

IIROC NOTICE

Rules Notice
Request for Comments
UMIR and IIROC Rules

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Comments Due By: December 7, 2020

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20-0202
October 8, 2020

Proposed Amendments Respecting the Trading of Derivatives on a Marketplace

Executive Summary

IIROC is publishing for comment proposed amendments (**Proposed Amendments**) to the Universal Market Integrity Rules (**UMIR**) and the Dealer Member Rules (**DMR**) / IIROC Rules (together, **IIROC requirements**) that would regulate the trading of listed derivatives on a marketplace for which IIROC acts as the regulation services provider (**RSP**).

The objective of the Proposed Amendments is to ensure IIROC requirements provide an appropriate framework for the regulation of listed derivatives trading on a marketplace that strengthens market integrity and investor protection. To do so we are proposing to:

- expand, where appropriate, the scope of current IIROC requirements that apply only to securities trading to also apply to derivatives trading



- limit, where appropriate, certain current IIROC requirements to apply only to securities trading
- adopt new requirements that are specific to derivatives trading.

An important consideration in developing the Proposed Amendments was that all rule amendments pursued should, where possible and appropriate, result in the consistent regulation of trading in securities and trading in derivatives.

Due to the extent and the nature of the Proposed Amendments, we are publishing them for public comment in two separate phases as follows:

- Phase 1: market integrity and related provisions
- Phase 2: trading-related and other provisions.

The Proposed Amendments in Phase 1 are designed to provide a framework for the regulation of options trading on a derivatives exchange for which IIROC acts as the RSP.

The text of the Proposed Amendments is set out in Appendix A and a blackline of the changes is set out in Appendix B. If approved, the Proposed Amendments would be effective at least 90 days after the publication of the Notice of Approval.

How to Submit Comments

We request comments on all aspects of the Proposed Amendments, including any matter that they do not specifically address. Comments on the Proposed Amendments should be in writing and delivered by **December 7, 2020** to:

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A copy should also be provided to the CSA by forwarding a copy to:

Market Regulation
Ontario Securities Commission
Suite 1903, Box 55, 20 Queen Street West
Toronto, Ontario M5H 3S8
e-mail: marketregulation@osc.gov.on.ca

Commentators should be aware that a copy of their comment letter will be made publicly available on the IIROC website at www.iiroc.ca. A summary of the comments contained in each submission will also be included in a future IIROC Notice.



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1. Introduction and Background

Prior to the inception of one of IIROC's predecessor organizations, Market Regulation Services Inc. (RS),¹ each exchange regulated trading on its own marketplace with its own set of market integrity rules. RS introduced UMIR as a common set of trading rules designed to bring a consistent approach to the regulation of listed securities trading and help ensure fairness and market integrity in order to strengthen investor confidence. More specifically, UMIR regulates various securities trading practices, including manipulative or deceptive methods of trading, short selling, frontrunning, order entry, as well as trading halts, delays and suspensions. While UMIR functions as IIROC's market integrity rules for the trading of listed securities, it does not currently provide a framework for the regulation of listed derivatives trading.

IIROC is publishing for comment the Proposed Amendments to provide for such a framework and to support IIROC acting as an RSP for a derivatives exchange.

Under its Recognition Order, IIROC must establish and maintain rules that, amongst other things, are designed to prevent fraudulent and manipulative acts and practices.² We believe the Proposed Amendments provide the fundamental tools IIROC needs to ensure investor protection by effectively deterring or preventing market manipulation of listed derivatives or any other disruption to market integrity through market surveillance, compliance, and enforcement practices and procedures.

The objective of the Proposed Amendments is to ensure IIROC requirements provide an appropriate framework for the regulation of derivatives trading on an exchange. To do so we are proposing to:

- expand, where appropriate, the scope of IIROC requirements that apply only to securities trading to also apply to derivatives trading
- limit, where appropriate, certain existing IIROC requirements to apply only to securities
- adopt requirements that are specific to derivatives trading.

¹ IIROC was established in 2008 through the consolidation of RS and the Investment Dealers Association of Canada (IDA).

² See IIROC Recognition Order, Schedule 1(2018), 41 OSCB 3009, [Appendix A s. 9a\(ii\)\(B\)](#):

9. Rules

a. IIROC must establish and maintain Rules that:

(i) are necessary or appropriate to govern and regulate all aspects of its functions and responsibilities as a self-regulatory entity;

(ii) are designed to:

[...]

(B) prevent fraudulent and manipulative acts and practices.



An important consideration in developing the Proposed Amendments was that all rule amendments pursued should, where possible and appropriate, result in the consistent regulation of trading in listed securities and trading in listed derivatives.

Due to the extent and the nature of the Proposed Amendments, we are publishing them for public comment in two separate phases as follows:

- Phase 1: market integrity and related provisions³
- Phase 2: trading-related and other provisions⁴.

The proposed Phase 1 amendments mainly relate to the following requirements:

- manipulative and deceptive activities
- frontrunning
- designation and identifiers
- electronic trading
- direct electronic access and routing arrangements
- powers of the Market Regulator
- position limits and reporting limits
- compliance with regulatory requirements
- audit trail and record keeping requirements
- synchronization of clocks.

The Proposed Amendments in Phase 1 are designed to provide a framework for the regulation of options trading on a derivatives exchange for which IIROC acts as the RSP.⁵

Question # 1

Do you agree with the two-phased approach and with the rule provisions included in each phase as set out in appendices B, C and D?

³ Appendices A, B and C provide a list of the rule provisions under Phase 1.

⁴ Appendix D provides a list of the rule provisions under review in Phase 2.

⁵ Due to the unique nature of listed products in derivatives, we do not expect ATs or QTRs to trade the same product as listed on an Exchange. Therefore the Proposed Amendments focus on the trading of derivatives on the listing Exchange.



2. Discussion of the Proposed Amendments

This section describes the main changes we are proposing to the IIROC requirements in order to accommodate the trading of options on an exchange for which IIROC is the RSP. A complete list of the Proposed Amendments is set out in Appendices A and B.

2.1. Definition of a “derivative” and “listed derivative”

Provisions that would be introduced, amended or extended to apply to derivatives:

UMIR 1.1	<i>Definitions of “derivative”, “listed derivative”</i>
UMIR 1.2(2)	<i>Interpretation</i>

UMIR currently incorporates the definition of a “derivative” as set out in securities legislation.⁶ In November 2019, IIROC published proposed revised definitions related to derivatives to the IIROC Rules as part of the Derivatives Rule Modernization project,⁷ which are set out below:

Proposed terms	Proposed definitions
derivative	An option, swap, futures contract, forward contract, contract for difference or any other financial or commodity contract or instrument whose market price, value, delivery obligations, payment obligations or settlement obligations are derived from, referenced to or based on an underlying interest, including a value, price, rate, variable, index, event, probability or thing.
listed derivative	A <i>derivative</i> that is traded on a <i>marketplace</i> pursuant to standardized terms and conditions set out by that <i>marketplace</i> and whose trades are cleared and settled by a clearing agency.

We propose adopting the above definitions of “derivative” and “listed derivative” in UMIR in order to harmonize with the proposed IIROC Rules. This approach would also align with the definitions set out in provincial securities, derivatives and commodity futures legislation.

