

## **Exhibit G-The Rules of ICE Futures Canada, Inc. and Enforcement Thereof**

### **Exhibit G-1**

**A description of ICE Futures Canada’s regulatory or compliance department, including its size, experience level, competencies, duties and responsibilities.**

The MSC Order No. 5718 (Attachment A-5(8) to Exhibit A-5) requires that ICE Futures Canada must maintain a Regulatory Division responsible for all matters relating to regulation, compliance, and market surveillance. A Special Regulatory Committee (“SRC”) must be mandated which committee leads the Regulatory Division. The operations of the Regulatory Division must be independent of the for-profit operations of the Exchange.

ICE Futures Canada Rule 9 provides for the establishment of the Regulatory Division and the SRC, and mandates the SRC with its duties and jurisdiction. Rule 9.05 sets out the specific powers and obligations of the SRC:

#### **9.05 Powers**

**The Special Regulatory Committee shall have the following powers:**

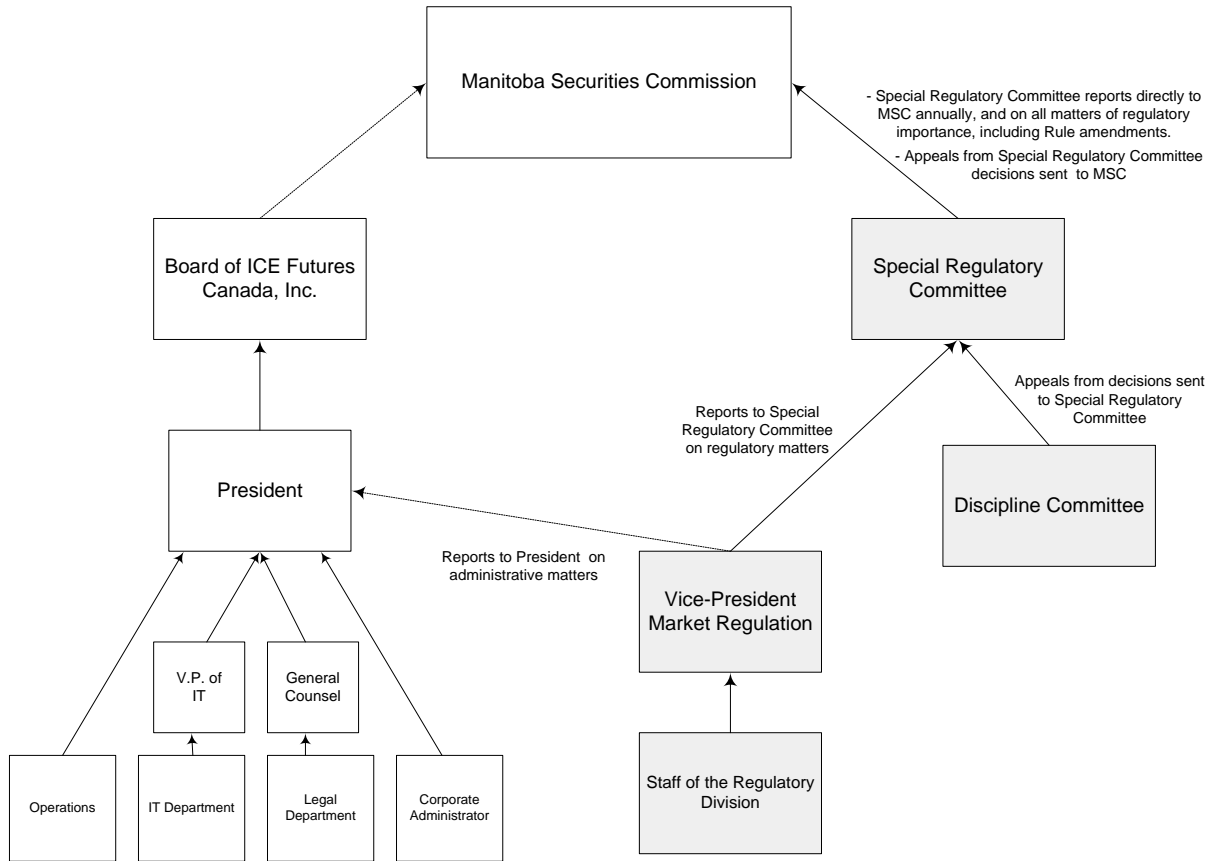
- a. **The overall supervision and control of the activities of the Regulatory Division; and, in particular, the Special Regulatory Committee shall:**
  - (1) **Ensure that the Regulatory Division has the resources it needs to carry out its duties. In the event the Special Regulatory Committee determines that the Regulatory Division has insufficient resources it shall make a recommendation(s) to the Board to resolve the matter.**
  - (2) **Ensure that the Regulatory Division carries out its duties and responsibilities and that it does so in a manner that is fair, objective and without conflict of interest; and**
  - (3) **Evaluate the performance of the Regulatory Division and report thereon, in writing, to the Commission on an annual basis. A copy of the report will be provided to the Board.**
- b. **To review and make rules and rule amendments on all compliance, regulatory, and market surveillance matters;**
- c. **To report to the Commission, as required, on all matters of regulatory importance;**
- d. **To hear and decide on hearings at first instance where the Rules so require.**
- e. **To hear and decide appeals from decisions of the Discipline Committee.**

Although appointed by the Board, the SRC reports directly to the MSC on all matters affecting regulation and compliance, and the SRC effectively has board-like powers with respect to all matters pertaining to regulation and compliance. The SRC is responsible for the oversight of all matters concerning compliance and regulation and determine any Rule amendments within their jurisdiction which includes trade surveillance, market surveillance, and investigatory/disciplinary matters. Rules approved by the SRC are sent directly to the MSC for non-disapproval.

The SRC meets on average, 6 to 8 times per year. These meetings are conducted and materials provided in compliance with the SRC Meeting Policy Attachment G-1(10) hereto.

The diagram below sets out the internal reporting structure and the position of the Regulatory Division and the SRC in the Exchange’s organization, all of which the MSC has accepted as conforming to the requirements of MSC Order No. 5718. What is important to fulfillment of the

conditions of MSC Order No. 5718 is the separation of jurisdiction between the regulatory and the business functions of the Exchange. Part of this was achieved by setting up the organization such that the staff of the Regulatory Division report directly to the SRC on all matters of a regulatory importance, and to the President (and thereafter the Board of Directors) on administrative matters.



