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Delivered Via Email: reg@tmx.com; legal@tmx.com; hugo.lacroix@lautorite.qc.ca

Regulatory Division
Bourse de Montréal Inc.
1800-1190 av des Canadiens-de-Montréal
PO Box 37
Montréal, Québec H3B 0G7

M^e Adam Allouba
Chief Legal Counsel
Bourse de Montréal Inc.
1800-1190 av des Canadiens-de-Montréal
PO Box 37
Montréal, Québec H3B 0G7

M^e Hugo Lacroix
Superintendent, Securities Markets
Autorité des marchés financiers
800 Rue du Square-Victoria, 22e étage
Montréal, Québec H4Z 1A1

Dear Regulatory Division, M^e Allouba and M^e Lacroix:

Re: Bourse de Montréal Inc. – Consultation Paper: Introduction of a New Client Identifier and Other Markers at Order Entry

The Investment Industry Association of Canada (the "IIAC") and its members would like to take this opportunity to express their views on the Bourse de Montréal Inc. (the "Bourse") Consultation Paper regarding the Introduction of a New Client Identifier and Other Markers at Order Entry as per Annex 1 of Circular 121-21 (the "Consultation Paper") issued on June 29, 2021.

Please note that the IIAC and its members will not, at this time, respond to the questions provided in the Consultation. However, we will comment on the general process chosen by the Bourse and its Regulatory Division in regard to client identifiers and other markers.

The IIAC is the national association representing the position of 116 IIROC-regulated dealer member firms on securities regulation, public policy and industry issues. We work to foster a vibrant, prosperous investment industry driven by strong and efficient capital markets.

Consultation Objective

Annex 1 of Circular 121-21 includes the following:

The Regulatory Division (the “Division”) of Bourse de Montréal Inc. (the “Bourse”) proposes to introduce a unique client identifier and five additional predetermined tags at order entry. These new requirements will enhance regulatory data and thereby improve the supervision of Participants as well as the trading activity conducted on the Bourse.

The IIAC and industry members believe that enhancing regulatory data and improving the supervision of trading activity are the key to market integrity and investor protection. However, the process chosen by the Regulatory Division creates concerns on many levels, some of which have been identified by the Regulatory Division in its Consultation.

Member Concerns – Considerations from the Regulatory Division (Part 7 of the Consultation Paper)

The Consultation Paper correctly states the following as industry concerns:

We recognize that the Proposal may create some challenges for Participants, vendors, and clients. The Division understands that the main industry concerns appear to relate to maintaining client confidentiality, as well as the administrative and technological burden such requirements may represent. These concerns are discussed below.

7.1 Confidentiality

Approved Participants and other industry stakeholders may be concerned about client confidentiality. To protect client confidentiality, the Division proposes that Client IDs be encrypted if the Approved Participant chooses to. In the case the Client ID is encrypted, only the Division through its personnel would have the necessary keys to decrypt the information to be used for regulatory purposes. In the case the Client ID is encrypted, this information would only be disclosed to other regulators under specific circumstances.

7.2 Technological Implications

The Bourse’s trading system is accessed through Independent Software Vendors (“ISVs”) or the Approved Participant’s internally developed trading systems. Either one of the two following protocols can be used to access the Bourse: 1) Bourse native SAIL protocol or 2) the industry standard FIX protocol. To comply with the requirements of other regulators, some Participants already provide information about their clients at order entry when using the FIX protocol.

The Bourse would make changes to its SAIL protocol to accommodate the Client ID, data encryption and additional fields for markers.

Data encryption would also require ISVs to support encryption at order entry. Participants would need to decrypt the information for internal use.

7.3 Costs

The Division recognizes that there would be associated costs for Approved Participants to obtain or generate the necessary Client IDs and to integrate them into their existing trading systems. However, we also expect that this initiative will reduce the amount of information the Division needs to request post-trade thereby reducing the Participants costs over the long term.

The IIAC and its members have previously assessed the impacts (privacy, technology and cost) of client identifiers and order markers for debt and listed securities as part of IIROC's client identifier initiative. During IIROC's client identifier consultation in 2017, the IIAC recommended to IIROC that they engage the Bourse's Regulatory Division in discussions so that the two regulators can have alignment on their separate client identifier frameworks. If the Regulatory Division had issued its proposal at the time the industry was assessing client identifiers and order markers in collaboration with IIROC, any subsequent software development costs could have been kept to a minimum.