2.2. Definition of a “security”

Provisions that would be introduced, amended or extended to apply to derivatives:

UMIR 1.1	<i>“related security”, “related derivative”</i>
UMIR 1.2(2)	<i>Interpretation</i>

⁶ Subsection (1) of UMIR Rule 1.2 provides that “(U)nless otherwise defined or interpreted, every term used in UMIR that is:

- (a) defined in subsection 1.1(3) of National Instrument 14-101 – Definitions has the meaning ascribed to it in that subsection;
- (b) defined or interpreted in the Marketplace Operation Instrument has the meaning ascribed to it in that National Instrument;
- (c) defined or interpreted in the Electronic Trading Rules has the meaning ascribed to it in that National Instrument; and
- (d) a reference to a requirement of an Exchange or a QTRS shall have the meaning ascribed to it in the applicable Marketplace Rule.

⁷ See [IIROC Notice 19-0200](#) – Proposed Derivatives Rule Modernization, Stage 1.



UMIR does not define a “security”⁸ but instead incorporates the interpretation of a “security” in section 1.4 of National Instrument 21-101 *Marketplace Operation (NI 21-101)*, which does not provide a consistent definition across all provinces and territories.⁹ The IIROC Rules also do not define a “security” and also incorporate the definition in securities legislation.¹⁰

We do not believe it is appropriate for all UMIR provisions to apply equally to both derivatives and securities in every case. Therefore, we propose differentiating between securities and derivatives in the proposed changes to UMIR to ensure the resulting framework applies to listed securities and listed derivatives trading where deemed suitable.

To ensure that we can specify the application of each rule provision to each asset class as intended, we propose amending UMIR 1.2(2) to separate the proposed definition of a “derivative” from the interpretation of a “security” as follows:

UMIR 1.2 Interpretation

(2) For the purposes of UMIR, the following terms shall be as defined by applicable securities legislation except that:

[...]

“security” does not include a “derivative”.

Using this approach, we propose adjustments throughout UMIR in order to distinguish between a “security” and a “derivative”. For example, the definition of a “related security” currently includes both securities that are related to a particular security, as well as derivatives instruments that are related to a particular security. Under our proposed approach, we would remove the concept of derivatives

⁸ Subsection (1) of UMIR Rule 1.2 provides that (u)unless otherwise defined or interpreted, every term used in UMIR that is:

(b) defined or interpreted in the Marketplace Operation Instrument has the meaning ascribed to it in that National Instrument.

⁹ Consolidated amendments of Marketplace Operation, [OSC NI 21-101](#), (February 1, 2017), Section 1.4: 1.4 Interpretation — Security — (1) In British Columbia, the term “security”, when used in this Instrument, includes an option that is an exchange contract but does not include a futures contract.

(2) In Ontario, the term “security”, when used in this Instrument, does not include a commodity futures contract or a commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under the Commodity Futures Act or the form of which is not accepted by the Director under the Commodity Futures Act.

(3) In Québec, the term “security”, when used in this Instrument, includes a standardized derivative as this notion is defined in the Derivatives Act.

(4) In Alberta, New Brunswick, Nova Scotia and Saskatchewan, the term “security”, when used in this Instrument, includes an option that is an exchange contract.

While the definition of a “security” in the *Securities Act* (British Columbia) has been recently amended to exclude exchange-traded options, this change has not yet been reflected in s. 1.4 of NI 21-101.

¹⁰ Subsection [1201\(1\) of IIROC Rules](#) states that “(a)ny term not defined in subsection 1201(2), in IIROC General By-Law No. 1, in Form 1 or in a specific Rule, which is defined in securities laws, has the same meaning as provided for in the securities laws.”

Section 1.1 of IIROC General By-Law also does not define a “security”.



instruments that are related to a particular security from the definition of a “related security”, and insert them to a new definition of a “related derivative” as follows:

Proposed new and amended terms under UMIR 1.1	Proposed new and amended definitions
related security	<p>means, in respect of a particular security or derivative:</p> <p>(a) a security which is convertible or exchangeable into the particular security or derivative; or</p> <p>(b) a security into which the particular security or derivative is convertible or exchangeable; ;</p> <p>(c) a derivative instrument for which the particular security is the underlying interest;</p> <p>(d) a derivative instrument for which the market price varies materially with the market price of the particular security; and</p> <p>(e) if the particular security is a derivative instrument, a security which is the underlying interest of the derivative instrument or a significant component of an index which is the underlying interest of the derivative instrument.</p>
related derivative	<p><u>means, in respect of a particular security or derivative,</u></p> <p><u>a derivative that is related to the security or derivative because the derivative’s market price, value, delivery obligations, payment obligations or settlement obligations are, in a material way, derived from, referenced to or based on the market price, value, delivery obligations, payment obligations or settlement obligations of the security or derivative.</u></p>

Question # 2

Do the proposed changes clearly and sufficiently differentiate between securities and derivatives?

2.3. Manipulative and Deceptive Activities

Provisions that would be amended or extended to apply to derivatives:

UMIR 1.1	<i>Definition of “last sale price”</i>
UMIR 2.2 and Policy 2.2	<i>Manipulative and Deceptive Activities</i>
Part 3 of Policy 1.2	<i>“Ought Reasonably to Know”</i>
Part 3 of Policy 7.1	<i>Supervision and Compliance Procedures for Trading on a Marketplace</i>
UMIR 10.4	<i>Extension of Restrictions</i>
UMIR 10.16	<i>Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons</i>

One of UMIR’s core provisions is the prohibition on manipulative and deceptive activities. We believe it is essential for market integrity and investor protection that IIROC effectively prevent and address market manipulation and other deceptive activities, and therefore propose extending the UMIR prohibition on manipulative and deceptive activities to listed derivatives trading. Many derivatives regulators and marketplaces have also followed this approach and have implemented prohibitions on manipulative and deceptive activities similar to those covered under UMIR 2.2 and Policy 2.2.



To address manipulative and deceptive activities that can occur on a derivatives exchange for which IIROC acts as the RSP, we are proposing to prohibit the following activities:

- spoofing, layering¹¹ or creating a false or misleading appearance of trading activity or interest in transacting a listed derivative¹² in UMIR 2.2(2)(a)
- entering orders or trades to influence the market price¹³ in UMIR 2.2(2)(b)
- wash trading¹⁴ in Part 1(b) of Policy 2.2
- high- or low-closing a last bid, ask or trade price¹⁵ in Part 2(e) of Policy 2.2, including the “last sale price” which we propose to amend to include the price of the last sale of an option that is traded on an exchange for which IIROC is the RSP
- creating an artificial ask price, bid price, or sale price in UMIR 2.2(2),¹⁶ including the price used in the determination of the settlement price of a listed derivative
- entering into prearranged trades,¹⁷ including engaging in accommodation trading money passes,¹⁸ in Part 2(a) of Policy 2.2

¹¹ Spoofing is often characterised as the placing of non bona fide orders with the intention to cancel those orders prior to them being filled. Layering is characterised as a specific form of spoofing where the actor enters multiple non bona fide orders at different levels in order to create the illusion of market liquidity.