As per Rule 9.08 and 9.09, the Regulatory Division of ICE Futures Canada is responsible for ensuring compliance with ICE Futures Canada Rules by all entities trading on the Exchange. It performs this function by: monitoring trading to detect abusive and improper trading practices; conducting investigations and inspections, whether brought forward by an external complaint or on its own initiative; and ensuring that all matters of regulatory importance are brought forward to the SRC.

As described in greater detail in Exhibit G-2, ICE utilizes proprietary software programmes that permit numerous sophisticated software queries to detect trade abusers. These programmes are able to generate reports which monitor for trading ahead, accommodation trading, large cross trades, direct and indirect cross trading opposite customer accounts, and wash trading among other improper trading practices.

Attached are the following Policies and related documents:

- Trade Surveillance Policy - Attachment G-1(1)
  - Daily Trade Surveillance Checklist – Attachment G-1(2)

- Transfer Request Guideline – Attachment G-1(3)
- Cross/Wash Tracking Sheet – Attachment G-1(11)
- Volume spike & Account Volume Alerts - Attachment G-1(14)
- Market Surveillance Policy – Attachment G-1(4)
- Investigation & Inspection Policy – Attachment G-1(5)
  - Action Report Sheet – Attachment G-1(6)
  - File Closure Letter – Attachment G-1(7)
  - Investigation memo Attachment G-1(13)
  - Oath Interviews – Attachment G-1(9)
  - EFP Checklist - Attachment G-1(12a)
  - EFS/EOO Checklist - Attachment G-1(12b)
  - Investigation memo for review by a member of the SRC and VP Market Regulation – Attachment G-1(8)

These policies describe the majority of the regular duties of staff of the Regulatory Division, and are discussed in greater detail in Exhibit G-2.

The current Regulatory Division consists of a Vice-President Market Regulation, a Director, Market Regulation, a Senior Regulatory Officer, an Investigator/Analyst, and a Legal Analyst. Staff of the Regulatory Division have extensive experience in compliance and regulation, with the two most senior members of staff each having in excess of 18 years of compliance related work experience.

Staff of the Regulatory Division are responsible for trade surveillance and market surveillance, as well as the conduct of investigations and inspections pursuant to Rule 10. The Regulatory Division also reviews regulatory developments in Canada and internationally, and is responsible for communications with domestic and international regulatory bodies.

## **Exhibit G-2**

**A description of ICE Futures Canada’s trade practice rules, including but not limited to rules that address the following:**

- (1) Capacity of ICE Futures Canada to detect, investigate, and sanction persons who violate foreign board of trade rules.**
- (2) Prohibition of fraud and abuse, as well as abusive trading practices including, but not limited to, wash sales and trading ahead, and other market abuses.**
- (3) A trade surveillance system appropriate to ICE Futures Canada and capable of detecting and investigating potential trade practice violations.**
- (4) An audit trail that captures and retains sufficient order and trade-related data to allow the compliance staff to detect trading and market abuses and to reconstruct all transactions within a reasonable period of time.**
- (5) Appropriate resources to conduct real-time supervision of trading.**
- (6) Sufficient compliance staff and resources, including those outsourced or delegated to third parties, to fulfill regulatory responsibilities.**
- (7) Rules that authorize compliance staff to obtain, from market participants, information and cooperation necessary to conduct effective rule enforcement and investigations.**
- (8) Staff investigations and investigation reports demonstrating that the**

compliance staff investigates suspected rule violations and prepares reports of their finding and recommendations.

- (9) Rules determining access requirements with respect to the persons that may trade on ICE Futures Canada, Inc., and the means by which they connect to it.
- (10) The requirement that market participants submit to ICE Futures Canada's jurisdiction as a condition of access to the market.

#### **Capacity of ICE Futures Canada to detect, investigate, and sanction persons who violate foreign board of trade rules.**

All trading in ICE Futures Canada Contracts is conducted in accordance with, and is subject to, the Rules of ICE Futures Canada. ICE Futures Canada Rules (provided in Attachment A-6 (2) to Exhibit A-6) are applicable to all market participants (as defined below), without regard to jurisdictional boundaries, as such obligations arise by virtue of the contractual relationship between ICE Futures Canada and all entities trading its markets. In this respect, Rule 1 defines the following terms:

**"Market Participant"** - any Person who is not a registered Participant on the Exchange, but accesses, utilizes or otherwise avails itself of any aspect of the Exchange's markets, either directly or indirectly.

**"Participant"** means any one or more of Direct Access Trading Participant, Trading Participant, Merchant Participant and Ancillary Participant, and Market Participant as the context may require.

Rule 10 (Inspections, Investigations, and Hearing Procedures) sets out the Regulatory Division's authority to conduct investigations and proceed to hearings. Rule 10A.01 states:

##### **10A.01 Definitions**

In this Rule,

**"Participant"** and **"Market Participant"** includes a former Participant and the employees, officers, directors, partners, shareholders, messengers and clerks of the Participant, former Participant and Market Participant;

**"Requirements"** means the rules, regulations, policies, interpretation bulletins and similar materials set out in the Exchange By-laws and Rules, the provisions of *The Commodity Futures Act (Manitoba)*, all rules and regulations promulgated thereto, all other application legislation, and all requirements and rules of any other self-regulatory organization.

and Rule 10B.01 states:

##### **10B.01 Standards of Conduct and Compliance with Requirements**

The conduct and business of Participants and Market Participants, including their dealings between and amongst each other and with the public, shall at all times comply with the Requirements.

#### Investigations

Rule 10 sets out detailed provisions relating to inspections and investigations. Rule 10 recognizes that a public market requires rigorous investigatory and disciplinary powers. The powers and processes set out in Rule 10 have been reviewed by the MSC to ensure they provide the necessary jurisdiction to staff of the Regulatory Division to fully investigate and oversee the integrity of the market.

Investigations are initiated in the event of a complaint is received, or at the initiative of staff of the Regulatory Division. Rule 10D.02 states that the Regulatory Division may investigate the conduct or business of any Participant (which includes Market Participants). Rules 10D.03 and 10D.05 require all entities under investigation to co-operate fully and co-operate with the requests made as part of an inspection or investigation. Participants must upon request: provide any documents or other materials; provide written statements; or submit to an oral examination, which may be conducted under oath.

