

## FORM FBOT—EXHIBIT F

**Request:** With respect to each relevant regulatory regime or authority governing the foreign board of trade, attach the following (including, where appropriate, an indication as to whether the applicable regulatory regime is dependent on the home country's classification of the product being traded on the foreign board of trade as a future, option, swap, or otherwise, and a description of any difference between the applicable regulatory regime for each product classification type):

(1) A description of the regulatory regime/authority's structure, resources, staff, and scope of authority; the regulatory regime/authority's authorizing statutes, including the source of its authority to supervise the foreign board of trade; the rules and policy statements issued by the regulator with respect to the authorization and continuing oversight of markets, electronic trading systems, and clearing organizations; and the financial protections afforded customer funds.

(2) A description of and, where applicable, copies of the laws, rules, regulations and policies applicable to:<sup>1</sup>

(i) The authorization, licensure or registration of the foreign board of trade.

(ii) The regulatory regime/authority's program for the ongoing supervision and oversight of the foreign board of trade and the enforcement of its trading rules.

(iii) The financial resource requirements applicable to the authorization, licensure or registration of the foreign board of trade and the continued operations thereof.

(iv) The extent to which the IOSCO Principles are used or applied by the regulatory regime/authority in its supervision and oversight of the foreign board of trade or are incorporated into its rules and regulations and the extent to which the regulatory regime/authority reviews the applicable trading systems for compliance therewith.

(v) The extent to which the regulatory regime/authority reviews and/or approves the trading rules of the foreign board of trade prior to their implementation.

(vi) The extent to which the regulatory regime/authority reviews and/or approves futures, option or swap contracts prior to their being listed for trading.

(vii) The regulatory regime/authority's approach to the detection and deterrence of abusive trading practices, market manipulation, and other unfair trading practices or disruptions of the market.

(3) A description of the laws, rules, regulations and policies that govern the authorization and ongoing supervision and oversight of market intermediaries who may deal with members and other participants located in the United States participants, including:

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<sup>1</sup> To the extent that any such laws, rules, regulations or policies were provided as part of Exhibit A-5, they need not be duplicated. They may be cross-referenced.

- (i) Recordkeeping requirements.
  - (ii) The protection of customer funds.
  - (iii) Procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.
- (4) A description of the regulatory regime/authority’s inspection, investigation and surveillance powers; and the program pursuant to which the regulatory regime/authority uses those powers to inspect, investigate, and enforce rules applicable to the foreign board of trade.
- (5) For both the foreign board of trade and the clearing organization (unless addressed in Supplement S-1), a report confirming that the foreign board of trade and clearing organization are in regulatory good standing, which report should be prepared subsequent to consulting with the regulatory regime/authority governing the activities of the foreign board of trade and any associated clearing organization. The report should include:
- (i) Confirmation of regulatory status (including proper authorization, licensure and registration) of the foreign board of trade and clearing organization.
  - (ii) Any recent oversight reports generated by the regulatory regime/authority that are, in the judgment of the regulatory regime/authority, relevant to the foreign board of trade’s status as a registered foreign board of trade.
  - (iii) Disclosure of any significant regulatory concerns, inquiries or investigations by the regulatory regime/authority, including any concerns, inquiries or investigations with regard to the foreign board of trade’s arrangements to monitor trading by members or other participants located in the United States or the adequacy of the risk management controls of the trading or of the clearing system.
  - (iv) A description of any investigations (formal or informal) or disciplinary actions initiated by the regulatory regime/authority or any other self-regulatory, regulatory or governmental entity against the foreign board of trade, the clearing organization or any of their respective senior officers during the past year.
- (6) For both the foreign board of trade and the clearing organization (unless addressed in Supplement S-1), a confirmation that the regulatory regime/authority governing the activities of the foreign board of trade and the clearing organization agree to cooperate with a Commission staff visit subsequent to submission of the application on an “as needed basis,” the objectives of which will be to, among other things, familiarize Commission staff with supervisory staff of the regulatory regime/authority; discuss the laws, rules and regulations that formed the basis of the application and any changes thereto; discuss the cooperation and coordination between the authorities, including, without limitation, information sharing arrangements; and discuss issues of concern as they may develop from time to time (for example, linked contracts or unusual trading that may be of concern to Commission surveillance staff).