¹² EC, *REGULATION (EU) No 596/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC, Article 12(1)(a)(i) and 2(c)(iii)* (EU Regulation No 596/2014); UK, Financial Conduct Authority, FCA Handbook, [MAR1.6.5\(3\)](#) (FCA UK); *Rules of CBOE Exchange, Inc*, CBOE 2020, [Rule 8.6](#) (CBOE); *CME Rulebook*, CME, [Rule 514.A par. 12](#), [Rule 575.A and Rule 575.B \(CME\)](#); *Exchange Rules of Eurex Deutschland*, Eurex 2020, [Rule 17\(3\) and \(4\)](#) (Eurex); *ICE Futures US, Inc. Rulebook*, ICE Futures U.S. 2020, [Rule 4.02\(l\)\(1\)\(A\)](#) (ICE Futures U.S.); *Rules of the Montréal Exchange*, Montreal Exchange 2020, art. 7.5(b)i) (MX Rules).

¹³ 7 USC § 6c (2010), [provision \(a\)\(1\) and \(2\)\(B\)](#); *Prohibition on Price Manipulation*, [17 CFR § 180.2](#) (2020) (US CFR); EU Regulation No 596/2014, [Article 12\(1\)\(a\)\(i\) and \(b\) and \(2\)\(c\)\(iii\)](#); FCA UK, [MAR 1.6.5\(1\)](#); NFA Rulebook, FFA 2019, [Rule 2-2\(d\) and \(e\)](#) (NFA Rulebook); [CBOE, Rule 8.6](#); [CME, Rule 514.A\(1\)](#); [Eurex, Rule 17\(4\)](#); [ICE Future U.S., Rule 4.02\(a\) and \(l\)\(2\)](#); [MX Rules, Article 7.5\(a\)](#).

¹⁴ Wash trading is a form of fictitious trading which involves no change in beneficial ownership or transfer of risk. See: 7 USC 6c (2010), [provision \(a\)\(1\) and \(2\)\(A\)\(i\)](#); [US CFR, 17 CFR § 38.152](#); [EU Regulation No 596/2014, Annex I A \(c\)](#); [CME, Rule 534](#); [Eurex, Rule 4.8](#); [ICE Futures U.S., Rule 4.02\(c\)](#); [MX Rules, Article 7.5](#).

¹⁵ [MX Rules, Article 7.7](#).

¹⁶ [EU Regulation No 596/2014, Article 12\(1\)\(a\)\(i\)](#); [FCA UK, MAR 1.6.10](#); [CBOE, Rule 8.6\(a\)](#); [Eurex, Rule 17\(4\)](#); [ICE Future U.S., Rule 4.02\(l\)\(2\)](#); [MX Rules, Article 7.7](#).

¹⁷ [7 USC 6c \(2010\), provision \(a\)\(1\) and \(2\)\(A\)\(i\)](#); [US CFR, 17 CFR § 38.152](#); [CME, 539.A](#); [Eurex Rule 2.6\(1\)](#); [ICE Futures U.S., Rule 4.02\(c\), \(f\) and \(k\)](#); [MX Rules, Article 6.203](#).

¹⁸ Accommodation trading money passes are a type of fictitious, non-competitive trade that is prearranged between two parties and generally prohibited: see [7 USC 6c \(2010\), provision \(a\)\(1\) and \(2\)\(A\)\(i\)](#); [US CFR, 17 CFR § 38.152](#); [ICE Futures U.S., Rule 4.02\(c\), \(f\) and \(k\)](#); [MX Rules, Article 7.5](#).



- overloading, delaying or disrupting the systems of the marketplace, Market Regulator or other market participants,¹⁹ which would be captured as a type of manipulative or deceptive method, act or practice under UMIR 2.2(1).²⁰

We are proposing to exclude certain trades in listed derivatives from the general prohibition on prearranged trades under UMIR 2.2(2) and paragraph (a) in Part 2 of Policy 2.2, which would also be consistent with practices on other marketplaces that trade listed derivatives.²¹ At this time, we are proposing to list certain specific products in guidance, that when traded via a prearranged trade on a derivatives exchange for which IIROC is the RSP, would not be subject to this general prohibition.

Question # 3

Are there any provisions in UMIR 2.2 or Policy 2.2 that should not apply to listed derivatives?

Question # 4

Are there other examples of manipulative or deceptive activities that are specific to listed derivatives that we should add to Part 2 of Policy 2.2?

2.4. Frontrunning

Provisions that would be amended or extended to apply to derivatives:

UMIR 4.1	<i>Frontrunning</i>
Part 3 of Policy 7.1	<i>Supervision and Compliance Procedures for Trading on a Marketplace</i>
UMIR 10.4	<i>Extension of Restrictions</i>
UMIR 10.16	<i>Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons</i>

Under UMIR 4.1, Participants with knowledge of a client order that could reasonably be expected to affect the market price of a security are prohibited from:

- trading ahead of the client
- disclosing the order to another person outside of the necessary course of business.

¹⁹ [EU Regulation no 596/2014, Article 12\(2\)\(c\)\(i\) and \(ii\)](#); [CME, Rule 575\(C\) and \(D\)](#); [ICE Futures U.S., Rule 4.02 \(I\)\(1\)\(B\) and \(C\)](#); [MX Rules, Article 7.5](#).

²⁰ This is similar to quote stuffing for listed securities, where a market participant sends excessive market data messages with the intent to “flood” systems and create information arbitrage opportunities for itself. IIROC has listed quote stuffing as an example of a manipulative or deceptive method, act or practice under subsection (1) of UMIR Rule 2.2 under guidance: see IIROC Notice [13-0053](#) – *Guidance on Certain Manipulative and Deceptive Trading Practices*.

²¹ [CME, Rule 533](#); [CME, Rule 539](#); [MX Rules, Article 6.204](#).



We propose extending this prohibition to orders in a listed derivative entered on an exchange for which IIROC is the RSP. The Proposed Amendments would not prohibit the practice of pre-hedging, which is currently exempted under UMIR 4.1(2)(d).²²

The extension of the prohibition under UMIR 4.1 would be consistent with the regulation of listed derivatives on other exchanges, which similarly prevent dealers from taking advantage of knowledge of non-public information of a client order.²³

Under Part 3 of Policy 7.1, Participants that trade in listed derivatives on an exchange for which IIROC is the RSP would need to ensure their supervision systems include the regular review of compliance with respect to frontrunning under UMIR 4.1. Participants would need to report potential violations of the frontrunning prohibition with respect to trading in listed derivatives to IIROC pursuant to UMIR 10.16.

Question # 5

Do you agree the prohibition on frontrunning, and related pre-hedging exemption, should be extended to derivatives?

