrity (betrouwbaarheid) of the Applicant's "daily policymakers" (*dagelijks beleidsbepalers*, "**Daily Policymakers**") must be beyond doubt, and each Daily Policymaker must be suitable (*geschikt*) for his, her or its function.

The following persons (natural persons or legal entities) are considered to be Daily Policymakers of the Applicant for purposes of Dutch financial regulatory law:

- (a) All of the Applicant's statutory directors (i.e., all executive and non-executive directors registered as such with the Trade Register (*Handelsregister*) of the Dutch Chamber of Commerce (*Kamer van Koophandel*)); and
- (b) all other persons effectively determining the daily policy of the Applicant.

Before appointing a Daily Policymaker, the Applicant must obtain written approval from the AFM. In other words, a person may not be appointed as a statutory director of the Applicant or otherwise act as a Daily Policymaker of the Applicant before first having obtained approval from the AFM. To obtain the AFM's approval, the Applicant is required to submit the appropriate integrity screening and suitability screening documentation to the AFM.

The purpose of the AFM's integrity screening is to assess whether there are facts or circumstances which show behaviour that is not in line with the integrity required for the position to be held by the person at a regulated entity. This concerns, for example, the criminal, financial, supervisory and tax history of the person. The AFM will also carry out background checks and will consult various sources to this end (e.g., tax authorities, the National Public Prosecutor, other financial regulatory authorities, public sources, media information). More details are provided in the Policy Rule Integrity Screening (*Beleidsregel betrouwbaarheidstoetsing*), available at: <https://wetten.overheid.nl/BWBR0017862/2006-01-29>.

The purpose of the AFM's suitability screening is to assess whether the person taking up a role at a regulated entity has sufficient knowledge and skills and displays the required professional behaviour to perform the role. A suitability screening is linked to a particular position/role. This means that a suitability screening is required for all prospective appointments. This also applies if an incumbent director who has been previously screened for suitability changes his

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or her position or remit within the same regulated entity. More details are provided in the Policy Rule Suitability 2012 (*Beleidsregel geschiktheid 2012*), available at: <https://wetten.overheid.nl/BWBR0031740/2016-04-06>.

The substantiation of the knowledge and experience of Daily Policymakers, and the choice with regard to the composition of the collective of Daily Policymakers, are key considerations within the AFM's suitability and integrity screening. The composition qualifications must be substantiated against the following factors:

- (a) managerial and hierarchical leadership;
- (b) general and specific professional knowledge and experience; and
- (c) knowledge and experience of business operations.

The Applicant is required to immediately report to the AFM new antecedent events and any changes in antecedent events of the Applicant's Daily Policymakers. The following are examples of changes in antecedent events: financial problems; bankruptcy; falsification of documents; embezzlement; and improper tax returns.

In response to the report about antecedent events, the AFM can decide to rescreen that person. This may lead to the outcome that the person's integrity is no longer beyond doubt and/or that the person is no longer deemed suitable.

If a Daily Policymaker is dismissed or decides to resign, this requires prior approval from the AFM. As part of the notification to the AFM, an updated suitability matrix will need to be submitted to enable the AFM to assess whether the collective of Daily Policymakers continues to meet the required level of expertise, knowledge and experience. The dismissal or resignation of a Daily Policymaker may not take place before the AFM has provided its written approval.

The Applicant maintains an independent compliance function, with a dedicated compliance officer. The compliance function is responsible for identifying, assessing, advising, monitoring and reporting on the Applicant's compliance risk (i.e., the risk that the Applicant fails to comply with its obligations under Dutch and European law, as well as the applicable standard set by ESMA and the relevant Dutch competent authorities).

CME Group has established an enterprise risk management program ("**ERM**") to identify potential events that may affect the enterprise, manage and report on the associated risks and opportunities and provide reasonable assurance that risks are managed in accordance with the company's risk appetite and business objectives. The ERM is led by a Managing Director, ERM and Global Chief Compliance Officer.

The Applicant is committed to ensuring the integrity of the Facilities and the stability of the financial system, and that its business and regulatory decisions align with its public interest mandate. The rules, policies and activities of the Applicant incorporate the Applicable Rules, which are designed to ensure best practices and fulfill this public interest mandate. Also, the Applicant has adopted rules and surveillance systems which are designed to ensure that trading

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by Participants is conducted in a manner consistent with applicable law and to detect and prevent market manipulation and disorderly trading conditions.

## **2.3 Director Qualifications, Remuneration and Limitation of Liability**

### **2.3.1 Director Qualifications and Fitness Standards**

The Applicant's Independent Non-Executive Chairman was appointed to provide independent supervision and oversight to the Executive team. The relevant individual has extensive Compliance and Risk experience, both in the Netherlands and the United Kingdom, and brings invaluable experience to ensure adequate systems, control and oversight are implemented.

As confirmed by the AFM, the relevant Board members were selected for their specific strengths, relevant business experience and market knowledge in relation to the relevant regulated activities, which brings balance to the Applicant. All Board members possess skills in each of the focus areas, thereby not overburdening one individual so that they can agree and direct matters as a knowledgeable and capable collective, yet at the same time challenge decisions that are being made in all areas to ensure adequate governance across the Board/senior management. Each of the Daily Policymakers has considerable experience in his, her or its chosen area of focus, which will provide for considerable oversight of such activities.

### **2.3.2 Director Remuneration and Limitation of Liability**

The Applicant's remuneration system aims to incentivize high-level performance and promote sound risk management. The liability of the Applicant, its directors, officers and employees to any person in connection with the Applicant's operation of the Facilities are limited.

## **2.4 Conflicts of Interest**

The Applicant has adopted all applicable CME Group policies, including the Conflicts of Interest Policy. The Applicant is required to maintain and operate effective organisational and administrative arrangements with a view to taking all reasonable steps to identify, monitor and manage all conflicts of interest including conflicts between itself and its customers. Pursuant to MiFID legislation, the Applicant maintains a stand-alone conflicts of interest register, identifying the inherent conflicts of interest within the firm, while setting out appropriate measures to manage and mitigate those conflicts.

The Applicant's Board members must abide by the Conflicts of Interest Policy, which sets out requirements governing, among other things, the disclosure of conflicts by Board members and the situations in which Board members are prohibited from participating in decisions of the Board. Furthermore, Board members are subject to duties imposed under Dutch law.

The Applicant's employees are also subject to applicable CME Group policies. The Applicant's employment contracts require that employees comply with all relevant policies and procedures of the Applicant.

Any violation of the Conflicts of Interest Policy may result in disciplinary action against the Board member or employee.