Asking industry members to revisit client identifiers and order markers for derivatives - when the IIROC project has been completed and the software development has been executed - creates disruption and increased costs for our members. This is unacceptable. Furthermore, the business costs related to LEIs and identifiers for derivatives increase because of resulting updates required to Know-Your-Client documents, systems and technology, and necessary outreach to clients.

Other Considerations from the Regulatory Division (Part 7 of the Consultation Paper)

The Consultation Paper also lists the many benefits of client identifiers and order markers:

7.4 Benefits of Client IDs and Additional Markers

The Division considers the current proposal to be in the public interest as well as in the interest of Participants and regulators, including the Division.

7.4.1 *For the market in general, the Client ID and Additional Markers should help to:*

- *better align the Division's requirements with the requirements of other Canadian regulators;*
- *more effectively address the risks of electronic trading;*
- *enhance market integrity and investor protection; and*
- *ensure consistency of information across Canadian marketplaces.*

7.4.2 *For Participants, Client IDs and Additional Markers should help to:*

- *better manage the Approved Participants' internal risks as the new information provided should enhance and facilitate the supervision of clients and their activities;*
- *increase efficiency by reducing the time, cost and complexity in consolidating and verifying data across different databases, business lines, asset groups and/or platforms;*
- *reduce post-trading information requests from the Division; and*
- *obtain a clearer client picture by linking activity for a client's various accounts.*

7.4.3 *For the Division, Client IDs and Additional Markers should help to:*

- *increase availability and transparency of trading data;*
- *reduce time and effort needed to match client orders received;*
- *reduce the number or scope of requests for information;*
- *enhance the Division's data analysis and market surveillance capabilities;*
- *increase the accuracy of alerts;*
- *reduce the number of false alerts; and*
- *improve insight into a specific account's trading behavior.*

The IIAC and its members understand the benefits of increased regulatory data for market integrity and investor protection. However, the industry fails to understand how the Regulatory Division can assess derivatives identifiers and markers without the formal input of IIROC, which supervises market activities on the underlying products of these derivatives.

The IIAC and its members believe that, for fair trading on Canadian marketplaces, regulators must review trading data from both the derivatives products and the underlying products. Patterns of market manipulation may emerge when reviewing both types of data collectively. Such manipulative patterns may not be identified if multiple regulators review trading data in silos (for example, IIROC reviewing equities while the Regulatory Division reviews equity options). Canadian regulators must, for the benefit of the Canadian market, industry participants and Canadian investors, consider the added value of cross-market surveillance.

Additional Member Concerns

IIAC members have identified several concerns with the consultation which were not included in Part 7 of the Consultation Paper, including the following:

1. Despite requests from industry, the Regulatory Division failed to coordinate its client identifiers framework with IIROC at the time IIROC announced a similar initiative;
2. The Regulatory Division's project does not formally include the participation of the Investment Industry Regulatory Organization of Canada (IIROC);
3. The proposal to use a Legal Entity Identifier (LEI) for derivatives creates numerous complications for participants;
4. The Consultation Paper requires further clarity;
5. The Regulatory Division's timeline is not realistic.

These additional concerns are detailed below.

1. Despite requests from industry, the Regulatory Division failed to coordinate its client identifiers framework with IIROC at the time IIROC announced a similar initiative

The Regulatory Division of the Bourse has been mentioning its need for client identifiers for many years. The industry understands that further information provided to a self-regulatory organization (SRO) may be beneficial as it should increase the quality of market surveillance and market analysis, and therefore, investor protection.

However, when IIROC struck its own implementation committee in 2017 to review client identifiers, the IIAC mentioned to the Regulatory Division - and to IIROC - that possible client identifiers and other markers needed to be assessed for both derivatives products and for underlying products through a single regulatory project.

From the perspective of decreasing the industry's regulatory burden (and not introducing new burdens), the Regulatory Division and IIROC should have created a single industry implementation committee in 2017. The industry requested that the Regulatory Division participate actively in the IIROC group, which included dealers, vendors and marketplaces, to create an identifier and marker framework that could be used in a changing regulatory environment, and for years to come, for derivatives and for their underlying products.