2.5. Designations and Identifiers

Provisions that would be amended or extended to apply to derivatives:

UMIR 1.1	<i>Definitions of “client order”, “derivatives market maker”, “direct electronic access”, “foreign dealer equivalent”, “identified order execution only client”, “insider”, “multiple client order”, “non-client order”, “jitney order”, “Marketplace Trading Obligations”, “Participant”, “principal account”, “principal order”, “related entity”, “routing arrangement”, “significant shareholder”</i>
UMIR 6.2	<i>Designations and Identifiers</i>
Part 3 of Policy 7.1	<i>Supervision and Compliance Procedures for Trading on a Marketplace</i>
Part 9 of Policy 7.1	<i>Specific Provisions Applicable to Direct Electronic Access and Routing Arrangements</i>
Part 10 of Policy 7.1	<i>Specific Procedures Respecting Audit Trail and Record Retention Requirements</i>
UMIR 7.9	<i>Trading in Listed or Quoted Securities by a Derivatives Market Maker</i>
UMIR 7.13(2)(c)	<i>Direct Electronic Access and Routing Arrangements</i>
DMR 3200 / IIROC Rule 3241	<i>Identification of order execution only clients</i>
DMR 3600 / IIROC Rule 3140	<i>Identification of originating Dealer Members</i>
UMIR 10.4	<i>Extension of Restrictions</i>
UMIR 10.11(1)(a)	<i>Audit Trail Requirements</i>
UMIR 10.15	<i>Assignment of Identifiers and Symbols</i>

²² [UMIR Rule 4.1](#) Frontrunning:

(2) A Participant does not contravene subsection (1) if:

(d) a principal order is entered to hedge a position that the Participant had assumed or agreed to assume before having actual knowledge of the client order provided the hedge is:

(i) commensurate with the risk assumed by the Participant, and

(ii) entered into in accordance with the ordinary practice of the Participant when assuming or agreeing to assume a position in the security.

²³ See [MX Rules, Article 7.6](#) Front Running Prohibited; [US CFR, 17 CFR § 155.2-155.4](#); [FINRA Rules, FINRA 2019, Rule 2370\(25\), Rule 5270 and Rule 5320 \(FINRA Rules\)](#); [Market Regulation Advisory Notice, CME Group RA2002-5, February 25, 2020](#); [CBOE, Rule 5.86](#).



We propose extending the application of the following designations and identifiers, as well as introduce a new marker under UMIR 6.2, to orders in listed derivatives that are sent to an exchange for which IIROC is the RSP. Other than the Participant identifier number, the identifiers and designations proposed below would constitute private regulatory information that would not be publicly displayed.

	Existing marker that would be extended to listed derivatives	New marker that would apply to listed derivatives
Identifiers	<ul style="list-style-type: none"> Participant Jitney Participant originating Dealer Member* direct electronic access (DEA), or routing arrangement (RA) identified order execution only (OEO) client and all other OEO clients any other client that is not accessing the marketplace using DEA, RA or OEO* Advisers and Foreign Adviser Equivalents that has trading authority or control over an OEO account client of a foreign dealer equivalent that is using an algorithm to generate orders* 	
Designations	<ul style="list-style-type: none"> account types: client, non-client, principal, bundled order, multiple client order* designation to show if a client is accessing marketplace using DEA, RA or OEO* insider of the underlying listed security significant shareholder of the underlying listed security derivatives market maker 	<ul style="list-style-type: none"> opening/closing transaction indicator

*New designation or identifier introduced under the Client Identifiers Amendments effective July 26, 2021.²⁴

Under Parts 3 and 10 of Policy 7.1, Participants that trade in listed derivatives on an exchange for which IIROC is the RSP would need to ensure their supervision systems include the regular review of compliance with respect to the applicable designations and identifiers under UMIR 6.2 and audit trail requirements under UMIR 10.11.

2.5.1. Identifiers

- **“Participant”**

Participants currently include their identifier number when sending orders in listed securities to a marketplace pursuant to UMIR 6.2(1)(a)(i) and UMIR 10.15(2). We propose extending this requirement to orders in listed derivatives that are sent to an exchange for which IIROC is the RSP.

²⁴ IIROC Notice [19-0071](#) – Amendments Respecting Client Identifiers and IIROC Notice [20-0056](#) – Revised Implementation of Client Identifier Amendments for Listed Securities. (Client Identifiers Amendments)



- **Participant using a “jitney order”**

We propose extending the definition of a “jitney order” under UMIR 1.1 to apply to orders in listed derivatives. Where a Participant sends a “jitney order” to another Participant for execution, the identifier of the originating Participant would need to be included as the jitney Participant for orders in listed derivatives that are sent to an exchange for which IIROC is the RSP.

- **Client accessing the marketplace using “direct electronic access” or “routing arrangement”**

Participants currently identify direct electronic access (**DEA**) or routing arrangement (**RA**) clients using a unique identifier in the form of a TraderID on orders in listed securities pursuant to UMIR 6.2(1)(a)(v) and (vi) and Part 9 of Policy 7.1, and separately report the client’s name to IIROC (see also section 2.7 of this Notice). We propose extending this identifier requirement to the trading of listed derivatives on an exchange for which IIROC is the RSP.

As of July 26, 2021, Participants will need to replace the unique identifier with an LEI for RA clients and DEA clients that are eligible to obtain an LEI for orders in a listed security.²⁵ Once the Amendments become effective, Participants would use LEIs to identify DEA and RA clients on orders for listed derivatives that are sent to an exchange for which IIROC is the RSP. Where a DEA client is not eligible to obtain an LEI under the standards set by the Global LEI Foundation (**GLEIF**),²⁶ Participants would include the DEA client’s account number on the order and separately report the name of the DEA client to IIROC.

- **Client of a foreign dealer equivalent that is in a routing arrangement with a Participant that uses an algorithm to generate orders**

Participants will need to use a unique identifier on orders in listed securities for each client of a foreign dealer equivalent (**FDE**) that is in a routing arrangement with a Participant, where that FDE’s client is automatically generating orders on a predetermined basis to send to a marketplace.²⁷ The purpose of this identifier is to allow IIROC to segregate and monitor higher-risk client flow that is automatically generated on a predetermined basis. We propose extending this requirement to orders in listed derivatives that are sent to an exchange for which IIROC is the RSP. The identifier would only need to be unique to that client within the FDE, and does not have to take the form of a name, LEI or account number.²⁸

²⁵ Client Identifiers Amendments (See Note 24).

²⁶ Global Legal Entity Identifier Foundation at <https://www.gleif.org/en>.

²⁷ This was a new requirement introduced under the Client Identifiers Amendments and would become effective July 26, 2021 (See Note 24).

²⁸ The unique identifier can be any string of characters as long as it is between 2 and 20 alphanumeric characters and is unique to the FDE’s client. See also the [Client Identifiers section](#) of the IIROC website.



- **“identified order execution only client” and other OEO clients**

We propose extending the definition of an “identified order execution only client”²⁹ to apply to orders in listed derivatives on an exchange for which IIROC is the RSP. Paragraph (a) of the definition of an “identified order execution only client” includes an active client whose orders exceeds 500 orders per day in any calendar month. IIROC created the threshold for determining an “active” order execution only (OEO) client pursuant to a review of order activity in listed securities in 2014.³⁰ Given that we do not have historical listed derivative trading data on which to base the threshold for active order execution only clients that trade listed derivatives, we may consider changing this threshold in the future once we have more trading information to draw from. We are also seeking comments on what would be considered an “active” OEO client in a listed derivative.

Participants currently identify “identified order execution only clients”³¹ on orders in listed securities pursuant to UMIR 6.2(1)(a)(iv), DMR 3200.A.5 and DMR 3200.B.6, or IIROC Rule 3241, and separately report the client’s name to IIROC. The policy rationale for identifying “identified order execution only clients” is to ensure that Dealer Members address the added risks associated with the lack of intermediation by staff of the Dealer Member in their policies and procedures and supervisory systems. We propose extending these identification requirements to the trading of listed derivatives on an exchange for which IIROC is the RSP.