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The Applicant is also required to implement numerous internal policies and procedures in order to avoid conflicts of interest. These include:

- (a) ensuring that, in dealings with customers, its staff use the highest standard of integrity;
- (b) taking all reasonable steps to achieve the best overall trading result for customers, exercise consistent standards, and operate the same processes across all markets, clients and financial instruments;
- (c) disallowing staff from dealing the same way for personal account as a customer order or potential order before it is executed or where a customer's interest could be adversely affected or where a client order is pending;
- (d) controlling or preventing the flow of information between CME Group business units and entities where the interests of customers may conflict with CME Group's own interests;
- (e) insisting on strict customer confidentiality;
- (f) disallowing staff from accepting non-minor gifts, entertainment or other inducement;
- (g) informing customers of the relationship where the counterparty to the deal is another CME Group company or where the services of another CME Group company is recommended;
- (h) structuring remuneration such that relevant staff who are open to a conflict of interest are paid a basic salary independent of company performance, and may be paid a bonus linked to company performance, team performance or the individual's performance at the discretion of senior management;<sup>2</sup>
- (i) separately supervising those carrying out functions for customers whose interests may conflict, or where the interests of customers and CME Group may conflict, or preventing them from involvement where necessary;
- (j) maintaining effective controls to manage conflicts of interest between parts of the business responsible for the benchmark submission or contribution of data to third party benchmarks and those parts of the business who may use or have an interest in the benchmark rate and preventing or limiting any individual from exercising inappropriate influence over the benchmark submission or contribution of data.

In cases where there is no means of managing the conflict of interest or sufficiently protecting the interests of customers, the Applicant will disclose the conflict of interest to customers or decline to act for a customer.

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<sup>2</sup> Specifically, the (variable) remuneration of staff who are involved in the provision of services to clients is structured in such a way that it encourages responsible business conduct, fair treatment of clients and avoids conflicts of interest in the relationship with clients.

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The Applicant's Compliance Monitoring team is responsible for ensuring that the Conflicts of Interest Policy is adhered to.

## 2.5 Fees and Financial Viability

As a Market Operator supervised and regulated by the AFM and governed by the Applicable Rules, the Applicant's fee structure, including any execution fees, ancillary fees and rebates, is required by Section 4:91a(11) of the Wft in conjunction with section 5:30b(1)(d) of the Wft to be transparent, fair and non-discriminatory. Under MiFID, trading venues are required to charge the same fees and provide the same conditions to all users of the same type of services based on objective criteria, and may only establish different fee structures for the same type of services where those fee structures are based on non-discriminatory, measurable and objective criteria. In accordance with the Applicable Rules and MiFID, similarly situated Participants are charged the same fees pursuant to the Applicant's fee structure.

The Applicant is required by MiFID to ensure that its fee structure is sufficiently granular to allow users to predict the payable fees on the basis of at least the following elements: (a) chargeable services, including the activity which will trigger the fee, (b) the fee for each service, stating whether the fee is fixed or variable, and (c) rebates, incentives or disincentives. MiFID also requires the Applicant to publish objective criteria for the establishment of its fees and fee structures, together with execution fees, ancillary fees, rebates, incentives and disincentives in one comprehensive and publicly accessible document on its website. On EBS Direct and EBS Institutional, only Liquidity Providers are charged fees, in line with the current industry approach. The Applicant's fee schedules are available at:

- (a) For EBS Direct Liquidity Providers: <https://www.cmegroup.com/trading/market-tech-and-data-services/files/obs-forwards-price-sheet-liquidity-provider.pdf>;
- (b) For EBS Institutional Liquidity Providers: <https://www.cmegroup.com/trading/market-tech-and-data-services/files/obs-institutional-fx-price-sheet-liquidity-provider.pdf>;  
and
- (c) For BrokerTec EU RM: <https://www.cmegroup.com/trading/market-tech-and-data-services/files/brokertec-eu-rm-fee-schedule-20210111.pdf>.

The Applicant has adequate financial and staff resources to carry on its activities in full compliance with its regulatory requirements and with best practices. The Applicant is subject to prudential requirements, including minimum regulatory capital and liquidity requirements, and must submit financial reports to the AFM.

The Applicant is capitalized in excess of regulatory requirements and will maintain any future minimum capital amounts needed to meet AFM requirements.

## 2.6 Fair and Equitable Access

Section 4:91a(1) of the Wft requires the Applicant to establish transparent rules and procedures for fair and orderly trading and to establish objective criteria for the efficient execution of orders. Participant status, access to, and usage of, the Facility is available to all market

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participants that meet the criteria set forth by the Applicant. The Applicant vets prospective Participants against the Applicant's eligibility criteria as part of its Participant onboarding procedures. Rule 4 (Eligibility Criteria) of the EBS MTF Rulebook and Rule 4 (Eligibility) of the BrokerTec EU RM Rulebook set out the admission and eligibility criteria that Participants must meet. Specifically, to be eligible for admission as a Participant, a Participant applicant must demonstrate to the satisfaction of the Applicant that it:

- (1) in respect of the EBS MTF Rulebook:
  - (a) has entered into a valid and effective Customer Agreement in relation to a Facility;
  - (b) satisfies the Applicant's internal client on-boarding requirements including, but not limited to, "know your client" procedures;
  - (c) is classified by the Applicant as an ECP or PC (each as defined in MiFID) (for the avoidance of doubt, retail clients are not permitted on the Facilities);
  - (d) agrees to adhere, on an on-going basis, to the terms of the Facility Rulebook, the Customer Agreements, the User Guides and any guidance or other requirements of the Applicant;
  - (e) has the legal and regulatory capacity to undertake trading in derivatives on a trading venue;
  - (f) has adequate organisational procedures and controls to limit Error Trades and the submission of erroneous Orders to a Facility, including, but not limited to, the operation of a Kill Functionality;
  - (g) meets the technical specifications and standards required by the Applicant;
  - (h) is an investment firm or credit institution (each as defined by MiFID and Directive 2013/36/EU, respectively) or other person which (i) is of sufficiently good repute; (ii) has a sufficient level of trading ability, competence and experience; and (iii) has sufficient resources for their role as a Participant; and
  - (i) satisfies any additional eligibility criteria set out in any appendix to the Facility Rulebook; and
- (2) in respect of the BrokerTec EU RM Rulebook:
  - (a) satisfies the Applicant's internal client on-boarding requirements, including committing to and remaining in compliance with the Agreements and the Facility Rulebook, and be classified by the Applicant as an Eligible Counterparty or Professional Client (each as defined in MiFID), unless otherwise detailed in any relevant Product Appendix;
  - (b) is an investment firm or credit institution (each as defined by MiFID and Directive 2013/36/EU respectively) or other person who:
    - (i) is of sufficiently good repute;

