

13.2.4 Notice of Commission Order – ICE Clear Canada, Inc. – Application for Exemptive Relief

ICE CLEAR CANADA, INC.

APPLICATION FOR EXEMPTIVE RELIEF

NOTICE OF COMMISSION ORDER

On February 1, 2011, the Commission granted ICE Clear Canada, Inc. (ICE Clear Canada) an exemption from the requirement that ICE Clear Canada be recognized as a clearing agency pursuant to subsection 21.2(0.1) of the *Securities Act* (Ontario).

The Commission published the ICE Clear Canada application and proposed exemption order for comment on December 10, 2011. No comments were received. Only minor changes were made to the terms and conditions of Schedule B of the draft exemption order that was published for comment. The revised blackline terms and conditions are attached as Appendix A.

A copy of the exemption order is published in Chapter 2 of this Bulletin.

APPENDIX "A"

Terms and Conditions

REGULATION OF ICE Clear Canada, Inc.

1. ICE Clear Canada will maintain its recognition as a clearinghouse with the MSC and will continue to be subject to the regulatory oversight of the MSC as described in the MSC Recognition Order, as amended and restated on June 16, 2008, and attached to this order as Schedule "C".
2. ICE Clear Canada will continue to comply with its ongoing requirements as set out in the MSC Recognition Order.
3. ICE Clear Canada will continue to meet the Criteria for Exemption from Recognition as a Clearing Agency as set out in Schedule "A".

GOVERNANCE

4. ICE Futures Canada and ICE Clear Canada will promote a corporate governance structure that minimizes the potential for any conflict of interest between ICE Futures Canada and ICE Clear Canada that could adversely effect the clearance and settlement of trades in contracts or the effectiveness of ICE Clear Canada's risk management policies, controls, and standards.

SUBMISSION TO JURISDICTION AND AGENT FOR SERVICE

5. For greater certainty, ICE Clear Canada submits to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario, in a proceeding arising out of, related to or concerning or in any other manner connected with the activities of ICE Clear Canada in Ontario.
6. For greater certainty, ICE Clear Canada will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of or relating to or concerning the activities of ICE Clear Canada in Ontario.

FILING REQUIREMENTS

MSC Filings

7. ICE Clear Canada will provide staff of the Commission, concurrently, the following information that it is required to provide to or file with the MSC:
 - (a) the annual audited financial statements of ICE Futures Canada and the annual financial statements of ICE Clear Canada which may be unaudited;
 - (b) the institution of any legal proceeding against it;
 - (c) the presentation of a petition for winding up, the appointment of a receiver or the making of any voluntary arrangement with creditors; and
 - (d) changes and proposed changes to its bylaws, rules, operations manual, participant agreements and other similar instruments or documents of ICE Clear Canada which contain any contractual terms setting out the respective rights and obligations between ICE Clear Canada and Clearing Participants or among Clearing Participants

Prompt Notice

8. ICE Clear Canada will promptly notify staff of the Commission of any of the following:
 - (a) any material change to its business or operations or the information as provided in the Application;
 - (b) any material problems with the clearance and settlement of transactions in contracts cleared by ICE Clear Canada, ~~including any failure by a Clearing Participant of ICE Clear Canada to promptly fulfill its settlement obligations,~~ that could materially affect the operations or financial viability situation of ICE Clear Canada;

- (c) ~~_____~~ a default of a Clearing Participant which results in the liquidation of the Clearing Fund (as defined in the ICE Clear Canada Rules) in whole or in part;
- ~~(c)~~(d) any change or proposed change to the MSC Recognition Order;
- ~~(d)~~(e) any change to the regulatory oversight by the MSC.

Quarterly Reporting

- 9. ICE Clear Canada will maintain the following updated information and submit such information to the Commission on at least a quarterly basis, and at any time promptly upon the request of staff of the Commission:
 - (a) a current list of all Ontario resident Clearing Participants;
 - (b) a list of all Ontario resident Clearing Participants against whom disciplinary action has been taken in the last quarter by ICE Clear Canada or the MSC with respect to activities on ICE Clear Canada;
 - (c) a list of all investigations by ICE Clear Canada relating to Ontario resident Clearing Participants; and
 - (d) a list of all Ontario applicants who have been denied Clearing Participant status in ICE Clear Canada.

INFORMATION SHARING

- 10. ICE Clear Canada and ICE Futures Canada will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws governing the sharing of information and the protection of personal information.

ADDITIONAL REQUIREMENT

- 11. ICE Futures Canada shall ~~not take any action that has the effect, either directly or indirectly, of interfering with the ability of ICE Clear Canada to comply with the terms and conditions of this order and will take such actions as are within its ability to assist ICE Clear Canada in meeting the terms and conditions of this order.~~