As of July 26, 2021, Participants would include the LEI of the “identified order execution only client” on orders in listed derivatives that are sent to an exchange for which IIROC is the RSP. Where the “identified order execution only client” is not eligible for an LEI under the standards established by GLEIF, the Participant would use the client’s account number and separately report the client’s name to IIROC.

For all other clients that use OEO services and are not an “identified order execution only client”, Participants would need to include the client account number on orders in listed securities effective July 26, 2021. We propose also extending this identifier requirement to orders in listed derivatives on an exchange for which IIROC is the RSP.

²⁹ An “identified order execution only client” is defined under UMIR Rule 1.1 to mean a client using an order execution only service:

- (a) whose trading activity on marketplaces for which the Market Regulator is the regulation services provider exceeds a daily average of 500 orders per trading day in any calendar month,
- (b) that is not an individual and is registered as a dealer or adviser in accordance with applicable securities legislation, or
- (c) that is not an individual and is in the business of trading securities in a foreign jurisdiction in a manner analogous to an adviser.

³⁰ IIROC Notice [14-0101](#) – *Re-Publication of Proposed Provisions Respecting Order Execution Services as a Form of Third-Party Electronic Access to Marketplaces*.

³¹ See definition of “identified order execution only client” in note 29.



Question # 6

What would be an appropriate order threshold for determining an “active” OEO client for listed derivatives? What criteria should we consider in determining an “active” OEO client for listed derivatives?

- **Adviser or Foreign Adviser Equivalent that has trading authority or control over an OEO account**

Where an adviser or foreign adviser equivalent has trading authority or control over an order execution only account, Dealer Members currently report the unique identifier of the adviser³² or foreign adviser equivalent³³ on orders in a listed security and separately report the name of the adviser or foreign adviser equivalent to IIROC under DMR 3200.A.5.1 and 3200.B.6.1 and IIROC Rule 3241. We propose extending the identification requirement for advisers and foreign adviser equivalents to orders in a listed derivative that are sent to an exchange for which IIROC is the RSP.

- **Originating Dealer Members that are not Participants**

As of July 26, 2021, Participants will need to report the LEI of the originating Dealer Member on orders in a listed security, and the originating Dealer Member will need to renew their LEI on an annual basis.³⁴ We propose extending the identification and LEI renewal requirement to originating Dealer Members that are not Participants that trade in a listed derivative on an exchange for which IIROC is the RSP.

- **Clients that do not access the marketplace using DEA, RA or OEO**

Dealer Members will need to identify each client that does not access the marketplace using DEA, RA or OEO on each order in a listed security using:³⁵

- an LEI where the client is supervised as an institutional client under DMR 2700 *Minimum Standards for Institutional Customer Account Opening, Operation and Supervision* or Part D of IIROC Rule 3900 – Supervision of *institutional client* accounts
- an account number where the client is supervised as a retail client under DMR 2500 *Minimum Standards for Retail Customer Account Supervision* or Part C of IIROC Rule 3900 – Supervision of *retail client* accounts.

³² Dealer Member Rule 3200 defines an “adviser” to mean a person that is not an individual and, is registered or is exempted from registration, as an adviser in accordance with applicable securities legislation.

³³ Dealer Member Rule 3200 defines a “foreign adviser equivalent” to mean a person that is not an individual and is in the business of trading securities in a foreign jurisdiction in a manner analogous to an adviser.

³⁴ This is a new requirement introduced under the Client Identifiers Amendments that would become effective on July 26, 2021 (See Note 24).

³⁵ Ibid.



We propose extending this identifier requirement to orders in listed derivatives that are sent to an exchange for which IIROC is the RSP.

2.5.2. Designations

- **“client order”, “non-client order”, “principal order”, “bundled order”, “multiple client order”**

We propose extending the definitions of “client order”, “non-client order”, “principal order”, “bundled order” and “multiple client order”, which are currently different account types in listed securities, to apply to trading in listed derivatives. We would also extend the requirement to mark these orders when trading listed derivatives on an exchange for which IIROC is the RSP.

- **“insider”, “significant shareholder”**

Where an account holder (e.g. client, non-client or principal) is an “insider” or “significant shareholder” of the issuer of an underlying security – we propose extending the order marking requirement to orders in listed derivatives that are sent to an exchange for which IIROC is the RSP. There would be no change to the meaning of an “insider” under UMIR 1.1, which continues to rely on the definition in securities legislation.³⁶ The definition of “significant shareholder” under UMIR 1.1 would also continue to mean a person holding, separately or together with other persons, 20% or more of the outstanding voting shares of an issuer.³⁷ IIROC currently requires these markers for the trading of listed securities, and the extension of these markers to listed derivatives with respect to the underlying security would be consistent with the regulation of derivatives on other marketplaces.³⁸

- **Clients that access the marketplace using DEA, RA or OEO**

Participants will need to ensure that an order in a listed security contains a DEA, RA or OEO flag to indicate where a client is accessing the marketplace using DEA, RA or OEO.³⁹ We propose extending this designation requirement to orders in listed derivatives on an exchange for which IIROC is the RSP.

³⁶ UMIR Rule 1.1 defines an “insider” to mean a person who is an insider of an issuer for the purpose of applicable securities legislation.

³⁷ UMIR Rule 1.1 defines a “significant shareholder” to mean any person holding separately, or in combination with other persons, more than 20 per cent of the outstanding voting securities of an issuer.

³⁸ For example, [MX Rules, Article 6.115\(a\)\(iv\)](#) provides “Order for an insider or significant shareholder” means an order for a Security or a Derivative Instrument for the account of a client, a professional or a firm who is an insider and/or significant shareholder of the issuer of the underlying Security which is the subject of the order. If such client, professional or firm is both an insider and a significant shareholder, the significant shareholder designation must be used.

³⁹ This is a new requirement introduced under the Client Identifiers Amendments that would become effective on July 26, 2021 (See Note 24).



- **“derivatives market maker”**

UMIR currently requires a trader on an order in a listed security to indicate whether they are a market maker or specialist in a related security that is a derivative under paragraph (b) of the UMIR 1.1 definition of a “Participant”⁴⁰ and UMIR 6.2(1)(b)(vii.1)⁴¹. We propose extending the order marker requirement in UMIR 6.2 to orders in listed derivatives. An order in a listed derivative, entered by traders that have Marketplace Trading Obligations with respect to the trading of that derivative on an exchange for which IIROC is the RSP, would need to include the market maker marker. We propose extending:

- the definition of “Marketplace Trading Obligations” to include a person that is employed by a member of an exchange to guarantee a two-sided market for a listed derivative on a continuous or reasonably continuous basis under subparagraph (a)(i) of the definition under UMIR 1.1 as set out in Appendices A and B
- the requirement on a Derivatives Market Maker to comply with Marketplace Rules when trading listed securities under UMIR 7.9 to include listed derivatives on an exchange for which IIROC is the RSP as set out in Appendices A and B.
- **“opening/closing transaction indicator”**

A derivatives position remains open until liquidated by actions such as entering into a closing transaction, by delivery or cash settlement etc.⁴² We propose introducing a new “opening/closing transaction indicator” for listed options that trade on an exchange for which IIROC is the RSP. This new marker would help IIROC conduct surveillance of derivatives contracts and would be used in conjunction with daily position reports filed by market participants. Other derivatives marketplaces

⁴⁰ UMIR 1.1 defines a “Participant” to mean:

(a) a dealer registered in accordance with securities legislation of any jurisdiction and who is:

- (i) a member of an Exchange,
- (ii) a user of a QTRS, or
- (iii) a subscriber of an ATS; or

(b) a person who has been granted trading access to a marketplace and who performs the functions of a derivatives market maker.