## Response:

### 1. Regulatory Regime/Authority

#### A. Structure, resources, staff, and scope of authority

In Canada, derivatives and securities are regulated by the provinces rather than at the federal level.<sup>2</sup> As a resident of Québec, Montréal Exchange is regulated under Québec law, by the *Autorité des marchés financiers* (AMF). The AMF is a legal person with a mandate from Québec to oversee the province's financial sector and assist consumers of financial products and services.<sup>3</sup> In addition to supervising derivatives markets and institutions, the AMF oversees securities, insurance, non-bank depository institutions, and the distribution of financial products and services.<sup>4</sup> The AMF's mission with respect to derivatives is to "supervise derivatives markets, including derivatives exchanges and clearing houses, and ensure that regulated entities and other derivatives market practitioners comply with the obligations imposed by law."<sup>5</sup>

Within the AMF, authority lies with the President and CEO.<sup>6</sup> The President and CEO is responsible for the administration and direction of the AMF within the scope of its bylaws and policies, and is vested with all the powers relating to the application of the laws governing participants in the financial sector.<sup>7</sup> An Advisory Council assists the President and CEO in the management of the AMF, and reviews the compatibility of AMF action with the regulator's mission.<sup>8</sup> The Advisory Council is not a typical Board of Directors; rather, it is a corporate governance advisory board.<sup>9</sup> The Council has a dual mandate: it serves in an advisory capacity to the President and CEO and to the Québec Minister of Finance, and it serves in the oversight of the AMF by contributing to the control and reporting processes of the Minister of Finance.<sup>10</sup> The Council is composed of persons from outside the AMF, chosen for their financial and management expertise.<sup>11</sup>

The AMF is organized into two branches (Administration; Enforcement and Legal Affairs) and five divisions (Consumer Protection; Solvency; Distribution; Market Value; and Compensation).<sup>12</sup> It has a staff of approximately 600 employees, spread between its offices in Québec City and Montréal.<sup>13</sup> The AMF is funded through the dues and fees paid by the individuals and enterprises it regulates.<sup>14</sup>

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<sup>2</sup> While the Canadian Parliament has attempted to implement federal regulation of securities, the Supreme Court of Canada recently declared the proposed statute unconstitutional as beyond the Canadian parliament's authority to regulate trade and commerce. *Reference re: Securities Act*, 2011 S.C.C. 66 (December 22, 2011).

<sup>3</sup> Attachment 26, Governance Statement of the *Autorité des marchés financiers*, April 2010, at 4.

<sup>4</sup> *Id.*; see also Attachment 10, *An Act respecting the Autorité des marchés financiers*, R.S.Q., c. A-33.2 (AMF Act) § 4.

<sup>5</sup> AMF Act at § 4(4.1).

<sup>6</sup> Governance Statement at 9; AMF Act at § 20.

<sup>7</sup> Governance Statement at 3.

<sup>8</sup> Governance Statement at 9.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*; see also AMF Act § 57.

<sup>11</sup> Governance Statement at 10; AMF Act at § 49.

<sup>12</sup> Governance Statement, at 11; AMF Act at § 5.

<sup>13</sup> <http://www.lautorite.qc.ca/en/careers-amf-pro.html>

<sup>14</sup> Governance Statement, at 5; AMF Act at § 38.

The AMF is assisted by the *Bureau de décision et de révision*, an independent administrative tribunal.<sup>15</sup> This tribunal has two main powers: to enforce the rights and laws under the various Acts which the AMF administers, and to review the decisions and conduct of the AMF, exchanges, clearing houses, self-regulatory organizations, or recognized regulated entities.<sup>16</sup>

The AMF is a member of the Canadian Securities Administrators, which is a council of the 13 securities regulators of Canada's provinces and territories, whose mandate is to coordinate and harmonize the regulation of Canada's capital markets.