Rule 10D.06 provides that the failure to co-operate with an investigation, or provide such materials and documents as may be requested may result in the suspension of trading privileges of the Participant, if ordered by the SRC at a hearing on the matter. The SRC may forego a hearing and immediately suspend trading privileges if it determines that a delay “...would be prejudicial to the proper regulation of the Exchange.”

Investigations are most commonly initiated based on events flagged in the daily trade surveillance processes.

While most flagged trades are explained upon examination of order or trade activity within the ICEcap system (described later in this Exhibit), on some occasions it is necessary to communicate with the market participant to make further inquiries. At this point, an investigation file is opened.

The investigatory process and the requirements of Regulatory Division staff are detailed in the Investigations & Inspections Policy (Attachment G-1(5) to Exhibit G-1). Upon the initiation of an investigation, both a physical and an electronic file are created, with a unique number. All materials gathered during the investigation are saved in one, and often in both files. These materials may include reports/queries from electronic surveillance systems (ICEcap, SMARTS®, or DINO); order tickets obtained from traders; written communication with respondents; and other physical and electronic information. All materials obtained or generated as part of an investigation are retained for seven (7) years as required by *The Commodity Futures Act* C.C.S.M. c. C152 (“CFA”).

Section 5 of the Investigation & Inspection Policy describes the methods by which requests are made of respondents during an investigation. During the course of an investigation, the Regulatory Division may conduct under-oath interviews with respondents, or may record a telephone conversation. The procedures for each can be found in the Telephone Recording Policy (Attachment G-2(3) and Attachment E to the Investigation & Inspection Policy, and in Rule 10D.05(d).

### **Prohibition of fraud and abuse, as well as abusive trading practices including, but not limited to, wash sales and trading ahead, and other market abuses**

Rules governing trading practices are found in Rule 8 (Trading), Rule 11 (Violations), and Rule 12 (Speculative Trading Limit / Policy on Market Surveillance). There are also requirements and prohibitions contained within the CFA (provided in Attachment A-5(1) to Exhibit A-5). Violations of the CFA are considered violations of the Rules, as per Rule 11B.01(d):

#### **11B.01 Violations**

- d. Contravening or failing to adhere strictly to the requirements of The Commodity Futures Act, C.C.S.M. c. C152 and the regulations and rules promulgated thereunder.**

Prohibited trading practices at ICE Futures Canada include:

Wash Trading – Wash trading is addressed, and prohibited, under Rules 8A.07(b), 8A.07(c), 11B.05(r)(3), and 11B.01(r)(5). On January 20, 2011, ICE Futures Canada published an interpretive notice (Attachment G-2(1)) regarding wash trading and cross trading, which provides clarity on how the Regulatory Division will analyze and evaluate various trading scenarios. Specifically, opposing orders for the same beneficial owner may not be executed across each other, either directly or indirectly. The only exemptions are when the orders are generated from different arms-length business units of the same company, and can be proven to have been for legitimate business purposes and not pre-arranged. Furthermore, inadvertent and unintentional crossed trades by individuals who frequently submit orders for their personal account on opposite sides of the market (such as “locals” and Liquidity Providers) are not typically considered wash trades. However, these individuals are encouraged to explore system functionality that minimizes or eliminates buying and selling orders from matching with each other.

Front-Running – Rule 8A.11(b) requires that a market participant may not “...submit any order for a personal or proprietary account until all executable customers’ orders in the same contract and at the same price or “at market” have been entered in their entirety.” Furthermore, Rule 11B.01(r)(12) defines the following as a violation: “Failing to give priority to a customer order over an order for the trader’s personal account or their employer’s proprietary account.”

Sections 58(1) and 58(2) of the CFA state:

**Prohibition on front running**

**58(1) No floor trader may purchase or sell, for his or her own account or for an account in which he or she has an interest, a contract while holding an order for a customer for the purchase or sale of the same contract that is executable at the market price or at the price at which a purchase or sale can be made for the floor trader’s own account or an account in which he or she has an interest.**

**Meaning of “order”**

**58(2) For the purposes of subsection (1), an order in which a floor trader has an interest is deemed to include an order for a non-customer account of the dealer with which the floor trader is associated, and an order for the account of another floor trader.**

Cross Trades – Transactions in which the same trader is both buyer and seller are addressed in Rule 8A.08. With respect to two client orders, Rule 8A.08(b) requires a delay of five seconds for futures, or 15 seconds for options, between the entry of opposing buy and sell orders by the same trader. In situations where the opposing orders are independently initiated and immediately executable, no delay is required.

Cross trades in which a client order is opposite the trader’s personal or proprietary account are separately addressed, in Rule 8A.08(a). Crossing is permitted if the client order is entered first, and the personal/proprietary order is entered after a five second delay for futures, or a 15 second delay for options.

Pre-Arranged Trading / Pre-Execution Communication – Rule 8A.09 addresses pre-arranged trading and pre-execution communications. Pre-execution communications

are defined as “...communications between two market participants for the purpose of discerning interest in the execution of a transaction prior to the entry of an order on the Trading System.”

Rule 8A.09 prohibits Pre-Execution Communication in futures, and only permits Pre-Execution Communication in options or option strategies under specific circumstances. These circumstances include prior permission being granted by the client, and the use of Crossing Order functionality in the ICE Platform. This functionality ensures that better bids and offers are honored prior to the cross taking place, and also that the requisite time delay of 15 seconds is enforced by the ICE Platform.

In certain circumstances, pre-execution communication will also fall under Rule 11B.01(r)(4), which prohibits the disclosure of stop-loss or limit orders.

Two sections of the CFA speak to pre-arranged and uncompetitive trading.

#### **Prohibitions respecting contracts**

##### **56 No person or company shall**

**(d) enter into a trade in a contract that has been pre-arranged, unless the trade is permitted by the internal regulations of the commodity futures exchange upon which the contract trades.<sup>1</sup>**

#### **Prohibition on trading in non-public information**

**59(1) No person or company shall trade in a contract, or cause a contract to be traded, to benefit from material non-public order information that has not been generally disclosed and that the person or company knows, or ought reasonably to know, will have an immediate impact on the price of the contract or commodity that forms the underlying interest of the contract.**

Section 59(3) of the CFA defines material non-public information as “...information respecting the imminent execution of trades in contracts, or in commodities that are the subject matter of contracts, by a person or company.”