⁴¹ UMIR 6.2(1) requires each order entered on a marketplace to contain:

(b) a designation acceptable to the Market Regulator for the marketplace on which the order is entered, if the order is:
(vii.1) a derivative-related cross.

⁴² For example, see [MX Rules, Article 6.4](#) Closing Trades, which provides:

(a) All Derivative Instruments positions for a Client Account or non-client account must remain open until liquidated by a closing Transaction, by Delivery, by cash settlement or failure to perform as provided in the rules of the exchange where such Derivative Instruments are traded and the Clearing Corporation.

(b) All Closing Trades shall take place on the Bourse and shall be subject to the Regulations of the Bourse and of the designated Clearing Corporation.



have similar requirements in certain circumstances, including where an account is in default and is ordered to liquidate or reduce positions by the Market Regulator.⁴³

2.6. Electronic Trading

Provisions that would be amended or extended to apply to derivatives:

Part 7 of Policy 7.1	<i>Specific Provisions Applicable to Electronic Access</i>
Part 8 of Policy 7.1	<i>Use of Automated Order Systems</i>
UMIR 10.17	<i>Gatekeeper Obligation with respect to Electronic Trading</i>

We propose extending UMIR's framework for the regulation of electronic trading currently in place for listed securities to the trading of listed derivatives on an exchange that is regulated by IIROC.⁴⁴

Specifically, we propose applying the requirements respecting electronic access and the use of automated order systems under Parts 7 and 8 of Policy 7.1 to trading in listed derivatives on an exchange for which IIROC is the RSP. Under the proposal, Participants would need to have risk management and supervisory controls, policies and procedures that are reasonably designed to ensure:

- that all orders in listed derivatives are monitored pre- and post-trade
- that Participants can systematically limit their financial exposure
- compliance with all marketplace and regulatory requirements
- the Participant can stop or cancel the entry of orders in listed derivatives to a marketplace
- the Participant can suspend or terminate any marketplace access granted to a client, and
- the entry of orders in listed derivatives do not interfere with fair and orderly markets.

⁴³ See [MX Rules, Article 6.117](#) Opening Transaction or Closing Transaction Indicator Field
The Bourse has provided an open/closed indicator field at the input of orders on all Listed Products which:
(a) shall be included in the submission of each order entered into the Trading System by an Approved Participant in the following circumstances:
(i) the order is entered for the account of an Approved Participant or its customer who is in default or is otherwise ordered to Trade for liquidation only;
(ii) the order is entered for the account of an Approved Participant or its customer who has been ordered to reduce positions by the Bourse;
(iii) the order is for an equity Option or Share Futures Contracts that is the subject of a trading restriction or other limit due to a corporate action in the underlying Security;
(iv) the Approved Participant, its client, or the market generally is subject to an order of the Bourse to Trade for liquidation only;
(b) may otherwise be used by Approved Participants in the submission of orders in their own discretion.

⁴⁴ IIROC Notice [12-0363](#) – *Provisions Respecting Electronic Trading*; this approach is aligned with the requirements applicable to exchanges and market participants in Quebec pursuant to Quebec [Derivatives Regulation, CQLR c I-14.01, s. 175, section 11.22.1.](#)



Where a Participant has authorized an investment dealer or third party to set or adjust a risk management or supervisory control with respect to orders in listed derivatives on an exchange for which IIROC is the RSP, the Participant would need to report to IIROC under UMIR 10.17:

- where the Participant knows or has reason to believe that the investment dealer or third party has failed to promptly remedy any deficiency identified by the Participant, or
- the termination of the written agreement with the investment dealer or third party.

2.7. Direct Electronic Access and Routing Arrangements

Provisions that would be amended or extended to apply to derivatives:

UMIR 1.1	<i>Definitions of “direct electronic access”, “foreign dealer equivalent”, “routing arrangement”</i>
UMIR 7.13	<i>Direct Electronic Access and Routing Arrangements</i>
Part 9 of Policy 7.1	<i>Specific Provisions Applicable to Direct Electronic Access and Routing Arrangements</i>
UMIR 10.18	<i>Gatekeeper Obligations with Respect to Access to Marketplaces</i>

IIROC regulates electronic access to a marketplace as a “closed system”, where orders that are entered using a Participant’s identifier must either be:

- entered or transmitted through a Participant that has access to trading on the marketplace, or
- provided with third party electronic access by the Participant using DEA, RA, or OEO.

We would extend our regulatory framework, which complements the requirements under NI 23-103, to exchanges that trade listed derivatives for which IIROC is the RSP by:

- amending the UMIR definitions for “direct electronic access” and “routing arrangement” to apply to listed derivatives, in addition to listed securities.

- Direct electronic access

Where a client sends an order in a listed derivative using DEA, the Participant remains responsible for the order under UMIR, and must put in place risk management and supervisory controls, policies and procedures under UMIR 7.13.

- Routing arrangements

RA clients that trade in listed derivatives would be subject to the same standards as for direct electronic access, the main difference being that these clients are either an IIROC Dealer Member or an FDE. We also propose extending the definition of a “foreign dealer equivalent” under UMIR 1.1 to include a person that is in the business of trading derivatives in a foreign jurisdiction in a manner analogous to an investment dealer as set out in Appendices A and B.

- extending the application of UMIR 7.13 to the trading of listed derivatives on an exchange for which IIROC is the RSP by reference to the amended definitions of “direct electronic access” and “routing arrangement” as proposed.



As provided under Part 9 of Policy 7.1, Participants would need to establish, maintain and apply standards for granting DEA or RA to clients that trade listed derivatives on an exchange. Participants would also need to:

- monitor orders in listed derivatives that are entered by DEA or RA clients in order to identify whether the client may have:
 - breached any standard established by the Participant for the granting of DEA or RA;
 - breached the terms of the written agreement regarding the DEA or RA;
 - improperly granted or provided its access under DEA or RA to another person;
 - engaged in unauthorized trading on behalf of the account of another person; or
 - failed to ensure that orders are transmitted through the systems of the client, or Participant, investment dealer or foreign dealer equivalent before being entered on a marketplace that trades listed derivatives for which IIROC is the RSP.
- establish and maintain adequate policies and procedures to ensure that orders in listed derivatives entered by clients using DEA or RA are properly identified under proposed changes to UMIR 6.2.
- report to IIROC under UMIR 10.18:
 - breaches of a material provision of the standards or terms of the written agreement regarding DEA or RA
 - termination of access of the client to a marketplace that trades listed derivatives for which IIROC is the RSP.