## **B. Authorizing statutes**

The AMF was established and authorized by *An Act respecting the Autorité des marchés financiers*, R.S.Q., c. A-33.2.<sup>17</sup> The *Derivatives Act*, R.S.Q., c. I-14.01,<sup>18</sup> authorizes the AMF's regulation of derivatives markets and institutions, while some of the AMF's powers with respect to this regulation are specified in the *Securities Act*, R.S.Q., c. V-1.1.<sup>19</sup>

*An Act respecting the Autorité des marchés financiers* establishes the AMF and confers its powers and authority over Québec's financial markets. It dissolved Québec's previous financial regulators, and consolidated their authority into a single new entity.<sup>20</sup> Among other things, the *Act* authorizes inspection and investigations,<sup>21</sup> receivership for regulated persons or entities,<sup>22</sup> and self-regulatory organizations.<sup>23</sup>

Under the *Derivatives Act*, no "regulated entity" may carry on derivatives activity in Québec unless the AMF recognizes it as an exchange, a published market, a clearing house, an information processor, a trade repository or a self-regulatory organization.<sup>24</sup> Both exchanges and clearing houses are included within the *Act*'s definition of a "regulated entity."<sup>25</sup> The *Act* defines the obligations of recognized regulated entities,<sup>26</sup> rules for dealers and advisers,<sup>27</sup> rules for the administration of the *Act*,<sup>28</sup> prohibitions and penalties,<sup>29</sup> and the scope of the AMF to issue relevant regulations.<sup>30</sup>

## **C. Rules and policy statements**

The AMF has issued a number of regulations and policy statements under the *Derivatives Act*.<sup>31</sup> It has issued regulations governing regulated entities' self-certification of rules, the

<sup>15</sup> See [http://www.bdrvm.com/eng/default\\_eng.aspx](http://www.bdrvm.com/eng/default_eng.aspx); AMF Act at §§ 92-115.22.

<sup>16</sup> See [http://www.bdrvm.com/eng/default\\_eng.aspx](http://www.bdrvm.com/eng/default_eng.aspx); Attachment 27, History and Role of the Bureau.

<sup>17</sup> Attachment 10.

<sup>18</sup> Attachment 11.

<sup>19</sup> Attachment 12.

<sup>20</sup> AMF Act at §§ 707-710.

<sup>21</sup> *Id.* at §§ 9-19.

<sup>22</sup> *Id.* at §§ 19.1-19.17.

<sup>23</sup> *Id.* at §§ 59-91.

<sup>24</sup> *Derivatives Act*, R.S.Q. c-I-14.01, § 12.

<sup>25</sup> *Id.* at § 3.

<sup>26</sup> *Id.* at §§ 19-53.

<sup>27</sup> *Id.* at §§ 54-81.

<sup>28</sup> *Id.* at §§ 86-143.

<sup>29</sup> *Id.* at §§ 144-171.

<sup>30</sup> *Id.* at §§ 174-179.

<sup>31</sup> For a collection, see <http://www.lautorite.qc.ca/en/derivatives-law-regulation-pro.html>.

registration of derivatives dealers, communications with clients, and tariffs and fees paid with respect to derivatives.<sup>32</sup> It has also issued policy statements on the self-certification process,<sup>33</sup> guidance on applying the test for hybrid products under the Derivatives Act,<sup>34</sup> and guidance on the definition of “accredited counterparties.”<sup>35</sup> In addition, the AMF periodically publishes notices regarding regulatory action.<sup>36</sup>

#### **D. Financial protections for customer funds**

Under the Derivatives Act, dealers, advisers and representatives are responsible for the property entrusted to them by clients.<sup>37</sup> They must, as a general matter, segregate clients’ property from their property, and maintain separate accounting records.<sup>38</sup>

