



THE MANITOBA
SECURITIES
COMMISSION

THE COMMODITY FUTURES ACT)	Order No. 7486
)	
Section 66(1))	June 27, 2019

TD SECURITIES INC.

WHEREAS:

(A) The application (the **Application**) of TD Securities Inc. (the **Filer**) to The Manitoba Securities Commission (the **Commission**) for an order of the Commission, pursuant to subsection 66(1) of *The Commodity Futures Act* (Manitoba) (the **CFA**), that the Designated Foreign Affiliate Employees (as defined below) of the Filer are not subject to the dealer registration requirement in the CFA when conducting Extended Hours Activities (as defined below) on the Bourse de Montréal Inc. (the **MX**), subject to the terms and conditions set out below (the **Exemption Sought**).

(B) For the purposes of this order (the **Order**), “**dealer registration requirement in the CFA**” means the provisions of Section 24(1) of the CFA that prohibit a person or company from trading in commodity futures contracts or commodity futures options (as those terms are defined in subsection 1(1) of the CFA) unless the person or company satisfies the applicable provisions of subsection 24(1) of the CFA.

(C) The Filer has represented to the Commission that:

The Filer

1. The Filer is a corporation formed under the laws of Ontario. The head office of the Filer is located in Toronto, Ontario.
2. The Filer is registered as an investment dealer under the securities legislation of all the provinces and territories of Canada; is registered as a futures commission merchant under the commodity futures legislation of Ontario and Manitoba; and is registered as a derivatives dealer under the derivatives legislation of Québec.
3. The Filer is a member of the Investment Industry Regulatory Organization of Canada (**IIROC**) and an approved participant of the MX.
4. The Filer is not in default of securities, derivatives or commodity futures legislation in any jurisdiction of Canada.

5. TD Securities Limited (**TDSL**) is a corporation incorporated under the laws of England and Wales. The head office of TDSL is located in London, United Kingdom.
6. The Filer and TDSL are each wholly-owned subsidiaries of the same ultimate parent entity, The Toronto-Dominion Bank.
7. TDSL is a United Kingdom-based financial service provider that carries on business in the United Kingdom, and is authorised and regulated by the Financial Conduct Authority.
8. The Filer wishes to make use of certain designated employees of TDSL certified under applicable laws of the United Kingdom in a category that permits trading the types of products which they would be trading on the MX (**Designated Foreign Affiliate Employees**) to handle trading requests on the MX from the Filer's clients and the Filer on a proprietary basis during the MX's extended trading hours from 2:00 a.m. Eastern time (**ET**) to 6:00 a.m. ET each day on which the MX is open for trading (the **Extended Hours Activities**).

The MX Extended Trading Hours Amendments

9. The MX, based in Montréal, Québec, operates an exchange for options, commodity futures contracts and commodity futures options, and offers access to trading in those to market participants in Canada.
10. On July 9, 2018, the MX announced that the MX had approved amendments to its rules and procedures in order to accommodate the extension of the MX's trading hours. As a result of these amendments, since October 9, 2018, trading of certain products on the MX now commences at 2:00 a.m. ET rather than the previous 6:00 a.m. ET.
11. As set out in MX Circular 111-18, in order to accommodate this earlier trading, the MX amended its rules to allow participants on the MX to have employees of affiliated corporations, including foreign affiliates, become an approved person of the MX participant and thus be able to handle trading requests originating from the MX participant's clients or the MX participant on a proprietary basis.

Application of the dealer registration requirement in the CFA to Designated Foreign Affiliate Employees

12. The Filer is an MX approved participant and TDSL is an affiliate of the Filer. The Filer wishes to make use of the Designated Foreign Affiliate Employees to conduct the Extended Hours Activities.