Conducting or Reporting false / fictitious trades is prohibited by Rules 11B.01(r)(1) and 11B.01(r)(2). In addition, crossing orders in the back-office and representing that they have been conducted on-exchange – commonly known as “bucketing” – is prohibited by Rule 11B.01(r)(6), and also by Section 56(c) of the CFA, which states:

#### **Prohibitions respecting contracts**

##### **56 No person or company shall....**

**(c) fill an order for a trade in a contract by a customer by taking the opposite side of the trade and reporting or recording that the trade has been executed on a commodity futures exchange.**

Market manipulation and deceptive trading practices are forbidden in both the Rules and in the CFA. Violations under Rule 11B.01 include:

#### **11B.01 Violations**

---

<sup>1</sup> With regard to the exemptions noted in section 56(d) above, in addition to the Pre-Execution Communication provisions of Rule 8A.09, off-exchange transactions which are entered directly into the clearing system are exempt from the Rule 8A.09 restrictions. These transactions are set out in Rule 8C (Clearing System Transactions), and include EFPs, EFSs, and Negotiated Option Strategies (“NOS”). ICE Futures Canada does not currently permit Block Trades,

r. **Trading Violations – The following are violations:**

.....

- (7) **Directly or indirectly using or knowingly facilitating or participating in the use of any manipulative or deceptive method of trading in connection with any contract whereby the trade or trades could reasonably be expected to create a false or misleading appearance of trading activity or an artificial price for the contract, the underlying commodity , or any related contracts;**
- (8) **(i) Manipulating or attempting to manipulate the price of a contract or commodity that is capable of being delivered pursuant to a contract traded under these Rules;**  
**(ii) Effecting, alone or in concert with others, a series of transactions (including any bids, offers, or trades) in a contract to create an impression of actual or apparent active trading in the contract or to raise or lower the price of the contract for the purpose of inducing the purchase or sale of the contract by others;**
- (9) **Cornering or attempting to corner the market in any commodity that is capable of being delivered pursuant to a contract traded under these Rules;**
- (10) **Acting or attempting to act in any fashion which might bring about or permit a potential corner or squeeze or an opportunity for the manipulation of prices of any commodity that is capable of being delivered pursuant to a contract traded under these Rules;**
- (11) **Disseminating any false, misleading or knowingly inaccurate information, including a report concerning crop or market information or conditions that affect or tend to affect the price of any commodity that is capable of being delivered pursuant to a contract traded under these Rule;**

.....

- s. **Purchasing or selling or offering to purchase or sell commodities, futures contracts or options for future delivery in a manner which may have the effect of upsetting the equilibrium of the market, or of demoralizing the market, so that prices will not properly reflect reasonable commercial values. Any Participant or Market Participant who makes or assists in making such purchases or sales, or offers to purchase or sell with the knowledge of an intent or who with such knowledge is a party to or assists in carrying out any plan or scheme is in violation of the Rules**

Manipulation is also addressed under Sections 56(a) and 56(b) of the CFA, and deceptive trading practices are addressed under Section 56(b) of the CFA:

**Prohibitions respecting contracts**

**56 No person or company shall**

- (a) manipulate or attempt to manipulate the price of a contract or commodity that is the subject matter of a contract;**
- (b) effect, alone or in concert with others, a series of transactions in a contract to create an impression of actual or apparent active trading in the contract or to raise or lower the price of the contract for the purpose of inducing the purchase or sale of the contract by others;**

ICE Futures Canada also specifically prohibits disruptive trading practices, such as spoofing, in Rules 8A.10 and 11B.01(r)(14). Rule 8A.10 states:



**8A.10 Disruptive Trading Practices Prohibited**

- a. A Market Participant shall not knowingly enter, or cause to be entered, bids or offers into the Trading System other than in good faith for the purpose of executing bona fide transactions.
- b. A Market Participant shall not enter an order or market message, or cause an order or market message to be entered, with:
  - i. The intent to cancel the order before execution, or modify the order to avoid execution;
  - ii. The intent to mislead other market participants;
  - iii. The intent to overload, delay, or disrupt the systems of the Exchange or other market participants;
  - iv. The intent to disrupt the orderly conduct of trading, or the fair execution of transactions; and/or
  - v. Reckless disregard for the adverse impact of the order or market message.

ICE Futures Canada has published a Frequently-Asked-Question (FAQ) document regarding disruptive trading practices, which is available on its website, and describes in greater detail the application of Rule 8A.10.

**A trade surveillance system appropriate to ICE Futures Canada, Inc. and capable of detecting and investigating potential trade practice violations.**

**An audit trail that captures and retains sufficient order and trade-related data to allow the compliance staff to detect trading and market abuses and to reconstruct all transactions within a reasonable period of time.**