### **2. Laws, Rules, Regulations, and Policies**

#### **A. Authorization, licensure, or registration of the foreign board of trade**

As described above, an exchange must be recognized by the AMF in order to carry on derivatives activity in Québec.<sup>39</sup> Title II of the Derivatives Act covers the recognition of regulated entities such as exchanges. Exchanges must submit an application for recognition.<sup>40</sup> Upon recognition, an exchange becomes subject to certain obligations, such as instituting operating rules, and becomes subject to monitoring.<sup>41</sup>

An exchange may also be recognized as a self-regulatory organization.<sup>42</sup> An exchange can monitor or supervise the conduct of its members or participants only if authorized as an SRO.<sup>43</sup> To grant SRO status, the AMF must ascertain whether the exchange has the administrative structure and the financial and other resources necessary to exercise its functions and powers in an objective, fair and efficient manner.<sup>44</sup>

#### **B. Program for ongoing supervision and oversight of the FBOT and its enforcement of trading rules**

Under the Derivatives Act, MX must institute operating rules governing its activities and those of its participants.<sup>45</sup> Amendments to these rules are subject to a self-certification process, in which proposals go through a period of public consultation.<sup>46</sup> Where it believes it is necessary, the AMF may order an exchange to amend the exchange’s rules to conform to the Derivatives Act.<sup>47</sup> Because MX is a self-regulatory organization, every draft amendment

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<sup>32</sup> See Attachment 13, *Derivatives Regulation*, R.S.Q. c. I-14.01, r. 1-2.

<sup>33</sup> Attachment 28, Policy Statement Respecting Self-Certification, January 22, 2009.

<sup>34</sup> Attachment 29, Policy Statement Respecting Hybrid Products, January 22, 2009.

<sup>35</sup> Attachment 30, Policy Statement Respecting Accredited Counterparties, January 22, 2009.

<sup>36</sup> <http://www.lautorite.qc.ca/en/notices-derivatives-pro.html>

<sup>37</sup> *Derivatives Act* at § 72.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at § 12.

<sup>40</sup> *Id.* at § 14.

<sup>41</sup> *Id.* at §§ 19-53.

<sup>42</sup> AMF Act at § 59.

<sup>43</sup> *Id.* at § 60.

<sup>44</sup> *Id.* at 68.

<sup>45</sup> *Derivatives Act* at § 19.

<sup>46</sup> *Id.* at § 22; *Derivatives Regulation*, R.S.Q. c. I-14.01, r. 1 §§ 2-11.

<sup>47</sup> *Derivatives Act* at § 51.

pertaining to the constitutional documents, by-laws or operating rules requires the approval of the AMF<sup>48</sup>

MX also has a number of disclosure obligations. It must periodically release disclosures to the AMF, in accordance with its recognition order.<sup>49</sup> Within 90 days of the end of its fiscal year, MX must file its financial statements and an audit report with the AMF.<sup>50</sup> The AMF may also require that MX give it any information or document considered useful for the pursuit of its mission,<sup>51</sup> and MX must communicate to the AMF any information relating to its activities that may be useful to the AMF in exercising its functions and powers, and that the AMF might reasonably expect to receive.<sup>52</sup>

The AMF may inspect MX's affairs to verify compliance with the Derivatives Act or any AMF decision.<sup>53</sup> It may also conduct inspections to verify how MX exercises functions and powers delegated to it by the AMF.<sup>54</sup>

The *Bureau de décision et de révision* can prescribe a course of conduct to MX if it considers that it is necessary for the proper operation of exchange or for the protection of the public.<sup>55</sup>

### **C. The financial resource requirements for the foreign board of trade**

To be recognized by the AMF, an exchange must have adequate financial and human resources to carry on its activities and exercise any powers delegated to it by the AMF.<sup>56</sup> To be recognized as a self-regulatory organization, an exchange must have the financial resources necessary to exercise its functions and powers in an objective, fair and efficient manner.<sup>57</sup> Under its recognition order, the Exchange must maintain a working capital ratio of greater than 1.5:1, a cash flow to total debt outstanding ratio of greater than 20%, and a financial leverage ratio of less than 4.<sup>58</sup>

### **D. IOSCO Principles**

The AMF is a full Member of IOSCO, and an active participant in the organization.<sup>59</sup> It strives to take into account IOSCO pronouncements on exchange regulation, such as the IOSCO Principles.