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- (ii) has a sufficient level of trading ability, competence and experience; and
- (iii) has sufficient resources for its role as a Participant;
- (c) the legal and regulatory capacity to undertake trading in the relevant Market on an RM;
- (d) complies with the Facility's Operational Parameters Annex;
- (e) satisfies the Applicant as to its adequate arrangements for entering into Transactions, order management, clearing (if relevant) and settlement of all Orders submitted to the Facility;
- (f) has adequate organisational procedures and controls to limit Error Trades and the submission of erroneous Orders to the Facility, including, but not limited to, the operation of a Kill Functionality;
- (g) meets the technical specifications and standards required by the Applicant for Participation on BrokerTec, including for those Participants accessing the Facility via an application programming interface, the CME Globex iLink documents available at <https://support.brokertec.com>; and
- (h) satisfies any Eligibility Criteria set out in any Product Appendix.

Rule 5 (Participant Obligations) of the Facility Rulebooks also contains the following provisions with respect to access by a Participant's authorised employees:

- (a) a Participant shall be responsible for all the acts, omissions, conduct and activity of its Authorised Employees (Rule 5.16 of the EBS MTF Rulebook and Rule 5.5 of the BrokerTec EU RM Rulebook); and
- (b) a Participant must ensure its Authorised Employees have sufficient training, are properly supervised and have adequate experience, knowledge and competence to participate on a Facility in accordance with the Customer Agreements and the Facility Rulebooks (Rule 5.17 of the EBS MTF Rulebook and Rule 5.6 of the BrokerTec EU RM Rulebook).

In addition, all Québec Participants will be required to be registered under Québec securities laws, exempt from the registration requirements or not subject to the registration requirements. A Québec Participant is also required to immediately notify the Applicant if it ceases to meet any of the above criteria represented by it on an ongoing basis.

Pursuant to its obligations under the Applicable Rules, the Applicant has implemented rules, policies and procedures that are designed to not permit unreasonable discrimination among Participants or impose unreasonable or unnecessary burdens on competition.

The Applicant's rules pertaining to order size and limits are fair and equitable between Participants and the Applicant's system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent between Participants.



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The Facilities publish pre- and post-trade transparency data as required by MiFIR. In accordance with MiFIR, the Facilities publish all necessary pre- and post-trade information in real-time on a reasonable commercial basis and free of charge with a 15-minute delay via <https://mifidmarketdata.cmeregreporting.com/>. Rule 20 (Pre and post trade transparency) of the BrokerTec EU RM rulebook provides further rules on pre- and post-trade transparency as follows:

20. Pre and post trade transparency
  - 20.1. The Operator shall, in accordance with applicable regulatory rules, make public, on reasonable commercial terms to non-Participants, on a continuous basis, both information about the Order Book and, as close to real time as it is reasonably able so to do, information about the price, volume and time of Transactions. For the avoidance of doubt, this does not restrict any rights granted to the Operator by the Participant in the Agreements.
  - 20.2. Notwithstanding Rule 20.1, under certain conditions, the FCA may grant a trading venue permission not to make public current Bid and Offer prices for any Product and the depth of trading interest at those prices (a “Waiver”) or the time, price, volume and venue of executed Transactions (a “Deferral”). The Operator will publish on its website the details of any such Waiver or Deferral obtained from the Regulatory Authority via a Market Notice.

## 2.7 Regulation of Participants

As required by the Wft, the Facility Rulebooks set out transparent and non-discretionary rules and procedures for fair and orderly trading by Participants and objective criteria for efficient execution of orders. Participants are required to comply with a significant number of rules that govern trading on the Facilities. The applicable general rules are primarily located in Rules 6 (General Dealing Rules) and 10 (Products, Settlement, STP) of the EBS MTF Rulebook and Rules 6 (Conduct) and 8 (Products) of the BrokerTec EU RM Rulebook.<sup>3</sup> There are rules specifically for EBS Direct – Forwards and Institutional regarding products made available for trading on the EBS MTF included in the EBS Direct (Forwards and Institutional) Appendix.<sup>4</sup>

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<sup>3</sup> The EBS MTF Rulebook is available online at: <https://www.cmegroup.com/trading/market-tech-and-data-services/files/ebs-mtf-rulebook-general-terms-20210903.pdf>.

The BrokerTec EU RM Rulebook is available at: <https://www.cmegroup.com/trading/market-tech-and-data-services/files/brokertec-eu-rm-rulebook-20210226.pdf>

<sup>4</sup> The EBS Direct – Forwards and Institutional Appendix is available online at: <https://www.cmegroup.com/trading/market-tech-and-data-services/files/ebs-mtf-rulebook-appendix-ebs-direct20210506.pdf>



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In addition, the BrokerTec EU RM Rulebook contains separate rules in the appendix for EGBs and appendix for EU Repos.<sup>5</sup>

The Applicant is dedicated to safeguarding the integrity of the Facilities, and has policies and procedures that are designed to ensure that the Facilities are free from manipulation and other abusive practices. These efforts are a necessary component of efficiently working markets, and the Applicant is committed to ensuring that Participants are able to use the Facilities with the knowledge that it remains open and transparent.

Further, the Facility Rulebooks, which govern participation in the Applicant's platforms, prohibit Participants from engaging in any act or course of conduct which is likely to harm the integrity, fairness, orderliness or reputation of the platforms. If the Applicant were to detect that a Participant was in breach of this obligation under the Facility Rulebooks, the Applicant would have remedies available to it under Rule 8.2 of the EBS MTF Rulebook or Rule 6.2 of the BrokerTec EU RM Rulebook (such as restriction of specific order types, suspension from specific instruments or suspension from the platforms altogether).

The Applicant's compliance personnel are responsible for trade surveillance and monitoring trading activity in conjunction with the Facilities' dedicated Market Surveillance and Performance team through the use of proprietary monitoring tools to determine if there are any potential violations of the Facility Rulebooks and monitoring compliance with market manipulation rules. The Applicant captures and retains all audit trail data necessary to detect, investigate, and prevent market misconduct and disorderly trading. Such data shall be sufficient to reconstruct all trades and trade-related activity within a reasonable period of time and to provide evidence of any violations of the rules of the Applicant.

In addition to the above, front-office and operational teams are trained to detect and escalate unusual trading behaviour or patterns (including potential market abuse or market manipulation) to the Applicant's Compliance department.