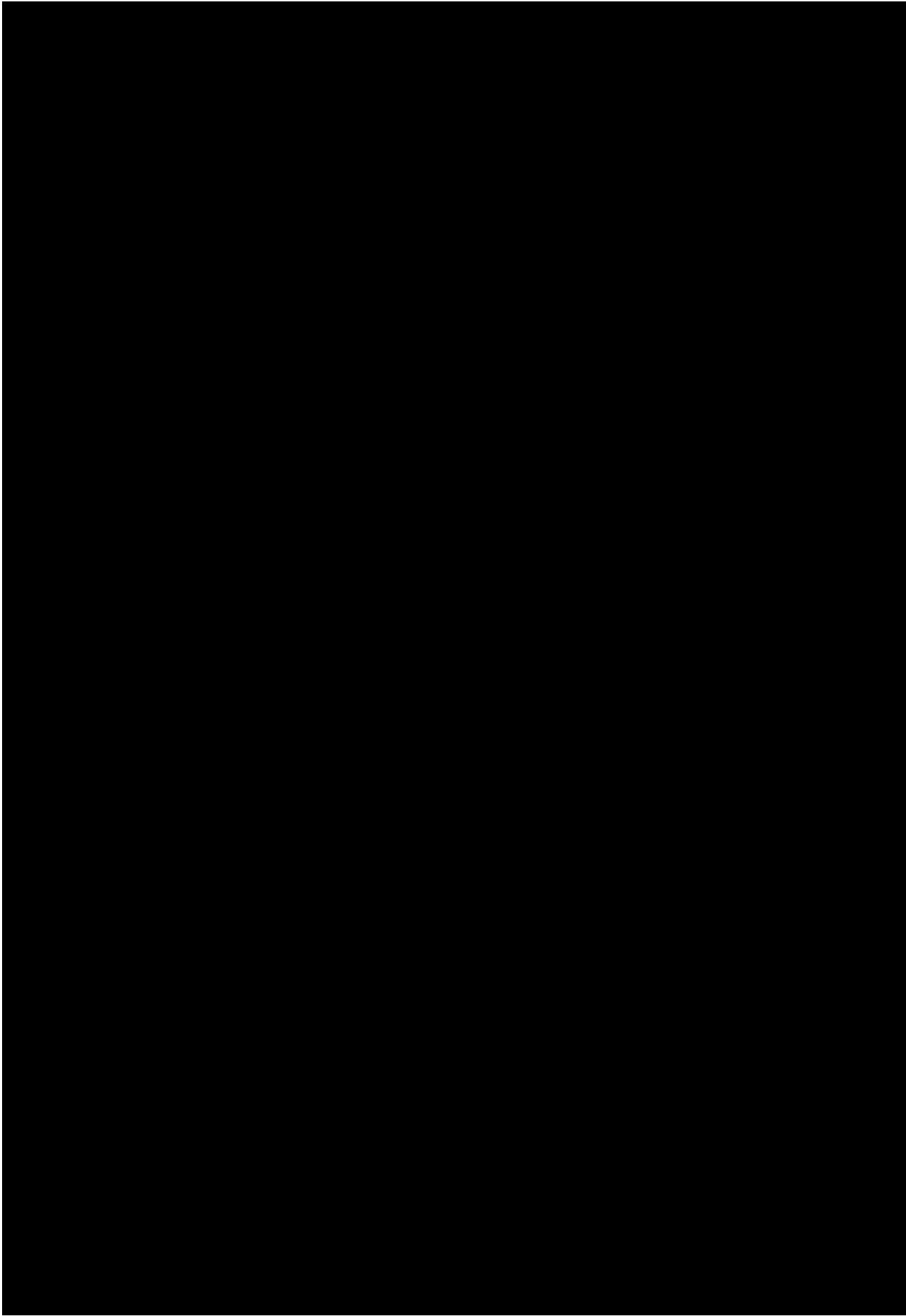
The Regulatory Division conducts daily trade surveillance on a T+1 basis, to identify instances of non-compliance with the Rules of the Exchange, and in particular with regard to the Rules noted above.

Central to the Regulatory Division’s surveillance process are three systems: ICEcap, DINO, and SMARTS®. More information on these systems is set out below. A diagram of the data sources for these systems can be found in Attachment G-2(2).

1. ICEcap

The ICE Compliance Analysis Platform (“ICEcap”) is a proprietary trade surveillance system, developed by ICE for ICE Futures Canada and other ICE markets. [REDACTED]

[REDACTED]





A number of surveillance reports have been created in the ICEcap system for ICE Futures Canada, and are reviewed by Regulatory Division staff as described in the Trade Surveillance Policy (Attachment G-1(1) to Exhibit G-1). [REDACTED]

[REDACTED]

[REDACTED]

2. DINO

DINO is a proprietary database system for ICE Futures Canada, which is used for a variety of areas within the Exchange, including certain compliance functions. Access to the various DINO components is dictated by the user's permissions. As such, only approved individuals have access to the compliance data within DINO.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. SMARTS®

Real-time trade and market surveillance is achieved with the SMARTS® system, which is used by all ICE markets (including ICE Futures Canada), as well as numerous other exchanges worldwide. SMARTS® is a third-party trading surveillance application, licensed to ICE, that the Exchange uses to monitor and review trading on a real-time basis. It provides tools that allow staff to view details of trades, as well as details of executed and unexecuted orders, on a real-time basis. Staff may review trading activity in a specified market for an entire day, for a specified time range, or a specific point in time during the day. SMARTS® is used extensively as a supporting tool to the daily trade surveillance reviews conducted in ICEcap. SMARTS® contains a number of individual tools, certain of which are described below.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

Market Supervision

[Redacted text block]

[Redacted text block]

Market Surveillance

The Regulatory Division conducts regular market surveillance to detect and prevent market abuse and potential manipulation. [REDACTED]

**Staff investigations and investigation reports demonstrating that the compliance staff investigates suspected rule violations and prepares reports of their finding and recommendations.**

**Appropriate resources to conduct real-time supervision of trading.**

As noted above, both staff of the Regulatory Division and Market Supervision staff in the U.S. and Europe have tools, such as SMARTS®, to conduct real-time supervision of trading. This supervision occurs during all trading hours, either by staff of the Regulatory Division, operational staff of the Exchange, or Market Supervision.

**Sufficient compliance staff and resources, including those outsourced or delegated to third parties, to fulfill regulatory responsibilities.**

Through its ongoing recognition of ICE Futures Canada, the MSC has determined that the staff and resources of the Exchange are sufficient to fulfill its regulatory responsibilities.

**Rules that authorize compliance staff to obtain, from market participants, information and cooperation necessary to conduct effective rule enforcement and investigations.**

As described at the beginning of this exhibit, all market participants are bound by the Rules of the Exchange. As noted in Exhibit G-1, Rules 9.08 and 9.09 empower staff of the Regulatory Division to carry out investigations to protect the Exchange's markets. Further,

<sup>2</sup> As noted in Hearings, Settlements, and Appeals, the appeal process involves the SRC. Therefore, the SRC member who reviews an Investigation Memo would not sit on the appeal panel for that matter.

all market participants are obligated to answer questions and otherwise provide information upon request of the Regulatory Division, as described under “Investigations” above.

**Rules determining access requirements with respect to the persons that may trade on ICE Futures Canada, and the means by which they connect to it.**

The answer to this question is set out in Exhibit B-1. Access to the ICE Trading System is only provided by Exchange registered Participants. The Exchange also has the ability to unilaterally cut off any electronic trading access if the circumstances require such actions.