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<sup>48</sup> AMF Act at § 74

<sup>49</sup> *Derivatives Act* at § 36.

<sup>50</sup> *Id.* at § 38; *see also* Attachment 4, Recognition Order at § 9.

<sup>51</sup> *Derivatives Act* at § 90.

<sup>52</sup> *Id.* at § 37.

<sup>53</sup> *Id.* at § 115.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.* at § 49.

<sup>56</sup> *Id.* at § 30.

<sup>57</sup> AMF Act at § 68.

<sup>58</sup> MX Recognition Order at § 9.

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[http://iosco.org/lists/display\\_members.cfm?CurrentPage=9&orderBy=jurSortName&alpha=None&memID=1&rows=10](http://iosco.org/lists/display_members.cfm?CurrentPage=9&orderBy=jurSortName&alpha=None&memID=1&rows=10)

As discussed in Exhibit D, MX employs the IOSCO Principles on Screen-Based Trading Systems for Derivative Product in the review of its Trading System.

#### **E. Approval of trading rules**

Amendments to MX's rules are subject to a self-certification process, in which proposals go through a period of public consultation.<sup>60</sup> Because MX is a self-regulatory organization, amendments must be approved by the AMF.<sup>61</sup> Where it believes it is necessary, the AMF may order an exchange to amend the exchange's rules to conform to the *Derivatives Act*.<sup>62</sup>

#### **F. Review and approval of futures, option, or swap contracts**

The AMF does not review and approve new contracts prior to their initial listing, mainly due to concerns that prior exposure to public consultation would entail adverse competitive ramifications. However, once listed, new products must be submitted to the AMF for review. New products must "ensure a high degree of protection against manipulation" and be in compliance with the *Derivatives Act*.<sup>63</sup>

Specifically, when an entity approves a rule in respect of a new derivative, it must send the text of the rule to the AMF no later than its effective date. In addition, the exchange must include detailed information on the product. The information that is required to be included with the rule text includes:

1. a description of all the terms related to the new product, of any ancillary agreement made in respect thereof and, if applicable, of the circumstances surrounding the offer or trading thereof; and
2. any other information required in the notice of self-certification provided for in the Regulation, with the necessary modifications. The submission is required to describe the derivative and the underlying interest, identify the listing date and provide a general and technical description of the derivative, noting in particular cash market practices for the underlying interest, the economic and public interest of the product, speculative and hedging limits and delivery mechanisms where applicable.

The exchange is expected also to provide the AMF with copies of market surveys, benchmarking or other reports that demonstrate that the proposed product will meet the requirements of the Act.

The following chart, included in the in the Policy Statement on Self Certification, further explains the information that the exchange is required to provide to the AMF in connection with the listing of a new exchange-traded derivative.

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<sup>60</sup> *Derivatives Act* at § 22; *Derivatives Regulation*, R.S.Q. c. I-14.01, r. 1 §§ 2-11.

<sup>61</sup> *AMF Act* at § 74.

<sup>62</sup> *Derivatives Act* at § 51.

<sup>63</sup> See, Policy Statement on Self Certification, Attachment 28.

