

DECISION NO. 2010-PDG-0034

ICE Futures Canada, Inc.

Exemptions pursuant to Section 86 of the *Derivatives Act* from the requirements under the first paragraph of Section 12 and under the first paragraph of Section 82

In view of the application ("Application") of ICE Futures Canada, Inc. ("IFUT") submitted on October 22, 2009, to the Autorité des marchés financiers ("AMF") for a decision by the AMF exempting IFUT from the requirements under the following provisions of the Quebec *Derivatives Act*, R.S.Q., c. 1-14.01 ("QDA"):

- The first paragraph in Section 12 requiring AMF recognition as an exchange and published market;
- The first paragraph in Section 82 requiring AMF qualification for creating or marketing a derivative, before that derivative can be offered to the public;

In view of decision no. 5718 of June 16, 2008, by the Manitoba Securities Commission ("MSC"), recognizing IFUT as a self-regulatory organization and registering it as a commodity futures exchange;

In view of the Memorandum of Understanding regarding the Oversight of Exchanges and Quotation and Trade Reporting Systems ("MOU") between a number of Canadian securities commissions, including the AMF and the MSC, which came into effect on January 1, 2010;

Whereas the MOU states:

- that each recognized exchange has a Lead Regulator responsible for its oversight;
- that the other Exempting Regulators exempt an exchange from recognition as an exchange;

Whereas the entities subject to the MOU as well as the Lead Regulators and the Exempting Regulators are listed in a separate document entitled "List of Exchanges, Lead Regulators and Exempting Regulators in relation to the Memorandum of Understanding respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems" (the "List");

Whereas the List shows the MSC as the Lead Regulator of IFUT;

Whereas IFUT does not currently have, nor does it intend to have, offices or a place of business in Quebec;

In view of the first paragraph of Section 86 of the QDA, pursuant to which the AMF may exempt a derivative, a person, a group of persons, an offer, or a trade from any or all of the requirements or obligations under the QDA if it considers that the exemption is not

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prejudicial to the public interest;

In view of the publication of the Request for Comments in the *Bulletin de l'Autorité des marchés financiers* of November 20, 2009 [(2009) B.A.M.F., Vol 6, n° 46, section 7.1] for a period of 30 days;

Considering the absence of comments following this publication;

Whereas IFUT is in agreement with the terms and conditions of this decision;

Considering the Application submitted to it by IFUT and the MOU, the AMF considers that it is not prejudicial to the public interest to grant the decision that was asked of it;

Considering the recommendation of the *Direction de la supervision des OAR securities* regulatory authority;

Therefore:

Pursuant to Section 86 of the QDA, the AMF grants IFUT the following exemptions:

- an exemption from the requirement in the first paragraph of Section 12 of the QDA to be recognized as an exchange or published market;
- an exemption from the requirement in the first paragraph of Section 82 of the QDA to be qualified by the AMF to create or market a derivative, before that derivative can be offered to the public.

This decision is made subject to the following terms and conditions:

1. Maintaining recognition and registration

IFUT shall continue to be recognized as a self-regulatory organization and be registered as a commodity futures exchange by the MSC.

2. Activities in Quebec

IFUT's activities in Quebec shall be limited to those of a commodity futures and options on commodity futures exchange.

3. Exchange oversight

The MOU shall remain in effect and the MSC shall continue to act as the Lead Regulator. For the purpose of applying the MOU, the AMF shall act as an Exempting Regulator and the List shall be amended accordingly.

4. Amendments to the Articles of Incorporation and Rules

All proposed amendments to the IFUT Articles of Incorporation and Rules shall be simultaneously filed with the MSC and the AMF. The notice of non-disapproval by the MSC shall be filed by IFUT with the AMF no later than three days following its receipt.

5. Information to be provided to the AMF

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- a) IFUT shall simultaneously file its monthly financial statements and its audited annual financial statements with the MSC and the AMF;
- b) IFUT shall simultaneously file all of the documents required under National Instrument 21-101, *Market operation* with the MSC and the AMF;
- c) IFUT shall communicate to the AMF in a timely manner any other information relating to its activities that may be useful to the AMF in exercising its functions and powers, and which the AMF may request via the MSC from time to time.

6. Confidentiality of information

IFUT shall preserve the confidentiality of any information it obtains in the course of its business in Quebec, in compliance with the applicable privacy legislation.

7. Appointment of an attorney for service in Quebec

IFUT shall appoint and retain an attorney for service to represent it in Quebec and shall inform the AMF in a timely manner of his/her name and contact information. IFUT shall also notify the AMF in a timely manner of any change in its attorney for service.

Dated February 23, 2010

[original signed]