The Applicant performs anti-money laundering and counter-terrorist finance checks as part of its participant onboarding procedures. Where there are reasonable grounds to suspect or where there is a suspicion of money laundering or terrorist financing which arises in the course of participant onboarding, this will be reported to the Financial Intelligence Unit (FIU) Nederland, the competent authority for anti-money laundering oversight in the Netherlands, which investigates and reports money laundering, terrorist financing and related offenses to the relevant law enforcement and investigative services, and to other relevant regulators as required by applicable regulation (including the AFM).

The Applicant has a wide range of tools for enforcing Participants' compliance with the Facility Rulebooks. These tools include issuing written warning letters, temporarily

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<sup>5</sup> The BrokerTec EU RM European Government Bonds Appendix is available online at <https://www.cmegroup.com/trading/market-tech-and-data-services/files/brokertec-eu-rm-rulebook-bonds-appendix-20210726.pdf>

The BrokerTec EU RM Repo appendix is available online at <https://www.cmegroup.com/trading/market-tech-and-data-services/files/brokertec-eu-rm-rulebook-repo-appendix-20210726.pdf>

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suspending access, imposing conditions on access or terminating a Participant's ability to access the Facilities. Please see Rule 9 (Suspension, Termination, Resignation) of the EBS MTF Rulebook and Rule 6 (Conduct rules) of the BrokerTec EU RM Rulebook.

Pursuant to Section 4:91b(3) of the Wft, the Applicant will report to the AFM (i) significant breaches of a Facility's rules, (ii) disorderly trading conditions, and (iii) conduct that may involve market abuse. The Applicant will also notify the AFM when a Participant's access is terminated, and may notify the AFM when a Participant is temporarily suspended or subject to condition(s). The AFM has the power to investigate and impose unlimited fines for market abuse, and to prosecute for market manipulation.

## **2.8 Rulemaking**

Pursuant to its obligations under the Applicable Rules, the Applicant has implemented rules, policies and procedures that are designed to not permit unreasonable discrimination among Participants or impose unreasonable or unnecessary burdens on competition. The Applicant's rules are covered in the EBS MTF Rulebook and the EBS MTF Rulebook EBS Direct and EBS Institutional FX appendices, and the BrokerTec EU RM Rulebook and BrokerTec EU RM EGBs and EU Repo appendices. The Applicant believes that its rules and policies that govern the activities of Participants are consistent with the rules and policies of other marketplaces, and therefore do not impose any burden on competition that is not reasonably necessary or appropriate.

The Facility Rulebooks are subject to the standards and requirements outlined by the Applicable Rules. At a high level, the Facility Rulebooks seek to ensure fair and orderly markets accessible to all eligible Participants that meet the criteria listed in the Facility Rulebooks. This aim is accomplished by establishing rules that reflect the Applicable Rules, criteria that are not contrary to the public interest, and are designed to:

- (a) ensure compliance with applicable legislation. The Facility Rulebooks govern participant and membership requirements and includes requirements that Participants will continue to comply with the Facility Rulebooks and applicable law. The Applicant is obligated to comply with the Applicable Rules and must implement rules that require compliance with the Applicable Rules by its Participants. The Applicant proactively monitors its Participants' compliance with applicable law and regulation, evidenced in part by its market surveillance systems designed to identify market abuse and prevent disorderly trading conditions.
- (b) prevent fraudulent and manipulative acts and practices. Rule 5 (Participant Obligations) of the Facility Rulebooks prescribes trading practices and trading conduct requirements, including prohibited trading activities, and prohibits fictitious trades, fraudulent activity and manipulation. The Applicant has instituted procedures to collect information, examine Participants' records, directly supervise the market, maintain sufficient compliance staff, conduct audit trail reviews, perform real-time market monitoring and market surveillance and establish an automated trade surveillance system.

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- (c) promote just and equitable principles of trade. All systems of the Facilities are available to all Participants on a non-discriminatory basis. Throughout the Facility Rulebooks, the Applicant has established transparent and objective standards for access to and trading on the Facility to foster competitive and open market participation. The Applicant believes that compliance with the Facility Rulebooks and related compliance procedures promote just and equitable principles of trade.
- (d) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange. Rule 19 (Co-operation with Regulators) of the EBS MTF Rulebook and Rule 25 (Co-operation with regulatory authorities) of the BrokerTec EU RM Rulebook authorises the Applicant to provide full assistance and information to the AFM, and any other regulatory authority (e.g., the AMF), as required by applicable law in connection with any investigation and prosecution of or enforcement action regarding any actual or suspected prohibited trading practice on the Facilities. Each Participant is also required by Rule 5.8 of the EBS MTF Rulebook and Rule 5.12 of the BrokerTec EU RM Rulebook to cooperate with the Applicant and any relevant regulator during any investigation that is conducted in relation to access to and trading on the Facilities, which includes providing access to information, documents, and any other reasonable request within the control of the Participant, save to the extent the Participant may be restricted in doing so by applicable laws;
- (e) promote a framework for disciplinary and enforcement actions. Under Rule 8 (Conduct Rules) of the EBS MTF Rulebook and Rule 6 (Conduct) of the BrokerTec EU RM Rulebook, the Applicant may take action against a Participant or its authorised trader(s) in circumstances including, but not limited to, where the Participant or its authorised trader(s): (i) engages in any conduct which gives or is likely to give a false or misleading impression as to the market in, or the price of, any product or which secures the price of one or several products at an abnormal or artificial level; or (ii) engages in any act or course of conduct which is likely to harm the integrity, fairness, orderliness or reputation of the Facility; (iii) breaches or attempts to breach the Facility rules or cause or contribute to a breach of the rules by another Participant; or (iv) submit trade requests or orders on the Facility which are fictitious, or constitute any other form of deception or contrivance. Under Rules 8 (Conduct Rules) and 9 (Suspension, Termination, Resignation) of the EBS MTF Rulebook and Rule 6 (Conduct) of the BrokerTec EU RM Rulebook, the Applicant may, in its sole discretion, issue a formal written notification of convention, restrict order types, impose systematic enforcements (minimum quote life or throttling of orders) or suspend specific instruments or a Participant's or authorised trader's ability to access the Facilities;
- (f) ensure a fair and orderly market. The Applicant has prescribed trading rules and collects and evaluates market activity data, maintains and audits its real-time monitoring program, and audits historical data to detect trading abuses. The Applicant periodically reviews its programs and procedures, including risk analysis, emergency planning, and systems testing. The Applicant regularly audits systems and technology tests both for technical and regulatory compliance. The Applicant's Compliance

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Department has the capability to suspend all trading on the Facility during emergency situations. The Applicant's Compliance Department also has the ability to suspend trading of specific instruments or instruments of a specific asset class during a trading day, either in response to an emergency situation or by order of a regulator. The Applicant believes that these measures and its rules are designed to ensure a fair and orderly market.