<b>Aspect</b>	<b>Objectives</b>	<b>Explanations</b>
Characteristics of the underlying commodity or instrument	Economic and public interest; anti-manipulation	Provide a detailed description of the derivative and underlying instrument to demonstrate economic and public interest. The market of the underlying interest should be liquid with a reliable reference price.
Option characteristics (including strike price listing procedures and increments, option expiry, contract type, etc.)	Transparency and market efficiency	
Delivery terms	Market efficiency	Include where applicable delivery points, quality differentials, delivery facilities, etc.
Contract size or trading unit	Market efficiency and anti-manipulation	Indicate minimum quantity thresholds for block and cross trades, and any reporting time or market exposure delays.
Delivery months	Market efficiency	
Delivery period and last trading day	Market efficiency and anti-manipulation	
Minimum price change	Market efficiency and anti-manipulation	
Daily price limit provisions	Market efficiency and anti-manipulation	Indicate relationship to cash market price movements.
Speculative position limits	Anti-manipulation	Provide limits for spot month, method for calculating non-spot months (e.g., individually or combined), spread exemptions.
Reporting level for large positions	Anti-manipulation	Also describe relationship with other contracts, cash markets, netting of spread positions, etc.
Aggregation policy	Anti-manipulation	
Procedures for calculation and dissemination of settlement price	Market efficiency and transparency	Also describe safeguards against manipulation, third party license where applicable, fallback.
Trading hours	Market efficiency	
Provisions for halting trading	Market efficiency	Provide details regarding both discretionary and automatic halts, in particular as relates to the underlying instrument.

**G. The regulatory authority's rules applicable to the detection and deterrence of unfair trading practices.**

Part of the AMF's mission is to protect consumers against unethical, abusive or fraudulent practices.<sup>64</sup> It has rules oriented towards both deterring and detecting such practices.

The Derivatives Act establishes rules against insider trading.<sup>65</sup> It also prohibits the use of unfair, improper or fraudulent practices to influence the market price or value of a derivative or an underlying interest.<sup>66</sup> The Act prohibits knowingly or recklessly participating in a transaction that creates or contributes to a misleading appearance of trading activity in, or an artificial price for, a derivative or underlying interest, or that perpetrates a fraud on any person.<sup>67</sup> The Act also makes punishable misrepresentations about the offering or trading of derivatives, in the risk information document or certain other information that must be given to customers, or in any document sent or register kept under the Act.<sup>68</sup> The AMF is also authorized to issue regulations for the purpose of preventing fraud and manipulation, or preventing offers or trades that are prejudicial to clients and investors.<sup>69</sup>

Deterrence is aided by the penal provisions of the Derivatives Act. As a basic matter, any violation of the Act makes a person liable to a fine.<sup>70</sup> At a minimum, this fine will be the greater of double the profit realized or \$2,000 for a natural person or \$3,000 for any other person.<sup>71</sup> At a maximum, the fine can be the greater of four times the profit realized or \$150,000 for a natural person or \$200,000 for any other person.<sup>72</sup> For insider trading and failures to disclose certain documents to customers, the fines are higher: the minimum fine is the greatest of \$5,000, double the profit realized, or double the amounts invested in the transaction, and the maximum fine is the greatest of \$5,000,000, four times the profit realized, or four times the amount invested in the transaction.<sup>73</sup> The Act also makes anyone permitting a violation of the Act fully liable for the violation,<sup>74</sup> and includes provisions for conspiracy<sup>75</sup> and aiding and abetting liability.<sup>76</sup> Additionally, the AMF can recover the costs of any investigation from any person found guilty of an offense.<sup>77</sup>

The Derivatives Act also requires recognized exchanges to implement their own rules deterring unfair trading practices. An exchange may not be structured so that certain market participants are favored over others, and any differences in treatment among categories of

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<sup>64</sup> AMF Act at § 8(5).

<sup>65</sup> *Derivatives Act*, at §§ 144-145.1

<sup>66</sup> *Id.* at § 150.

<sup>67</sup> *Id.* at § 151.

<sup>68</sup> *Id.* at § 152.

<sup>69</sup> *Id.* at § 175.

<sup>70</sup> *Id.* at § 160.

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.* at § 162.

<sup>74</sup> *Id.* at § 163.

<sup>75</sup> *Id.* at § 164.

<sup>76</sup> *Id.* at § 165.