Exhibit D-2 provides additional information on the details of the ICE Platform. Exhibit D-2(3) describes the various security and access features applicable to entities trading ICE Futures Canada products.

**Exhibit G-3**

**A description of ICE Futures Canada’s disciplinary rules, including but not limited to rules that address the following:**

- (1) Disciplinary authority and procedures that empower staff to recommend and prosecute disciplinary actions for suspected rule violations and that provide the authority to fine, suspend, or expel any market participant pursuant to fair and clear standards.**
- (2) The issuance of warning letters and/or summary fines for specified rule violations.**
- (3) The review of investigation reports by a disciplinary panel or other authority for issuance of charges or instructions to investigate further, or findings that an insufficient basis exists to issue charges.**
- (4) Disciplinary committees of ICE Futures Canada that take disciplinary action via formal disciplinary processes.**
- (5) Whether and how ICE Futures Canada articulates its rationale for disciplinary decisions.**
- (6) The sanctions for particular violations and a discussion of the adequacy of sanctions with respect to the violations committed and their effectiveness as a deterrent to future violations.**

**General Authority and Process**

As set out in Rule 10, and described in Exhibit G-2, the Regulatory Division has the authority to conduct investigations, and compel the provision of information in written or oral form, from all market participants (as defined in Rule 1.02);

**“Market Participant” - any Person who is not a registered Participant on the Exchange, but accesses, utilizes or otherwise avails itself of any aspect of the Exchange’s markets, either directly or indirectly.**

**“Participant” means any one or more of Direct Access Trading Participant, Trading Participant,**

**Merchant Participant and Ancillary Participant, and Market Participant as the context may require.**

Upon conclusion of an investigation, staff of the Regulation Division are required to prepare an Investigation Memo, as described in Exhibit G-2 and section 8 of the Investigation & Inspection Policy (Attachment G-1(5) to Exhibit G-1). An Investigation Memo is confidential and contains the recommendations of staff as to disposition of the file. All Investigation Memos must be reviewed by a member of the Special Regulatory Committee ("SRC") and the Vice-President Market Regulation. Each of these individuals must review the Investigation Memo and independently assess whether to accept the recommendation of staff of the Regulatory Division to proceed to charges or to close the file. Each must sign off on their determination. If they do not agree with the recommendation of staff of the Regulatory Division, they are required to set out their reasons and provide details as to how the file is to proceed. This may include a direction to further investigate any matter.

The Rules of ICE Futures Canada do not provide staff of the Regulatory Division with the authority to issue Warning Letters or assess summary fines, other than in very limited circumstances. As noted in section 7 of the Investigation & Inspection Policy, there are currently only two such circumstances: 1) violations of Rule 8A.03 pertaining to position offsets in which a Warning Letter can be issued with an associated probationary period, and 2) order timings which do not meet the requirements of Rule 8A.08, where the orders fall within certain specific parameters and are not considered violations. These two situations have been specifically delegated by the SRC to staff of the Regulatory Division to determine. As noted above, with respect to all other investigations, an Investigation Memo must be reviewed by a member of the SRC and the Vice-President Market Regulation.

All processes and requirements under the Exchange's investigation and disciplinary Rules follow the rules of natural justice, as required under Canadian law.

Office of the Corporate Administrator

The existence of the Corporate Administrator provides for the administrative separation between the Regulatory Division and the respondents who are the subject of disciplinary proceedings. The duties of the Corporate Administrator are set out in Rule 10E.01, and include: the organization of meetings of the Discipline Committee and communication pertaining to same, co-ordination of the appointment of the Discipline Committee panel members for a particular matter after panel members are appointed by the independent board member as required by Rule 10G.02, and the filing and service of pleadings.

Originating Notice

If an investigation proceeds to charges, a pleading called an Originating Notice must be prepared and served on the respondent(s). An Originating Notice (Attachment G-3(1)) is a formal pleading which contains all of the information set out in Rule 10E.02(b). This information includes: the Rule violations alleged, a summary of the principal facts on which the Regulatory Division is relying and the conclusions drawn therefrom, the recommended sanctions or other requirements upon the respondent(s), and other procedural matters associated with the disciplinary process. Originating Notices are filed with the Corporate Administrator, who



subsequently serves same on all respondent(s).

### Reply

Within twenty (20) business days of the service of an Originating Notice, a Reply must be filed by the respondent(s). As described in Rule 10E.04, the Reply must include: whether the respondent admits or denies the facts alleged in the Originating Notice, a statement of the respondent's position on the Regulatory Division's conclusions, any additional facts or evidence to be relied upon by the respondents, and the name and contact information for any legal counsel the respondents chooses to retain.

### Discipline Committee

The Discipline Committee is the committee which hears all disciplinary matters at first instance. This committee is appointed by the Board pursuant to Rule 3.06, and is comprised of individuals representing various Participant categories, as well as members of the legal community. Rule 10G.01 requires that, for any given hearing or settlement, at least three (3) members of the Discipline Committee must sit as a panel to hear a matter. At least one member of each Discipline Committee panel must be a lawyer or retired judge, who shall act as Chairman of the panel for each hearing, as required by Rule 3.06 a. The panel may also retain its own counsel.

### Hearings (Non-Settlement)

Hearings are scheduled and their processes and procedures follow the accepted procedures for administrative tribunals in Canada. As such, the respondent(s) have rights of due process and natural justice, including the right to appear and give evidence (Rule 10G.04), the right to legal representation (Rule 10G.05), and the right to bring forward witnesses (Rule 10G.06). Respondents must be provided with all disclosure relevant to the matter at issue, both inculpatory and exculpatory. These are common law requirements, as well as Rule requirements, to ensure that Respondents receive all information relevant to their case.

The order of proceedings at a hearing is set out in Rule 10G.08. The discipline panel must hear all relevant evidence, whether within technical rules of evidence or not (Rule 10G.07). All oral evidence at a hearing is recorded, in writing or otherwise, and forms the official record of the hearing along with any documentation received into evidence (Rule 10G.12). The respondent has the right to review this record, including the transcript of oral evidence.