2.8. Powers of the Market Regulator

Provisions that would be extended to apply to derivatives:

UMIR 7.1	<i>Trading Supervision Obligations</i>
UMIR 7.11	<i>Variation and Cancellation and Correction of Trades</i>
UMIR 9.1	<i>Regulatory halts, delays and suspensions of trading</i>
UMIR 10.5	<i>Suspension or Restriction of Access</i>
UMIR 10.9	<i>Power of Market Integrity Officials</i>
UMIR 11.1	<i>General Exemptive Relief</i>
UMIR 11.2	<i>General Prescriptive Relief</i>

IIROC’s regulatory powers and interventions as provided under UMIR 7.11, 9.1, 10.5, and 10.9 are part of a multi-tiered approach to maintain market integrity, in conjunction with other measures including:

- pre-trade risk control requirements at the Participant level
- requirements for supervisory systems and policies and procedures under UMIR 7.1.



We propose extending these provisions to apply to trading in listed derivatives on an exchange for which IIROC is the RSP.

Specifically, we propose to extend:

- the application of UMIR 9.1(1) to listed derivatives to prevent the trading of a listed derivative, either on- or off-marketplace, while a regulatory halt or suspension is in effect.⁴⁵ We would specify the factors for consideration when implementing a halt or suspension in guidance depending on the type of products listed by a derivatives exchange for which IIROC is the RSP
- the existing powers under UMIR 10.9 to listed derivatives as well as adding new powers specific to listed derivatives trading, such as:⁴⁶
 - limiting trading to liquidation only
 - ordering liquidation of all or a portion of a trading account
 - restricting trading to a specific price range
 - modifying price limits for certain trading accounts
- our ability to vary, cancel or correct trades under UMIR 7.11 to listed derivatives. We may outline “no touch zones” for the review of trades in listed derivatives in guidance. These zones

⁴⁵ For example, section (a) of [MX Article 11.115](#) Trading Halt or Suspension for the Standard Options on the S&P/TSX 60 Index provides (t)rading on the Bourse in a standard Option on the S&P/TSX 60 Index shall be halted whenever a Market Supervisor shall conclude, in his judgment, that such action is appropriate in the interests of a fair and orderly market. A Market Supervisor must take the following factors into account when deciding whether to halt or suspend trading in a Class of standard Options on the S&P/TSX 60 Index:

- (i) the extent to which trading is not occurring in stocks comprising the Underlying Index;
- (ii) whether the most current calculation of the Index derived from the current market prices of the stocks is available;
- and
- (iii) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

⁴⁶ For example, see [MX Article 6.1\(b\)](#) which provides the emergency authority of the Bourse which includes the ability to:

- (i) terminate trading;
- (ii) limit trading to liquidation of Listed Products only;
- (iii) order liquidation of all or a portion of an Approved Participant’s accounts;
- (iv) order liquidation of positions as to which the holder is unable or unwilling to settle or to make or take Delivery ;
- (v) confine trading to a specific price range or otherwise modify the price limits when such a limit exists;
- (vi) modify the Trading Days or trading hours;
- (vii) alter conditions of Delivery or of settlement;
- (viii) fix the Settlement Price at which Listed Products are to be liquidated according to the rules of the Clearing Corporation;
- (ix) require additional Margins to be deposited with the Clearing Corporation.



would depend on the type of products listed by a derivatives exchange for which IIROC is the RSP⁴⁷

- our ability to suspend or restrict the access of a Subject Person, in order to protect the public interest, to a derivatives exchange for which IIROC is the RSP, by using an interim order under UMIR 10.5.

Consistent with our principles for regulatory intervention in listed securities, we propose to intervene only in circumstances where market integrity is at risk and it is necessary to maintain fair and orderly markets in the trading of listed derivatives on an exchange for which IIROC is the RSP. To the extent possible, the circumstances where we would undertake regulatory intervention should be certain and transparent to market participants.

In addition to the above provisions on regulatory interventions, we also propose extending our ability to:

- exempt a specific transaction in listed derivatives under UMIR 11.1 from a provision of UMIR where that transaction is not:
 - contrary to securities legislation
 - prejudicial to the public interest
 - prejudicial to the maintenance of a fair and orderly marketand is warranted under the particular circumstances
- amend a provision of UMIR or Policy under UMIR 11.2 with respect to the trading of listed derivatives on an exchange for which IIROC is the RSP. This would also be consistent with our power to make, amend or repeal rules under section 13.1 of IIROC's General By-Law.

⁴⁷ For example, MX rules set a "No-Review Range" for certain trades under [MX Article 6.210](#) Trade Cancellation and or Price Adjustment which provides:

(c) Trade Price Inside the No-Review Range. If the Bourse determines that the Trade price is inside the No Review Range, the Bourse will notify the two Approved Participant counterparties to the Trade that the Trade shall stand as executed; provided however, the Bourse may cancel such a Trade within 15 minutes of the Trade's execution and within the trading session during which the Trade was executed (early, regular or extended), if both Approved Participant counterparties to the Trade voluntarily consent to cancellation of the Trade.

(d) Trade Price Outside the No-Review Range. If the Bourse determines that the Trade price is outside of the No-Review Range, the Bourse, after endeavoring to contact the Approved Participant counterparties, shall adjust the price to the limit of the No Review Range. The policy of the Bourse is to favor price adjustment as a remedy over Trade cancellation and to adjust Trades in order to minimize the impact for all market participants involved in the erroneous Trades and particularly those who had a regular order in the order book. However, the Bourse, in its discretion, may cancel a Trade rather than adjust the price if:

- (i) both parties to the Trade can be contacted within a reasonable delay and agree to the cancellation of the Trade; and
- (ii) neither party to the Trade is either an Approved Participant or the registered holder of a SAM ID.



2.9. Position Limits and Reporting Limits

Provisions that would be introduced, amended or extended to apply to derivatives:

UMIR 2.2 and Policy 2.2	<i>Manipulative and Deceptive Activities</i>
UMIR 7.14	<i>Positions limits for listed derivatives</i>
UMIR 10.4	<i>Extension of Restrictions</i>
UMIR 10.9	<i>Power of Market Integrity Officials</i>
UMIR 10.1	<i>Compliance Requirement</i>
UMIR 10.19	<i>Reporting limits for listed derivatives</i>
UMIR 11.1	<i>General Exemptive Relief</i>
UMIR 11.2	<i>General Prescriptive Relief</i>

Position limits⁴⁸ and reporting limits⁴⁹ are key tools regulators use to help prevent derivatives market disruptions and ensure proper management of large exposures.

As discussed below, these tools help support market integrity as they serve to prevent:

- disorderly price discovery such as sudden or unreasonable fluctuations or unwarranted changes in the price of the underlier
- unfair and disruptive trading practices such as cornering the market or other types of manipulation.

In addition to the above benefits, we believe these tools would provide IIROC with information relating to price movements (e.g. changes in price relationships between the derivative and spot market, open interest and changes therein, concentration of positions, etc.) thereby assisting us in conducting market surveillance of listed derivatives trading more effectively.

Specifically, we are proposing to include these tools in UMIR as described in the following sections.