<sup>77</sup> *Id.* at § 170.

participants must be identified and disclosed.<sup>78</sup> The rules of an exchange must also prohibit and counter market abuse and manipulation, fraud, and deceptive trading.<sup>79</sup>

The AMF has authority to inspect any recognized exchange to verify compliance with the Derivatives Act of any AMF decision.<sup>80</sup> AMF's inspection powers are described in more detail below.

### **3. Authorization and ongoing supervision of market intermediaries**

Market professionals, including Dealers and Advisers are regulated by the AMF under Title III of the Derivatives Act. Regulation of such market professionals includes registration, regulation of their business conduct, supervision and oversight of their on-going compliance, and the authority to take disciplinary actions as appropriate to remedy intermediary misconduct.

#### **A. Registration**

The Derivatives Act requires any person that carries on business as a dealer or adviser to register with the AMF.<sup>81</sup> Natural persons are required to register as a representative of a dealer or adviser. In addition, the chief compliance officer or ultimate designated person of a registrant must also be registered and perform the functions specified by AMF regulation. Generally, entities registered under section 148 or 149 of the Securities Act (chapter V-1.1) can be deemed to be registered under the Derivatives Act as well, conditioned on their paying the requisite fees and meeting other conditions.

The AMF is charged by the Derivatives Act with establishing the conditions for registration. Natural persons, as in the U.S., are required to meet standards of competence, integrity and sufficient financial resources to conduct their intermediary business.

The registration process is administered by the Investment Industry Regulatory Organization of Canada ("IIROC"), the Canadian national self-regulatory organization. IIROC's Registration Department ensures that partners, directors and officers of IIROC Dealer Members and all Dealer Member personnel conducting or supervising regulated activities meet regulatory requirements pertaining to proficiency, experience, integrity, experience, conflicts of interest and client service as required under IIROC Rules and applicable Securities Act and Regulations and the Derivatives Act. IIROC grants Approval on a national basis, and also grants provincial registration under securities legislation to IIROC Dealer Member personnel in Ontario, Alberta, British Columbia, Quebec and Newfoundland & Labrador.

Qualification standards can include initial course and examination requirements, specific post-registration/approval courses, relevant experience, continuing education, supervision or position within the Dealer Member's management.

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<sup>78</sup> *Id.* at § 40; AMF Act at § 77.

<sup>79</sup> *Derivatives Act* at § 41.

<sup>80</sup> *Id.* at § 115.

<sup>81</sup> *Derivatives Act*, § 54.

## **B. Conduct requirements**

Dealers and advisers must organize and control their affairs diligently and effectively. To that end, they must put in place procedures to facilitate compliance with the Derivatives Act and ensure that their books, registers and records can be audited.<sup>82</sup> Dealers and advisers and their officers, representatives and employees are required to act in compliance the Derivatives Act and the AMF's regulations. In addition, such persons are subject to a general requirement that they meet accepted standards of integrity and fairness in the derivatives industry, and are must act toward their customers with honesty and loyalty. To further that goal, the Derivatives Act places an obligation on derivatives professionals to "assess the client's needs and to recommend a derivatives product or a related service that suits those needs." In determining a course of conduct, dealers, advisers and representatives must place the client's interests above their own and refrain from taking advantage of a client's trust in them.<sup>83</sup> The Derivatives Act also places a duty of best execution on market professionals acting on behalf of their customers, except with respect to alternative trading systems.

With respect to derivatives transactions, market professionals must provide the risk disclosure document prescribed by regulation and ensure that the client has:

1. the information the client ordinarily needs for the purposes of their business relationship;
2. the information required to make an informed decision and give clear trade instructions; and
3. information on the margin requirements to which the trade is subject and on the consequences of the client failing to meet those requirements when called on to do so.<sup>84</sup>

In addition, dealers must supervise the conduct of accredited counterparties to whom they provide direct trading access to a market. As noted elsewhere in this Application, customer funds are subject to segregation from the funds of the market professional.