## **2.9 Record Keeping**

The Applicable Rules require the Applicant to keep orderly records of its business and internal organization, including all services and transactions undertaken by it to enable the AFM to monitor it. The Applicant has implemented policies designed to ensure that the AFM has ready access to the Applicant's records that it is required to maintain under MiFID, from which the AFM should be able to reconstruct each key stage of a transaction on the Facilities if required.

Rule 20.1 of the EBS MTF Rulebook and Rule 22 (Telephone recording) of the BrokerTec EU RM Rulebook provides that the Applicant "will retain the books and records which it is required to keep pursuant to Applicable Law for at least five years (and, where requested by the relevant Regulator, for a period of up to 7 years)".

The Applicant also keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access, along with a record of any breaches of Facility rules by its Participants.

## **2.10 Outsourcing**

The Applicant has entered into several licensing and services agreements with affiliates and unaffiliated third parties. The Applicant at all times retains responsibility for any functions delegated to any service provider and the ultimate decision-making authority.

Under the Applicable Rules, the Applicant must ensure when outsourcing critical or important operational functions that (among other things), (i) it takes reasonable steps to avoid undue additional operational risk and (ii) the outsourcing does not materially impair the quality of its internal control and the ability of the AFM to monitor its compliance with regulatory obligations. The Applicant remains fully responsible for discharging its obligations under the regulatory system and must ensure that the outsourcing does not alter its relationship and obligations towards Participants. The Applicant's procedures are designed to ensure that the relevant regulatory requirements are satisfied in connection with outsourcing of critical or important operational functions. All material outsourcing agreements require Board approval.

## **2.11 Enforcement Rules**

A Market Operator is required under the Applicable Rules to set rules, conduct compliance reviews, monitor Participants' trading activity and take enforcement action against Participants when appropriate.

The Applicant may prevent a person from becoming a Participant, if in the Applicant's sole discretion, the person does not satisfy the eligibility criteria listed in Rule 2 (General) of the

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Facility Rulebooks or if the Applicant considers that accepting that person as a Participant may prevent the Applicant from complying with applicable law. Under Rules 8 (Conduct Rules) and 9 (Suspension, Termination, Resignation) of the EBS MTF Rulebook, and Rule 6 (Conduct) of the BrokerTec EU RM Rulebook, the Applicant may also, in its sole discretion, issue a formal written notification of convention, restrict order types, impose systematic enforcements (minimum quote life or throttling of orders) or suspend specific instruments or a Participant's or authorised trader's ability to access a Facility.

As a MiFID firm, the Applicant is subject to a complaints regime under MiFID when it provides MiFID services to its Participants (e.g., making available an MTF). MiFID services encompass all of the activities for which the Applicant has AFM authorisation, as well as ancillary services. As such, all complaints that relate to the operation of the Facilities fall within the scope of the MiFID complaints regime.

Participants may raise a complaint regarding a variety of matters including, but not limited to, the Facility Rulebooks violations, any potential fraudulent acts, dishonorable or dishonest conduct, access to the Facilities or the ability (or inability) to interact with other Participants. Once received, any complaints must be promptly referred to the Compliance Department of the Applicant. In the event that a compliance officer is involved in the subject matter of the complaint, the complaint is referred to the Applicant's Chief Compliance Officer. If the Applicant's Chief Compliance Officer is the subject matter of the complaint, then the complaint will be referred to the Board or the Applicant's Head of Amsterdam office.

The Applicant maintains records of all investigations conducted by the Applicant in accordance with its recordkeeping policy. For example, Rule 3.6 of the Facility Rulebooks provides that decisions with respect to an applicant's application for Participant status are communicated in writing to the applicant and Rule 20.1 of the EBS MTF Rulebook, and Rule 22 (Telephone recording) of the BrokerTec EU RM Rulebook provides that the Applicant "will retain the books and records which it is required to keep pursuant to Applicable Law for at least five years (and, where requested by the relevant Regulator, for a period of up to 7 years)".

Pursuant to Section 4:26 of the Wft, the Applicant is required to report to the AFM (a) significant breaches of the Facility Rulebooks, (b) disorderly trading conditions, and (c) conduct that may involve market abuse. The Applicant will also notify the AFM when a Participant's access is terminated, and may notify the AFM when a Participant is temporarily suspended or subject to condition(s). The AFM may choose to take further action against a Participant in its discretion.

The Applicant has instituted procedures and controls to collect information, examine Participants' records, supervise trading on the Facilities, maintain sufficient compliance staff, establish procedures for and conduct audit trail reviews, perform automated real-time market monitoring and market surveillance and establish an automated trade surveillance system to evaluate Participants' compliance with the Facility Rulebooks and applicable law.

The Applicant will comply with its regulatory obligations and supply data and information to the AFM when required, and will also assist the AFM in any investigation conducted regarding trading on the Facilities.

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## 2.12 Systems and Technology

Each of the Applicant's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and a business continuity plan to enable the exchange to properly carry on its business.

Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,
- (d) trade reporting,
- (e) trade comparison,
- (f) data feeds,
- (g) market surveillance,
- (h) trade clearing, and
- (i) financial reporting.

BrokerTec Quote and the EBS MTF operate on technology developed and provided by Adaptive and First Derivatives respectively. With regard to BrokerTec Quote and the EBS MTF, Adaptive and First Derivatives are classified as Critical/Tier 1 vendors which require annual due diligence and ongoing monitoring by the Third Party Risk Management process. BrokerTec CLOB operates on the CME Globex-based trading platform (the "**Globex Platform**").

The Facilities have appropriate internal controls designed to provide for completeness, accuracy, integrity and security of information, and, in addition, have sufficient capacity and a business continuity plan to enable the Facilities to properly carry on their businesses.

The Applicant has put safeguards in place to protect the critical data and system components of its Facilities and reduce the potential risk of market disruptions, including but not limited to market restrictions that could pause or halt trading under market conditions prescribed by the Applicant, such as: (i) a significant price movement during a short period of time in a financial instrument on a regulated market or a related market, and (ii) disorderly trading conditions.

