

AMENDED AND RESTATED

TD SECURITIES INC.

WHEREAS:

- (A) The Manitoba Securities Commission (the **Commission**) previously granted an order on June 27, 2019 (the **Original Order**) exempting Designated Foreign Affiliate Employees (as defined in the Original Order) of the Filer, when conducting Extended Hours Activities (as defined in the Original Order) on the Bourse de Montréal Inc.(the **MX**), from the dealer registration requirement in *The Commodity Futures Act* (Manitoba) (the **CFA**).
- (B) The application (the **Application**) of TD Securities Inc. (the **Filer**) to the Commission for an amended and restated order of the Commission, pursuant to section 76 of the CFA, that (i) permits the addition of certain designated employees of the Designated Foreign Affiliates (defined below) as Designated Foreign Affiliate Employees (defined below) of the Filer, and (ii) extends the Extended Hours Activities (defined below) from the current 2:00 am Eastern time (**ET**) starting time (the **Amended Exemption Sought**).
- (C) For the purposes of this order (the **Order**), “**dealer registration requirement in the CFA**” means the provisions of subsection 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.
- (D) 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 Canadian Investment Regulatory Organization (**CIRO**) 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. Foreign affiliates of the Filer are located in the United Kingdom and Singapore as follows:
 - (a) The Toronto-Dominion Bank, London Branch (**TD Bank London**) is a foreign bank branch of The Toronto-Dominion Bank, a Schedule I bank under the *Bank Act* (Canada). The principal executive offices of TD Bank London are located in London, United Kingdom. TD Bank London is a United Kingdom-based financial service provider that carries on business in the United Kingdom, and is authorized and regulated by the Financial Conduct Authority;
 - (b) The Toronto-Dominion Bank, Singapore Branch (**TD Bank Singapore**) is a foreign bank branch of The Toronto-Dominion Bank. The principal executive offices of TD Bank Singapore are located in Singapore. TD Bank Singapore is a licensed bank in Singapore, and is regulated by the Monetary Authority of Singapore.

TD Bank London and TD Bank Singapore are hereinafter collectively referred to as the **Designated Foreign Affiliates**.
6. The Filer is a wholly-owned subsidiary of The Toronto-Dominion Bank. TD Bank London is the London-based foreign bank branch of The Toronto-Dominion Bank and TD Bank Singapore is the Singapore-based foreign bank branch of The Toronto-Dominion Bank.
7. The Filer wishes to make use of certain designated employees of the Designated Foreign Affiliates (the **Designated Foreign Affiliate Employees**) certified under applicable laws of the United Kingdom or Singapore, as applicable, in a category that permits trading the types of products which they would be trading on the MX 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, including from 4:30 p.m. (T-1) to 6:00 a.m. ET each day on which the MX is open for trading (the **Extended Hours Activities**).
8. The Filer was granted exemptive relief by the Commission from the dealer registration requirement in the CFA for designated employees of TD Securities Limited (**TDSL**) pursuant to the Original Order.

9. As part of an internal reorganization, the Filer intends to reorganize its Extended Hours Activities in the United Kingdom by moving those operations from TDSL to TD Bank London.

The MX Extended Trading Hours Amendments

10. 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.
11. 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 (the **Initial Extended Hours Initiative**). As a result of these amendments, since October 9, 2018, trading of certain products on the MX commences at 2:00 a.m. ET rather than the previous 6:00 a.m. ET.
12. 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. In furtherance of the Initial Extended Hours Initiative, the Filer sought and obtained the Original Order.
13. On March 17, 2020, the MX announced that the MX had approved non-material amendments to its rules and procedures in order to accommodate the further extension of the MX's trading hours (the **Asian Trading Hours Initiative**). As a result of these amendments, it is anticipated that, following the self-certification process under the *Derivatives Act* (Québec) applicable to self-regulatory organizations such as the MX, trading of certain products on the MX will commence at 8:00 p.m. ET (T-1) rather than the current 2:00 a.m. ET. These amendments are considered non-material insofar as the framework put in place in connection with the Initial Extended Hours Initiative will apply to the Asian Trading Hours Initiative, allowing 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 origination from the MX participant's clients or the MX participant on a proprietary basis. See MX circular 135-20, 024-21 and 063-21.
14. The CIRO Relief (as defined below) allows for trading to commence at 4:30 p.m. ET (T-1) rather than 8 p.m. ET (T-1) as contemplated by the Asian Trading Hours Initiative, subject to the MX trading rules being