## **C. Supervision**

Market professionals are subject to on-going supervision and examination. The AMF may revoke, suspend or impose restrictions or conditions on a registration if (1) the representative, chief compliance officer or ultimate designated person has made an assignment of property or been placed under a receiving order pursuant to the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3); (2) the representative, chief compliance officer or ultimate designated person has been convicted by a court inside or outside Canada of an act or offence which, in the opinion of the AMF, is related to the activity of representative, chief compliance officer or ultimate designated person, or has pleaded guilty to such an act or offence; (3) the representative, chief compliance officer or ultimate designated person has been assigned a tutor, curator or adviser; or (4) the registration has been revoked or suspended, or

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<sup>82</sup> Derivatives Act, §61.

<sup>83</sup> Id at §67.

<sup>84</sup> Id at §69.

restrictions or conditions have been imposed on the registration, by a body in or outside Québec that is responsible for supervising and monitoring persons authorized to act as representatives, chief compliance officers or ultimate designated persons.<sup>85</sup>

In addition, registration may be revoked, suspended, or conditioned by the request of the AMF if the dealer, adviser or representative is not in compliance with the Act or if it is necessary for the protection of the public. AMF may also conduct investigations of possible violations.

Under the Derivatives Act, AMF has the authority to order a dealer, adviser or qualified person to direct an auditor to conduct, at the registrant's own expense, any audit or review required by AMF. In addition, AMF may conduct a direct review of the registrant to verify compliance.

The IIROC also monitors and oversees the financial status of its Dealer Member firms and enforces compliance with IIROC rules. This includes reviewing member financial reports, field examinations, examinations of members' books and records and review of audit working papers.

#### **4. Inspection, investigation, and surveillance powers**

*An Act respecting the Autorité des marchés financiers* authorizes the AMF to inspect and investigate exchanges.<sup>86</sup>

The AMF can appoint a staff member or other designated person to inspect a person or entity regulated under the Derivatives Act.<sup>87</sup> This inspector is authorized to enter the establishment of a regulated person or entity, require from persons present information related to the Act and the production of relevant documents, and examine and copy relevant documents.<sup>88</sup>

If it has reasonable grounds to believe that there has been a violation of the Derivatives Act, the AMF may investigate.<sup>89</sup> It may appoint a staff member or other designated person,<sup>90</sup> and this person is vested with the powers and immunity of public inquiry commissioners, except the power to order imprisonment.<sup>91</sup> These investigations are conducted in private.<sup>92</sup> The AMF may communicate certain information or documents obtained during an investigation to police, securities authorities, or other Canadian regulators.<sup>93</sup> Investigators must report back to the AMF.<sup>94</sup>

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<sup>85</sup> *Id.* at §80.

<sup>86</sup> *See* AMF Act at §§ 9-19.

<sup>87</sup> *Id.* at § 9.

<sup>88</sup> *Id.* at § 10.

<sup>89</sup> *Id.* at § 12.

<sup>90</sup> *Id.* at § 13.

<sup>91</sup> *Id.* at § 14.

<sup>92</sup> *Id.* at § 12.

<sup>93</sup> *Id.* at § 15.6.

<sup>94</sup> *Id.* at § 15.

**5. Regulatory Good Standing**

The AMF has been apprised of the Commission's request for verification that MX is in good standing and for a statement relating to any regulatory concerns or pending investigations. MX expects that the AMF will provide such statement directly to the Commission.

**6. Regulatory Cooperation with CFTC visit**

MX hereby represents and confirms that it will cooperate with a Commission staff visit subsequent to submission of this Application on an "as needed basis," the objective of which will be to, among other things, familiarize Commission staff with supervisory staff of the exchange, discuss the laws, rules and regulations that formed the basis of the Application and any changes thereto; discuss the cooperation and coordination with the exchange, including without limitation, information sharing arrangements; and discuss issues of concern as they may develop from time to time.

MX has request that the AMF confirm to the Commission its intent to cooperate with any visit that the Commission may undertaken in connection with this Application or thereafter, in connection with registration by MX as a Foreign Board of Trade.