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These market conditions are discussed in more detail in the BrokerTec EU RM Operational Parameters Annex.<sup>6</sup>

The Applicant operates and provides to Participants a robust and scalable platform. Standard system monitoring metrics include capacity and performance level alerts. In addition to system level monitoring of capacity and performance of resources, the Applicant also conducts standardized application or platform capacity tests on a regular basis. This ensures the platform is well positioned to provide adequate responsiveness to customers. The data generated from these tests are used to establish present and historical benchmarks to identify performance and/or capacity hot spots or deficiencies. Additional resources are deployed where appropriate to resolve performance or capacity issues outside of the benchmark to bring performance back in line with benchmark expectation.

The Facilities make capacity estimates by regularly monitoring their systems usage as well as maintaining constant communications between internal parties whenever new business or possible changes in the market may increase capacity on the systems.

The Applicant conducts regular performance and capacity tests in a production test environment which matches production in its size, scope and infrastructure. Testing is described above.

The Business Continuity Management program (“**BCM**”) serves to mitigate potential impacts to CME Group’s markets, customers, assets and employees, and to safeguard the effective availability of essential products and services. The program is designed to ensure CME Group, including the Applicant, can respond appropriately to incidents while protecting the interests of its stakeholders, ensuring the safety of employees and protecting its reputation and brand.

BCM designs and implements enterprise-wide strategies to manage risk and mitigate potential impacts to CME Group operations and stakeholders, including those of the Applicant, by:

- aligning with international standards;
- implementing incident response, system resilience (disaster recovery) and business recovery strategies that are both flexible and agile;
- building effective partnerships with other departments throughout the company that manage risk;
- employing tested exercise models that evolve with our environment and architecture;
- identifying opportunities for enhanced resilience;

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<sup>6</sup> The BrokerTec EU RM Operational Parameters Annex is available at <https://www.cmegroup.com/trading/market-tech-and-data-services/files/brokertec-eu-rm-operational-parameters-annex-jan-21.pdf>



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- establishing collaborative relationships with external entities, partnerships and agencies; and
- continually monitoring and adjusting program components to reflect material changes to the business and to meet domestic and international regulatory requirements.

BCM plans for the unavailability of site, staff and systems, and as a result, is designed to withstand a variety of adverse scenarios. BCM is designed to be agile and quickly responds to events to minimize impacts to CME Group's business.

The Applicant has set out appropriate risk management procedures, including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading, in the Facility Rulebooks, including:

- (a) Rule 5.20 of the EBS MTF Rulebook and Rule 23.1 of the BrokerTec EU RM Rulebook: Each Participant shall carry out appropriate testing of algorithms to ensure that algorithms used to access the Facility cannot create or contribute to Disorderly Trading Conditions on the Facility.
- (b) Rule 6.5 of the EBS MTF Rulebook and Rule 9.5.1 of the BrokerTec EU RM Rulebook: The Applicant shall automatically reject orders which exceed pre-determined volume and price thresholds or are clearly erroneous ("**Pre-Trade Controls**").<sup>7</sup>
- (c) Rule 6.7 of the EBS MTF Rulebook and Rule 9.5.5 of the BrokerTec EU RM Rulebook: The Applicant may use the Kill Functionality (i.e., the ability to cancel unexecuted orders) in the following conditions: (i) upon request of a Participant, where the Participant is technically unable to delete its own orders; (ii) where the Facility contains erroneous duplicated orders; (iii) a suspension of trading on the Facility initiated either by the Applicant or the relevant regulator; or (iv) for any other reason, as determined by the Applicant in its absolute discretion from time-to-time.
- (d) Rule 6.10 of the EBS MTF Rulebook and Rule 9.8.2 of the BrokerTec EU RM Rulebook: The Applicant may suspend or remove from trading any product which no longer complies with the EBS MTF Rulebook or BrokerTec EU RM Rulebook (unless suspension would likely cause significant damage to Participants or the orderly function of a Facility) or upon receiving a request by the relevant regulator. The Applicant may temporarily halt or constrain trading if there is a significant price movement in a product on a Facility or a related market during a short period and, in exceptional cases, cancel, vary or correct any transaction. The Applicant may adjust, wind down or shut down a Facility or take any other appropriate action which, in the

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<sup>7</sup> Pre-Trade Controls include, but are not limited to: (i) price collars, which block orders which do not meet pre-set price parameters set by the Applicant; (ii) controls on maximum order value which block orders with uncommonly large order value from entering the Facility by reference to notional values per financial instrument set by the Applicant; and (iii) controls on maximum order volume which block orders with an uncommonly large order size from entering the Facility.



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sole discretion of the Applicant is necessary, in the event of a threat to the capacity of a Facility to perform its functions without systems failures, outages or errors in matching.

CME Group has established the ERM to identify potential events that may affect the enterprise, manage and report on the associated risks and opportunities, and provide reasonable assurance that risks are managed in accordance with the company's risk appetite and business objectives. The ERM is led by a Managing Director, ERM and Global Chief Compliance Officer.

CME Group's Information Security Program's ("GIS") purpose is to safeguard the confidentiality, integrity, and availability of the company's information and services through a structured program designed and operated to mitigate information security risks and threats to CME Group. The GIS department is led by the Managing Director and Chief Information Security Officer ("CISO"). The CISO directly reports to the Chief Information Officer, is part of the IT Management Team (ITMT).

CME Group's Confidentiality and Data Protection Policy and Corporate Information Security Policy are in place and govern the Applicant. CME Group maintains a vulnerability management program that applies to the Applicant, which provides ongoing cyclical management of vulnerabilities, including coordination of identification, classification, remediation, mitigation, and metrics.

The GIS department maintains a "Defense in Depth" strategy for information security that is designed to provide multiple and complimentary layers of proactive, preventative and detective security controls. Relevant components of GIS include:

- *Information Security Risk and Compliance*: CME Group's Information Security Risk and Compliance function is aligned with the ERM framework. It includes the development and distribution of policy and security awareness training; assurance, risk management, and consulting; and metrics and reporting.
- *Identity Access Management ("IAM") Services*: The IAM Services function includes access and entitlement management, access control, and access administration.
- *Cybersecurity Operations*: Cybersecurity Operations encompass network security, threat intelligence, vulnerability management, security incident response, data loss prevention, forensics investigations, and insider threat analysis and response. This function implements the controls and procedures for securing the network and perimeter from unauthorized data flows and transmissions.
- *Security Architecture*: The Security Architecture function includes endpoint security, application penetration testing and validation services. This function recommends and architects the appropriate security controls and procedures for securing CME Group's systems and endpoints (e.g., mobile devices, desktops, laptops).

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- *GIS Delivery*: The Project Execution function assists in developing, championing, and supporting GIS projects, including managing the financial health of programs and projects and ensuring adherence to IT Division standards for compliance and metrics.
- *GIS Operations and Execution*: The Operations and Execution role enables the CISO to work most effectively with internal and external stakeholders and fulfil his commitments.