After hearing all evidence and arguments at a hearing, the Discipline Committee deliberates in private (Rule 10G.17), and then returns its findings. If there is a finding of guilt on one or more of the alleged violations, the panel then re-convenes to hear submissions from both parties as to the appropriate sanctions (Rule 10G.17). The panel may impose any of the penalties set out in Rule 11C as described below. In addition to any fines or other monetary sanctions assessed, the respondent may also be ordered to pay costs to the Exchange, in an amount determined by the panel (Rule 10G.18).

All disciplinary panels are required, within 90 days of the conclusion of a hearing, to provide a written decision, along with reasons for that decision (Rules 10G.20a and 10G.20d). These reasons are provided to all parties to the hearing, including the respondent(s) and staff of the Regulatory Division (Rules 10G.20a and 10G.20b).

### Settlements and Settlement Hearings

At any time prior to two (2) business days before a hearing, including an appeal hearing, the respondent or the Regulatory Division may submit an offer to settle (known as a “Joint Settlement Proposal”) to the other party (Rule 10I.01). The Joint Settlement Proposal must be in writing, and contain various required details, including violations admitted, facts admitted, and the proposed disposition (Rule 10I.02c).

Joint Settlement Proposals must be approved by a panel of the Discipline Committee (Rule 10I.05) at a hearing. Both staff of the Regulatory Division and the respondent are required to make submissions for why the disciplinary panel should approve the settlement. Upon deliberation, the panel may accept or reject the Joint Settlement Proposal – they may not alter or amend any portion of it (Rule 10I.06). If a Joint Settlement Proposal is not accepted by a Discipline Committee the matter will proceed to a contested hearing before a new panel of the Disciplinary Committee and no reference may be made to the prior settlement negotiations. It is also possible for the respondent(s) and staff of the Regulatory Division to negotiate a different Joint Settlement Proposal.

### Appeals

Appeals of hearings (other than Joint Settlement Proposal hearings) may be appealed by either the respondent(s) or the Regulatory Division, to the SRC (Rule 10H.01). Appeals must be filed within ten (10) business days of the service of the written decision of the Discipline Committee (Rule 10H.02), and must contain a brief statement of the appellant’s reasons for the appeal, as well as indicate any new evidence intended to be introduced (Rule 10H.03).

Decisions made by the Discipline Committee remain in effect pending an appeal, unless specifically ordered to be stayed (Rule 10H.12).

Upon an appeal by a respondent, the Regulatory Division may apply for security for costs. If ordered, the failure to post or remit security of costs will stay the appeal process (Rule 10H.04).

Rules 10H.05 through 10H.11 set out the procedures on appeals. As noted previously, the member of the SRC who reviewed the initial Investigation Memo may not sit on the panel reviewing an appeal of the same file.

Upon hearing an appeal, the SRC may affirm, quash, or vary the finding of the Discipline Committee, make a new finding or order (including an assessment of costs) or refer the matter back to the same Discipline Committee panel for further consideration (Rule 10H.13).

There is a right to appeal a decision of the SRC to The Manitoba Securities Commission (“MSC”). Such appeals are governed by the provisions of the *Securities Act (Manitoba)* (Rule 10H.14). A final appeal, on leave, may be taken to the Manitoba Court of Appeal, which is the highest court in the province of Manitoba.

### Publication of Hearings and Disciplinary Findings

Rule 10J.06 sets out the publication provisions for disciplinary matters. A Notice of Hearing is published at least two business days prior to the date of any hearing, including settlement hearings. Settlement hearings are not open to the public, whereas contested hearings are open to the public.

The findings of all disciplinary committees, including those held to review a Joint Settlement

Proposal, are published on the website of the Exchange after the decision is effective and the appeal period has expired. These notices contain a description of the violations, a summary of the admitted or determined facts, and the penalties or other sanctions imposed.

### Disciplinary Sanctions Available

Rule 11C describes the disciplinary penalties available to be imposed, by any disciplinary committee of the Exchange. These sanctions, all of which form part of the permanent record of the respondent, include:

- A written letter of warning
- A conditional discharge, requiring prompt performance of the conditions
- An order requiring compliance with specific obligations
- A cease and desist order, either permanent or covering a specified time period
- A formal written reprimand
- A fine, for a specified amount payable within a specified time period
- A suspension from Participant status, with specific attributes and parameters as noted in Rule 11C.01g
- Expulsion from Participant status, which may only be ordered by the SRC. Re-application by an expelled Participant must not only follow the usual application process, but also be affirmed by a 2/3 vote of the Board and the consent of the SRC.

These sanctions follow those available at other derivatives exchanges, and other self-regulatory organizations (“SROs”) such as the Investment Industry Regulatory Organization of Canada (“IIROC”). They provide a very wide range of potential deterrent measures which provide an effective deterrent to repeat violations.

## **Exhibit G-4**

**A description of the market surveillance program (and any related rules), addressing the following:**

**The dedicated market surveillance department or the delegation or outsourcing of that function, including a general description of the staff; the data collected on traders' market activity; data collected to determine whether prices are responding to supply and demand; data on the size and ownership of deliverable supplies; a description of the manner in which ICE Futures Canada, Inc. detects and deters market manipulation; for cash-settled contracts, methods of monitoring the settlement price or value; and any ICE Futures Canada position limit, position management, large trader or other position reporting system.**

### Overview of the Market Surveillance program

Market surveillance is the responsibility of the Regulatory Division of ICE Futures Canada, as mandated in Order No. 5718 issued by the MSC, ICE Futures Canada By-law Article 11.01, and by the Board, pursuant to Rule 9. The composition of the Regulatory Division is set out in Exhibit G-1.

Staff of the Regulatory Division monitors market activity on an ongoing basis to ensure the overall integrity of the market, and mitigate the possibility of market manipulation. This process

is meant to enforce compliance with the Exchange's speculative position limits and Policy for Market Surveillance Matters (the "Policy"), as set out in Rule 12. In addition, the Market Surveillance Group (President, Vice-President Market Regulation, Director, Market Regulation, Senior Regulatory Officer, and the Investigator/Analyst) meet on a weekly basis to review the liquidation of the nearby contract month, and related market information.