13. The dealer registration requirement in the CFA requires an individual to be registered to act as a dealing representative on behalf of a registered firm. The Exemption Sought is intended to provide the Filer with an exemption from (i) the requirement that the Filer use only registered dealing representatives to conduct the Extended Hours Activities; and (ii) the requirement that the Designated Foreign Affiliate Employees who will be conducting the Extended Hours Activities be registered as dealing representatives of the Filer.
14. The Filer seeks an exemption from the dealer registration requirement in the CFA because, in the absence of such exemption, each Designated Foreign Affiliate Employee who was to trade on behalf of the Filer would be required to become individually registered and licensed in Canada. The Filer believes this is duplicative since the Designated Foreign Affiliate Employees are certified under applicable United Kingdom law and will be supervised by the Filer's Designated Supervisors (as defined below) and are otherwise subject to the conditions set forth below. The Filer believes the dealer registration requirement in the CFA is unduly onerous in light of the limited trading activities the Designated Foreign Affiliate Employees will be conducting and only during the period from 2:00 a.m. ET to 6:00 a.m. ET.
15. The Filer has also applied to, and obtained from, IIROC an exemption from the registered representative requirements that are found in IIROC Dealer Member Rules 18.2 and 500 and the requirement to enter into an employee or agent relationship with the person conducting securities related business on its behalf that is found in IIROC Dealer Member Rule 39.3 (the **IIROC Relief**).
16. The IIROC Relief obtained by the Filer is subject to certain conditions, including:
 - (a) The Designated Foreign Affiliate Employees must be registered/licensed and subject to equivalent regulatory supervision in the United Kingdom.
 - (b) The Designated Foreign Affiliate Employees may only accept and enter orders from clients of the Filer or orders from the Filer on a proprietary basis during the period from 2:00 a.m. ET to 6:00 a.m. ET, and are not permitted to provide advice.
 - (c) The actions of the Designated Foreign Affiliate Employees must be supervised by Canadian based registered Supervisors qualified to supervise the relevant trading (including futures contracts, futures contract options and options) (the **Designated Supervisors**).
 - (d) The Filer must establish and maintain written policies and procedures that address the performance and supervision requirements relating to this extended trading hours arrangement.

- (e) The Filer and TDSL must jointly and severally undertake to ensure IIROC has, upon request, prompt access to the audit trail of all trades, wherever located, that relate to Extended Hours Activities at TDSL, and records evidencing the supervision of such activities.
- (f) The Filer retains all responsibilities for its client accounts.
- (g) The Filer and each Designated Foreign Affiliate Employee must enter into an agency arrangement pursuant to which the Filer would assume all responsibility for the actions of the Designated Foreign Affiliate Employee and of TDSL that relate to the Filer's clients and the Filer would be liable under IIROC rules for such actions.
- (h) All MX trading rules apply to orders entered by the Designated Foreign Affiliate Employees.
- (i) All other existing Canadian regulatory requirements continue to apply, including:
 - i. the Filer's client accounts would continue to be carried on the books of the Filer;
 - ii. all communications with the Filer's clients will continue to be in the name of the Filer; and
 - iii. the Filer's client account monies, security and property will continue to be held by the Filer.
- (j) The Filer must disclose this extended trading hours arrangement to its clients and provide specific instructions concerning the placement of orders relating to the extended trading hours arrangement.
- (k) The Filer must provide, in writing to IIROC, the names of the foreign affiliate(s) and all Designated Foreign Affiliate Employees authorised to accept and enter orders from the Filer's clients on behalf of the Filer under the extended trading hours arrangement. Such individuals are subject to IIROC's "fit and proper" review and IIROC Registration staff may refuse their participation in this extended trading hours arrangement.
- (l) The Filer must provide, in writing to IIROC, timely updates to the list of Designated Foreign Affiliate Employees, and confirm any changes on at least an annual basis.

(D) The Commission is of the opinion that it would not be prejudicial to the public interest to grant the Exemption Sought.

IT IS ORDERED:

1. **THAT**, pursuant to subsection 66(1) of the CFA, the Exemption Sought is granted, so long as:
 - (a) TDSL and the Designated Foreign Affiliate Employees are registered, licensed, certified or authorized under the applicable laws of the foreign jurisdiction in which the head office or principal place of business of TDSL is located in a category that permits trading the type of products which the Designated Foreign Affiliate Employees will be trading on the MX;
 - (b) the Designated Foreign Affiliate Employees are permitted to accept and enter orders from clients of the Filer or orders from the Filer on a proprietary basis during the period from 2:00 a.m. ET to 6:00 a.m. ET, and will not be permitted to give advice;
 - (c) the Filer retains all responsibilities for its client accounts;
 - (d) the actions of the Designated Foreign Affiliate Employees will be supervised by the Designated Supervisors, each of whom is qualified to supervise trading in futures contracts, futures contract options and options;
 - (e) the Filer and the Designated Foreign Affiliate Employees enter into an agency arrangement substantially as described in paragraph 16(g), and such agreement remains in effect; and
 - (f) the Filer remains in compliance with the terms and conditions of the IIROC Relief.
2. **THAT** the fee for this order is \$650.00.

BY ORDER OF THE COMMISSION



Director