### 2.13 Clearing and Settlement

The BrokerTec EU RM has in place a clearing agreement with LCH to clear EU Repos. For CLOB trading, the participant must be authorised by LCH to enter into repurchase transactions on the BrokerTec EU RM. For BrokerTec Quote, the participant must either be authorised by LCH to enter into repurchase transactions on the BrokerTec EU RM or maintain an agreement with an LCH Agent Member for the clearing of repurchase transactions on the BrokerTec EU RM. Rule 19 (Clearing and settlement) of the BrokerTec EU RM Rulebook outlines the rules in relation to clearing and settlement.

For the EBS MTF, settlement takes place between the counterparties. Although the Facility's rules require counterparties to settle any deals, the Applicant is not involved in, nor is it responsible for, settlement or clearing and counterparties make their own bilateral arrangements.

Participants must comply with any clearing obligation that applies to them under applicable law, including the laws of the province of Québec.

A Market Operator must submit all trades that are required to be cleared to a clearing house for clearing. The Applicant provides direct connectivity to LCH for clearing EU Repos. LCH is exempted from the requirement to be recognized as a clearing agency in Québec.

### ARTICLE 3 POWER OF THE APPLICANT REGARDING COOPERATION

The Applicant confirms that it has the power to cooperate fully with the AMF and self-regulatory organizations in the Province of Québec, and to provide information and documents with respect to its operations that could be reasonably requested by the AMF.

The Applicant has established a process that enables it to respond to requests from regulators regarding the Applicant in a timely manner. It is the Applicant's policy to respond promptly and completely to any proper regulatory inquiry or request for documents. All inquiries and other communications from the AMF will be referred immediately to the Applicant's legal and compliance departments.

Rule 17.1 of the EBS MTF Rulebook and Rule 24 (Confidentiality) of the BrokerTec EU RM Rulebook provides that the Applicant will treat as confidential any information received from a Participant, including, where applicable, any credit settings, in relation to its business on the Facility, except where:

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- disclosure is required by law or any tax authority or Regulator having jurisdiction;
- disclosure is made in the interests of co-operation with any regulatory investigation conducted by a relevant Regulator.

Rule 19 (Co-operation with Regulators) of the EBS MTF Rulebook and Rule 25 (Co-operation with regulatory authorities) of the BrokerTec EU RM specifically addresses cooperation with regulators:

- the Applicant will report any significant breaches of the Rules, Disorderly Trading Conditions, systems disruptions in relation to a financial instrument or conduct which gives rise to a suspicion of market abuse to the relevant Regulator;
- the Applicant will provide full assistance to, and may also supply any relevant information without delay to, the relevant Regulator; and
- the Applicant will comply with all relevant laws and regulations, and any request of the relevant Regulator.

Each Participant is also required by Rule 5.8 of the EBS MTF Rulebook and Rule 5.12 of the BrokerTec EU RM Rulebook to co-operate with the Applicant and any relevant regulatory authority during any investigation that is conducted in relation to access to and trading on the Facilities. Such cooperation shall include providing access to information, documents, and any other reasonable request within the control of the Participant, save to the extent the Participant may be restricted in doing so by applicable laws.

#### **ARTICLE 4 POWER OF THE FOREIGN REGULATOR IN THE HOME JURISDICTION REGARDING COOPERATION**

Satisfactory information sharing and oversight agreements exist between the AMF and the Foreign Regulator. The AMF is party to the following memoranda of understanding with the AFM:

- (a) The IOSCO Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (the “**IOSCO MMOU**”). The IOSCO MMOU came into effect on December 5, 2002, and establishes an international benchmark for cooperation and information sharing for the purpose of regulatory enforcement of securities and derivatives markets.
- (b) The Memorandum of Understanding Concerning Consultation, Cooperation and the Exchange of Information Related to the Supervision of Managers of Alternative Investment Funds (the “**AIFM MOU**”). The AIFM MOU came into effect on July 22, 2013, and provides for mutual assistance in the supervision and oversight of managers of alternative investment funds operating on a cross border basis.

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## ARTICLE 5 CONDITIONS OF COMPLIANCE

If authorization is granted, the Applicant undertakes to provide the AMF with the following information and any other information that may be required, notably but not limited to: (i) its annual financial statements; (ii) any material amendment to the laws or regulations governing its activities; (iii) any amendment to its Articles of Association; (iv) any change respecting its right to operate or the existence of conditions respecting the performance of activities in its home jurisdiction; and (v) notice of any situation that could have an impact on its financial viability or its ability to operate.

Furthermore, the Applicant undertakes to comply with any other applicable Québec law, including *An Act respecting the legal publicity of sole proprietorships, partnerships and legal persons* (R.S.Q., c. P-45), to maintain its recognition or authorization in its home jurisdiction and to abide by any AMF decision.

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**ANNEX A**

The Applicant seeks the Requested Relief to allow Québec Participants to trade the following financial instruments on the Facilities:

- i. Foreign Exchange (“FX”) Derivatives (Forwards or Outrights);
- ii. FX Swaps;
- iii. Non-Deliverable Forwards;
- iv. European repurchase securities collateralized by European government bonds (and corporate bonds to be offered later in 2022); and
- v. European government bonds

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### **ANNEX B**

The Applicant is authorised by the AFM to allow trading of the financial instruments set forth in this Annex B.

- i. Sovereign bonds;
- ii. Other public debt
- iii. FX Forwards and Swaps;
- iv. Non-Deliverable Forwards;
- v. Interest Rate Swaps;
- vi. Forward Rate Agreements;
- vii. Basis Swaps;
- viii. Inflation Swaps;
- ix. FX Options;
- x. European repurchase securities collateralized by European government bonds (and corporate bonds to be offered later in 2022); and
- xi. European government bonds.

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## **ANNEX C**

This Annex C provides the definition of an “Eligible Counterparty” as defined in Article 30 of Directive 2014/65/EU (MiFID) and a “Professional Client,” as defined in Annex II of MiFID “Professional Clients for the Purpose of this Directive”.

### **DEFINITION OF ELIGIBLE COUNTERPARTIES**

#### **I Categorises of Clients who are Considered to be Eligible Counterparties**

The following are recognised as eligible counterparties for the purposes of this Article.

1. Investment firms;
2. Credit institutions;
3. Insurance companies;
4. Collective investment schemes authorised under the UCITS Directive and their management companies;
5. Pension funds and their management companies;
6. Other financial institutions authorised or regulated under European Union law or under the national law of a European Economic Area Member State;
7. National governments and their corresponding offices including public bodies that deal with public debt at national level;
8. Central banks, and
9. Supranational organisations.