modified. The Amended Exemption Sought accordingly conforms to the CIRO Relief with respect to Extended Hours Activities.

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

15. The Filer is an MX approved participant and each of the Designated Foreign Affiliates is an affiliate of the Filer. The Filer wishes to make use of the Designated Foreign Affiliate Employees conduct the Extended Hours Activities.
16. 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 Amended 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.
17. 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 trades on behalf of the Filer will be required to become individually registered and licensed in Canada. The Filer believes this is duplicative since the Designated Foreign Affiliate Employees are, or will be, certified or authorized, as applicable, under applicable United Kingdom or Singapore 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 is unduly onerous in light of the limited trading activities the Designated Foreign Affiliate Employees will be conducting and only during the period from 4:30 p.m. ET (T-1) to 6:00 a.m. ET.
18. The Filer has also applied to, and obtained from, CIRO an exemption from the registered representative requirements that are found in the CIRO 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 CIRO Dealer Member Rule 39.3 (the CIRO Relief).
19. The CIRO Relief obtained by the Filer is subject to certain conditions, including:
 - a) The Designated Foreign Affiliate Employees must be registered, licensed, certified or authorized and subject to equivalent regulatory supervision in the United Kingdom or

Singapore, as applicable in a category that permits trading the types of products which they will be trading on the MX.

- 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 4:30 p.m. ET (T-1) rather than 8:00 p.m. ET (T-1) as contemplated by the Asian Trading Hours Initiative, 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 future contracts, future 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 each Designated Foreign Affiliate must jointly and severally undertake to ensure CIRO has, upon request, prompt access to the audit trail of all trades, wherever located, that relate to Extended Hours Activities at each Designated Foreign Affiliate, and records evidencing the supervision of such activities.
- f) The Filer retains all responsibilities for its clients accounts.
- g) The Filer and each Designated Foreign Affiliate must enter into an agency agreement pursuant to which the Filer would assume all responsibility for the actions of the Designated Foreign Affiliate Employee and of the Designated Foreign Affiliates that relate to the Filer's clients and the Filer would be liable under CIRO 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 CIRO, the names of the foreign affiliate(s) and all Designated Foreign Affiliate Employees authorized 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 CIRO's "fit and proper" review and CIRO Registration staff may refuse participation in this extended trading hours arrangement.
 - l) The Filer must provide, in writing to CIRO, timely updates to the list of Designated Foreign Affiliate Employees, and confirm any changes on at least an annual basis.
- (E) I am of the opinion that it would not be prejudicial to the public interest to grant the Amended Exemption Sought;

IT IS ORDERED:

1. **THAT**, pursuant to section 76 of the CFA, the Amended Exemption Sought is granted, so long as:
 - (a) the Designated Foreign Affiliates 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 the Designated Foreign Affiliate 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 4:30 p.m. ET (T-1) to 6:00 a.m. ET, and will not be permitted to give advice;
 - (c) the Filer retains all responsibilities for its clients 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 future contracts, future contract options and options;

- (e) the Filer and the Designated Foreign Affiliate Employees enter into an agency agreement substantially as described in paragraph 19(g), and such agreement remains in effect; and
- (f) the Filer remains in compliance with the terms and conditions of the CIRO Relief.

2. **THAT** the fee for this Order is \$650.

BY ORDER OF THE COMMISSION

“Chris Besko”

Director
Manitoba Securities Commission