Unfortunately, the Regulatory Division decided that its identifier and marker project would not be done in conjunction with IIROC. The decision to defer consideration of this issue and to work on it independently from the established IIROC implementation committee has resulted in several adverse consequences for the industry. Specifically, it brings additional cost burdens for industry participants, who consequently believe **the Bourse should pay for any resulting technological changes to their systems** (which have recently been changed to comply with the IIROC requirements). It is unacceptable for IIAC members to pay for the Regulatory Division's complacency, considering the Regulatory Division was aware of the IIROC working group well in advance of the first meeting and invited to participate.

2. The Regulatory Division's project does not formally include the participation of the Investment Industry Regulatory Organization of Canada (IIROC)

As mentioned above, the need for the Regulatory Division's introduction of client identifiers and other markers is to improve the quality of market surveillance and market analysis. Such identifiers and markers should help the SRO identify potential market manipulation on its derivatives market.

Since other derivatives marketplaces in Canada may soon be created, the industry believes that all Canadian listed derivatives should possess the same identifier and marker framework. Furthermore, since cross-asset market surveillance may soon become a Canadian reality, IIROC should be highly engaged and involved in drafting derivatives identifier and marker proposals. As we understand it, IIROC surveillance systems could easily extend to derivatives surveillance.

3. The use of a Legal Entity Identifier (LEI) for derivatives creates numerous complications for participants

The Consultation Paper states the following:

2.1 Client ID

The Division proposes that all orders sent to the Bourse on behalf of a client account be tagged with a Client ID. The Client ID needs to be a valid Legal Entity Identifier ("LEI") in line with Global Legal Entity Identifier Foundation (GLEIF). Where an LEI does not exist, a Client ID must be assigned by the Approved Participant, such as the full account number as it appears in the Approved Participant records.

IIAC members generally support the use of LEIs in the financial industry but currently worry about the use of LEI instead of or in addition to the current use of account numbers for listed derivatives. The IIAC and its members understand IIROC's need for LEIs but believe that derivatives do not require these same markers to ensure proper surveillance. IIROC's systems should be able to match different data during cross-market analysis.

Firms would need to obtain a significant technology budget to include LEIs on a pre-trade basis. Furthermore, it would achieve little in the Know-Your-Client part of the business since an account number is already attached to every transaction.

In addition, futures contracts are settled on the trading date, as opposed to equities and bonds. The use of LEIs for futures contracts is deemed overkill.

The Bourse must also consider the complication for asset managers that may trade on behalf of a different LEI or for different LEIs.

Cost is also an issue. It costs a client over \$100 to obtain an LEI. Clients also need to renew their LEI every year, which adds additional cost and effort. Members also note that not all eligible clients are aware of the global LEI framework and, therefore, LEIs are often unavailable for clients. The introduction of this tag would necessitate significant client outreach on the part of our members.

Furthermore, the industry has privacy and confidentiality concerns associated with the use of LEIs. What are the intended uses of the LEI by the Bourse? Will these uses be approved by the AMF ahead of implementation?

4. The Consultation Paper requires further clarity

The Consultation Paper would need to be clarified for the industry to provide detailed comments. For example, IIAC members provided the following:

- **2.1 Client ID**

Consultation Paper states: *The Client ID needs to be a valid Legal Entity Identifier (“LEI”) in line with Global Legal Entity Identifier Foundation (GLEIF). Where an LEI does not exist, a Client ID must be assigned by the Approved Participant, such as the full account number as it appears in the Approved Participant records.*

Industry Comments: As previously mentioned, the industry currently disagrees with the use of LEIs for listed derivatives. However, we will still provide comments on the topic as further clarity would be needed for implementation. For example:

- What is considered a “valid” LEI? For example, what is the view of the Regulatory Division with respect to an LEI that has lapsed? We strongly recommend that, like IIROC, the Regulation Division consider lapsed LEIs as valid. Also, the Regulatory Division must adopt the same view as IIROC in that the onus should be on the client, not the dealer, to ensure LEIs are obtained and renewed.
- What are the implications to dealers when a client refuses to obtain an LEI or cannot obtain one in time before placing an order? Should the dealer refuse trade instructions from the client? Should the information be provided post-trade? Should the dealer use a client ID alternative?
- What are the criteria for an acceptable client ID alternative?
- Are there any alternative client IDs that are not acceptable? For example, is a partial account number acceptable?
- Harmonization with IIROC is needed. LEIs should be obtained when a firm is supervising account activity as a corporate account, not when a firm is supervising account activity as a retail account.