### **DEFINITION OF PROFESSIONAL CLIENTS**

Professional client is a client who possesses the experience, knowledge and expertise to make its own investment decisions and properly assess the risks that it incurs. In order to be considered to be professional client, the client must comply with the following criteria:

#### **I Categorises of Clients who are Considered to be Professionals**

The following shall all be regarded as professionals in all investment services and activities and financial instruments for the purposes of the Directive.

- a. Entities which are required to be authorised or regulated to operate in the financial markets. The list below shall be understood as including all authorised entities carrying out the characteristic activities of the entities mentioned: entities authorised by a Member State under a Directive, entities authorised or regulated by a Member State without

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reference to a Directive, and entities authorised or regulated by a third country:

- b. Credit institutions;
  - c. Investment firms;
  - d. Other authorised or regulated financial institutions;
  - e. Insurance companies;
  - f. Collective investment schemes and management companies of such schemes;
  - g. Pension funds and management companies of such funds;
  - h. Commodity and commodity derivatives dealers;
  - i. Locals;
  - j. Other institutional investors;
2. Large undertakings meeting two of the following size requirements on a company basis:
- a. balance sheet total: EUR 20 000 000
  - b. net turnover: EUR 40 000 000
  - c. own funds: EUR 2 000 000
3. National and regional governments, including public bodies that manage public debt at national or regional level, Central Banks, international and supranational institutions such as the World Bank, the IMF, the ECB, the EIB and other similar international organisations.
4. Other institutional investors whose main activity is to invest in financial instruments, including entities dedicated to the securitisation of assets or other financing transactions.

The entities referred to above are considered to be professionals. They must however be allowed to request non-professional treatment and investment firms may agree to provide a higher level of protection. Where the client of an investment firm is an undertaking referred to above, the investment firm must inform it prior to any provision of services that, on the basis of the information available to the investment firm, the client is deemed to be a professional client, and will be treated as such unless the investment firm and the client agree otherwise. The investment firm must also inform the customer that he can request a variation of the terms of the agreement in order to secure a higher degree of protection.



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It is the responsibility of the client, considered to be a professional client, to ask for a higher level of protection when it deems it is unable to properly assess or manage the risks involved.

This higher level of protection will be provided when a client who is considered to be a professional enters into a written agreement with the investment firm to the effect that it shall not be treated as a professional for the purposes of the applicable conduct of business regime. Such agreement shall specify whether this applies to one or more particular services or transactions, or to one or more types of product or transaction.

## **II Clients who may be Treated as Professional on Request**

### **II.1 Identification criteria**

Clients other than those mentioned in section I, including public sector bodies, local public authorities, municipalities and private individual investors, may also be allowed to waive some of the protections afforded by the conduct of business rules.

Investment firms shall therefore be allowed to treat any of those clients as professionals provided the relevant criteria and procedure mentioned below are fulfilled. Those clients shall not, however, be presumed to possess market knowledge and experience comparable to that of the categories listed in Section I.

Any such waiver of the protection afforded by the standard conduct of business regime shall be considered to be valid only if an adequate assessment of the expertise, experience and knowledge of the client, undertaken by the investment firm, gives reasonable assurance, in light of the nature of the transactions or services envisaged, that the client is capable of making investment decisions and understanding the risks involved.

The fitness test applied to managers and directors of entities licensed under Directives in the financial field could be regarded as an example of the assessment of expertise and knowledge. In the case of small entities, the person subject to that assessment shall be the person authorised to carry out transactions on behalf of the entity.

In the course of that assessment, as a minimum, two of the following criteria shall be satisfied:

- the client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 per quarter over the previous four quarters,
- the size of the client's financial instrument portfolio, defined as including cash deposits and financial instruments exceeds EUR 500 000,
- the client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.

Member States may adopt specific criteria for the assessment of the expertise and knowledge of municipalities and local public authorities requesting to be treated as professional clients. Those criteria can be alternative or additional to those listed in the fifth paragraph.

## II.2 Procedure

Those clients may waive the benefit of the detailed rules of conduct only where the following procedure is followed:

- they must state in writing to the investment firm that they wish to be treated as a professional client, either generally or in respect of a particular investment service or transaction, or type of transaction or product,
- the investment firm must give them a clear written warning of the protections and investor compensation rights they may lose,
- they must state in writing, in a separate document from the contract, that they are aware of the consequences of losing such protections.

Before deciding to accept any request for waiver, investment firms must be required to take all reasonable steps to ensure that the client requesting to be treated as a professional client meets the relevant requirements stated in Section II.1.

However, if clients have already been categorised as professionals under parameters and procedures similar to those referred to above, it is not intended that their relationships with investment firms shall be affected by any new rules adopted pursuant to this Annex.

Firms must implement appropriate written internal policies and procedures to categorise clients. Professional clients are responsible for keeping the investment firm informed about any change, which could affect their current categorisation. Should the investment firm become aware however that the client no longer fulfils the initial conditions, which made him eligible for a professional treatment, the investment firm shall take appropriate action.

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### ANNEX D

This Annex D provides the definition of a “Professional Investor,” as defined in article 1:1 of the Wft.

professional investor:

- a. bank;
- b. management company of a collective investment scheme;
- c. management company of a pension fund or of a comparable legal person or company;
- d. collective investment scheme;
- e. investment firm;
- f. national or regional government body, or government body administering the public debt;
- g. central bank;
- h. financial institution;
- i. international or supranational organisation governed by public law or comparable international organisation;
- j. market maker;
- k. enterprise whose main activity is investing in financial instruments, implementing securitisation programmes or other financial transactions;
- l. pension fund or comparable legal person or corporation;
- m. person or corporation trading for its own account in commodities and derivatives on commodities;
- n. local firm;
- o. legal person or company that satisfies two of the following magnitude requirements:
  - 1°. a balance sheet total of € 20,000,000 or more;
  - 2°. net turnover of € 40,000,000 or more;
  - 3°. equity capital of € 2,000,000 or more;
- p. insurer;

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**ANNEX E**

**VERIFICATION STATEMENT**

The undersigned hereby authorises Osler, Hoskin & Harcourt LLP to make and file the attached application and confirms the truth of the facts contained in it.

**DATED** May 19, 2022.

CME AMSTERDAM B.V.

DocuSigned by:  
*Mark Portlock*  
By: 08FFB4C119C8418...

Name: Mark Portlock

Title: Director