### Speculative Position Limits and Exemptions

As described in Rule 12.02, there are spot-month speculative position limits for all products traded on ICE Futures Canada. These limits take effect at the beginning of spot month, which is defined in Rule 1.02 as beginning at the close of business on the trading day preceding the first day on which a Tender Notice can be issued. In most circumstances, this date is two trading days prior to the first trading day of the delivery month.

To mitigate the effect of long position-holders accumulating delivery paper over multiple delivery months, the Exchange's speculative limits take Delivery Certificates into account on a 1:1 basis. For example, an entity holding 1,500 contracts of nearby canola futures and 501 contracts (10,020 tonnes) of canola Delivery Certificates would exceed (by 1 contract) the canola speculative limit of 2,000 contracts.

Aggregation of positions is required for entities with common control and/or ownership, as described in Rule 12.04. In general, ownership or control of at least 10% requires aggregation, unless it can be demonstrated that there is an adequate information barrier, with a clear separation of trading knowledge and duties between the entities.

The exemptions to the Exchange's speculative position limits, are set out in Rule 12.03. These exemptions include: bona fide hedge positions (with attendant requirements, as noted below); short positions held for the purpose of re-tendering existing Delivery Certificates; and long positions held for the purpose of offsetting outstanding Warrants. (More information on Delivery Certificates and Warrants, and the delivery process, can be found in Exhibit E-1.)

The Policy to Rule 12 sets out the requirements for each exemption. Bona fide hedge positions must meet the definition, as set out in Rule 1.02, and must be supported by a corresponding net long or short cash-market position to justify the hedge. This cash-market position must be evidenced on an Annex 12C report (Attachment G-4(1)), as described further below. It is not sufficient to simply be a hedger in general – the futures position for which a hedge exemption is sought must be proven to be a hedge for a specific cash-market risk.

In addition, long position-holders must bid at futures-equivalent value (futures price, plus or minus any applicable regional premiums or discounts) at all registered facilities, including their own where applicable. Daily reports of cash purchases, plus an updated Annex 12C, must be provided to the Regulatory Division. The purpose of these requirements, which are set out in more detail in section 5a of the Policy, is to evidence that the long is indifferent between taking grain through the delivery of futures versus procuring it via the cash market.

Long position-holders who are standing for delivery to offset their existing Warrant obligations must also be bidding to all existing Delivery Certificate holders, to purchase their delivery paper at futures price.

Short position-holders must not only evidence a bona fide hedge on their Annex 12C report, but must also have the ability to issue Warrants under the relevant contract rules, or must have

existing Delivery Certificates for re-delivery. Further details are set out in section 7 of the Policy.

### Market Surveillance Reviews

Beginning approximately six weeks prior to the delivery month, all FCMs must begin submitting client position information to staff of the Regulatory Division on a weekly basis, and Merchants must begin submitting their own positions to the Regulatory Division on the same basis. This is referred to as the “Call for Intentions” process, and is described in Rule 12.01. Participants holding positions of 100 or more futures contracts and/or delta-adjusted options must submit a report (Annex 12.A for FCMs; Annex 12.B for Merchants (Attachments G-4(2) and G-4(3) respectively) indicating how they intend to liquidate their positions in the nearby contract month. Futures Commission Merchants (“FCMs”) submitting the Annex 12A must identify each client that holds a position of 100 contracts or more.

As there may be multiple levels of FCM involvement under omnibus relationships, the Regulatory Division compiles the information submitted by FCMs by ultimate beneficial ownership.

Approximately one month prior to the delivery month, an Annex 12.C (Statement of Cash Positions) report must be submitted weekly by all Merchant Participants holding a position in the nearby contract that exceeds the speculative position limit, and all other market participants holding a position in excess of the speculative limit who intend to take delivery as a bona fide hedger. The Annex 12.C report identifies the cash grain position (purchases, sales, future commitments) underlying the futures position. Although there are no speculative position limits outside of the spot month, the Market Surveillance Group uses the Annex 12.C information to obtain a preview of what may transpire in the delivery period, and to track the cash position of hedgers over a period of time to determine their ability to justify their futures position.

The Market Surveillance Group may determine that additional information is required to fully analyze the marketplace. For example, if a market participant holds a large proportion of the open interest in the nearby contract, it may be necessary to request a detailed cash position statement (beyond the Annex 12.C) to assess the participant’s ability to support the futures position. Similarly, if a Participant carries a position over the speculative position limit into the delivery month, they may be required to submit evidence of cash bids in support of their hedge position.

Details of the processes involved in gathering, compiling, and reporting the Annex 12A, 12B, and 12C information can be found in the Market Surveillance Policy to Rule 12. This document also describes the supporting data gathered by the Market Surveillance Group, to be reviewed at the group’s weekly meeting.

### Cash Market analysis and Deliverable Supply

One component of the weekly Market Surveillance Group meetings, noted above, is the review of the underlying cash market. As required by Rule 6A.03, all Merchant Participants must file weekly grain stocks reports, and daily cash bid reports, to the Exchange. Stocks reports permit the Market Surveillance Group to observe the supply of the relevant commodity in Western Canada, while daily cash bids are compiled to determine the best bid in each region, and the average bids within and between regions. These are also compared on a week-to-week basis, to identify trends in the cash market (eg: widening / narrowing basis levels). This information is also used in the Exchange’s analysis of the performance of each contract, in terms of

convergence and relevance to the cash market. The Exchange's Contract Committee, as set out in Rule 3.09, examines this information along with Exchange staff and management. This review may result in recommendations on revisions to grade premiums/discounts, delivery region boundaries, shipment procedures, or any other aspect of contract specifications, to as to ensure correlation with, and relevance to, the underlying cash market.

#### Anti-Manipulation

As noted in Exhibit G-2, manipulation is prohibited under Rule 11B.01 and Section 56 of *The Commodity Futures Act* C.C.S.M. c. C152 ("CFA"). The Exchange's market surveillance program, as noted above, is designed to detect and deter the manipulation of Exchange contracts. Position limits specify the amount by which speculators may participate in the delivery month, and the exemptions to these limits focus on the legitimate reasons that market participants would need to carry positions in excess of the limits. In particular, the requirement to have a cash market hedge within the pertinent timeframe to the futures contract, and the requirement to bid futures-equivalent price in the cash market, both verify to the Exchange that the entity holding the position has a legitimate risk management need, and that the cash market is at a price level that justifies taking delivery of futures.