- **2.2 Additional Markers and Exemptions**

Consultation Paper states: *Initially, orders not respecting the new requirements proposed in this document would not be rejected, though this allowance may be reviewed over time depending on the level of adoption.*

Industry Comment: We require more clarity on what constitutes a reasonable “level of adoption” so orders will not be rejected even if they do not meet the requirements.

- **4.1.3 Additional Markers**

Footnote 7 of the Consultation Paper states: *Approved Participants should report trade allocations if they have received the allocations at the time of reporting. For example, if at the time of reporting, the Approved Participants have allocations for individual sub-funds that have separate LEIs, the Approved Participants would report the allocations using each sub fund's LEI. If the Approved Participants do not have separate LEIs, the Approved Participants would report each allocation using the parent's LEI.*

Industry Comment: To provide further comments, members need to know how the term "reporting" is defined by the Bourse and what is meant by "time of reporting"?

5. The Regulatory Division's timeline is not realistic

The Consultation Paper provides the following information regarding timelines:

The Division is targeting the third quarter of 2021 to communicate implementation timelines and technical notice to stakeholders to allow for appropriate budget and technological planning for 2022. The Division proposes that the requirements be presented to the Bourse executive committees in the second quarter of 2022 for approval but include a 6 month implementation period. The Division wants the stakeholders to have ample time to implement and test the proposed requirements. That way the requirements will be fully operational by the fourth quarter of 2022.

The IIAC and its members appreciate the "ample time" consideration for implementation and testing. However, the industry wonders what would be included in the technical notices to stakeholders to be issued in "the third quarter of 2021" given the Regulatory Division working group has only met twice, and since the industry does not approve the current proposal. Once again, we believe IIROC must be highly involved in this project for it to be successful.

An implementation during the fourth quarter of 2022 is simply not realistic since a detailed analysis will be required to understand the technology and administrative challenges based on the final scope, yet to be determined. We believe the Bourse may soon be postponing the implementation date by a full year, which would be more realistic.

Conclusion

As previously mentioned, the IIAC and its members do not believe that a Regulatory Division working group on client identifiers and order markers for derivatives products is the proper way of moving forward. We instead believe that IIROC and the Regulatory Division should now create a joint working group to review client identifiers and order markers for listed derivatives products.

As for the questions included in the Consultation Paper, we may choose to answer these at a later time, if the current process is not amended. However, we wish to reiterate that the industry has multiple concerns with the current Consultation Paper:

- Challenging implementation of technological changes.
- Privacy and confidentiality considerations.
- Encryption and decryption considerations. Encrypting is a valid approach, but other approaches (such as short codes) may also provide equivalent benefits. An assessment should be performed.
- A detailed assessment of the rules in foreign jurisdictions should be performed. Rules in foreign jurisdictions may restrict the use of LEIs. If required, would the MX offer exemptions for blocked jurisdictions? Could foreign restrictions create an unlevel playing field between domestic and foreign participants?

- Post trade changes/corrections considerations. Post trade changes/corrections, such as allocations, should be initially addressed at trade date. When the trade is posted at T+1, the new/revised client IDs allocated post trade as a result of the post trade allocation would be provided to the MX at T+1. Further trade guidance is required from the Bourse providing directions/clarifications for all types/nature of post trade corrections with respect to when these revised client IDs/trades would be required from the Approved Participant.
- Legal considerations. What is permitted with regards to including a client LEI on a trade order?
- Electronic access considerations. Clarity is required on the Bourse's expectation for an automated trading marker (AT marker) for clients accessing the exchange through an electronic access arrangement. Will clients trading through manual order entry or through algorithmic orders be expected to comply?

Please note that the IIAC and its members, as always, remain available for further consultations.

Yours sincerely,



Annie Sinigagliese
Managing Director
Investment Industry Association of Canada
asinigagliese@iiac.ca