2.9.1. Position limits for listed derivatives

Position limits set the maximum amount of a specific derivative contract, either the number of contracts or a percentage of the derivatives market, that a Participant may hold for its own account or for one of its clients, alone or in cooperation with others.⁵⁰

⁴⁸ For example, see Commodity Futures Act, R.S.O. 1990, c. C.20, [s. 15\(7\)\(c\) and 36\(1\)\(c\)](#) (Ontario CFA); [CME, Rules 559](#); [DIRECTIVE 2014/65/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, Article 57](#) (EU MIFID II); [Eurex, Rule 14](#); [Financial Services and Markets Act 2000 \(Markets in Financial Instrument\) Regulations 2017, SI 2017/701, Regulation 16](#).

⁴⁹ For example, see [Ontario CFA, s. 47](#); [US CFR, 17 CFR §150.2](#).

⁵⁰ See definition of position limit in [Dictionary of Derivatives and Other Financial Instruments](#): The maximum position one may hold in futures or option contracts on a given underlying under the rules of a derivatives market; (1) The limit is expressed either in number of contracts or as a percentage of the open market position. It may apply to all maturities or to specific maturities. (2) This limit often does not apply to hedgers and the term speculative position limit or speculative limit is then used. (3) This limit is intended to prevent market cornering.



Accordingly, no Participant or any of its clients may hold or control, alone or in cooperation with others, a total position which exceeds the defined position limits.⁵¹

Position limits are designed to address potential disruption of the underlying market and aim to prevent the accumulation of large positions that could lead to disorderly price discovery or even market manipulation.⁵² For example, whether the specific derivative contract is physically delivered, or cash settled, position limits help ensure convergence between the prices of derivatives in the delivery month and the spot prices.⁵³

To maintain confidence in the integrity of the markets and prevent the accumulation of large positions that could lead to disorderly price discovery or market manipulation, we believe IIROC should monitor the position limits established by a derivatives exchange for which it is the RSP and have the ability to modify them if deemed necessary to maintain fair and orderly markets.

Under our proposal, a derivatives exchange would establish its position limits after having considered, among other things, the characteristics of its products (e.g. physically delivered or cash settled), the underlying instrument (e.g. index, ETF or single equity), and IIROC would have the ability to intervene and modify the limit if the circumstances warrant. For example, IIROC could impose a position limit on near-month contracts during a settlement month, if none is established by the exchange, to minimize potential manipulation of a cash settlement price.

To achieve these results, the Proposed Amendments include a new provision that would give IIROC the ability to modify position limits established by a derivatives exchange for which IIROC is the RSP.

⁵¹ For example, see [MX Rules, Article 6.309](#) and [Article 6.310](#); [FINRA Rules, Rule 2359](#) and [Rule 2360\(b\)\(3\)](#); [CBOE, Rule 8.30](#); [ICE Futures U.S., Rule 6.12 and 6.13](#).

⁵² For example, see [US CFR, 17 CFR § 38.300](#).

To reduce the potential threat of market manipulation or congestion (especially during trading in the delivery month), the board of trade shall adopt for each contract of the board of trade, as is necessary and appropriate, position limitations or position accountability for speculators. [...]

See also [MX Circular 149-19, November 21, 2019](#): The Bourse and the Division have defined the following objectives as part of their revision to identify the most appropriate methodology for setting position limits: (a) To prevent the accumulation of large positions of derivatives that could lead to disorderly price discovery or market manipulation, while ensuring sufficient market liquidity of the derivatives and indirectly protecting the price discovery mechanisms of the underlying market. [...]

And also [FINRA's latest proposed amendments to Rule 2360](#): Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change: [...] Position limits are intended to prevent the establishment of options positions that can be used to manipulate or disrupt the underlying market or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position.

⁵³ See [EU MIFID II, art. 57\(1\)\(b\)](#) and explanation in [MiFID II Review report on position limits and position management](#): position limits must be set so as to prevent market abuse and support orderly pricing and settlement conditions, including preventing market distorting positions, and ensuring, in particular, convergence between prices of derivatives in the delivery month and spot prices for the underlying commodity, without prejudice to price discovery on the market for the underlying commodity.



2.9.2 Reporting limits for listed derivatives

A Participant that surpasses set reporting thresholds on a specific derivative contract would be required to submit, typically on a daily basis, a report of its positions.⁵⁴

Position and reporting limits are complementary and together aim to prevent potential adverse market impact and support orderly trading by improving transparency and helping regulatory authorities ensure effective oversight of derivative markets.⁵⁵

These reports would clearly disclose the derivatives positions of a Participant's firm and of client accounts that hold positions above the set specific reporting levels.⁵⁶

In addition to the information gleaned from monitoring position limits, IIROC would gain valuable information concerning market activity and composition through the daily receipt of position reports of accounts that are at or above certain reportable amounts. We believe that the review of such daily position reports combined with the ability to modify the reporting thresholds established by a derivatives exchange for which IIROC is the RSP when deemed necessary to maintain fair and orderly markets would help ensure IIROC has effective tools to conduct market surveillance and maintain market integrity.

To safeguard the benefits of position and reporting limits, we believe IIROC should be able to require Participants provide any relevant additional information such as positions owned, controlled or carried for a client. We also think it important for IIROC to be able to require the reduction or liquidation of positions where appropriate to adequately discharge its regulatory function of maintaining market integrity.

To achieve these objectives, the Proposed Amendments would give IIROC the ability to:

- modify reporting limits set by an exchange
- require Participants to send IIROC daily reports of derivatives positions above the established reporting levels

⁵⁴ See definition of Reporting Limit in [Dictionary for Derivatives and Other Financial Instruments](#) : A limit, expressed in number of contracts, above which market participants (or the brokers managing their account) must report to the exchange their positions in futures or option contracts on a given underlying.

⁵⁵ See [European Commission Statement](#) (April 15, 2014): [...] MiFID II provides for strengthened supervisory powers and a harmonised position-limits regime for commodity derivatives to improve transparency, support orderly pricing and prevent market abuse. Under this system competent authorities will impose limits on positions in accordance with a methodology for calculation set by the European Securities and Markets Authority (ESMA). It also introduces a position-reporting obligation by category of trader. This will help regulators and market participants to have better information on the functioning of these markets.

⁵⁶ For example, see [CME, Rule 561](#); [CBOE, Rule 8.43](#); US CFTC regulations, [17 CFR § 15.01](#); [ICE Futures U.S., Rule 6.15](#); [Eurex, Rule 71](#); [FINRA Rules, Rule 2360\(b\)\(5\)](#); [NFA Rulebook, Financial Requirements s. 9](#); [EU MiFID II, Article 58](#); [MX Rules, Article 6.500](#).



- require the reduction or liquidation of positions above position limits
- as a last resort, limit the ability of a person from entering into a derivative trade.

2.10. Compliance with Regulatory Requirements

Provisions that would be extended to apply to derivatives:

UMIR 2.3	<i>Improper Orders and Trades</i>
UMIR 10.1	<i>Compliance Requirement</i>
UMIR 10.4	<i>Extension of Restrictions</i>
UMIR 10.16	<i>Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons</i>
Part 3 of Policy 1.2	<i>“Ought Reasonably to Know”</i>

Under the Proposed Amendments, the prohibition on improper orders and trades in UMIR 2.3 would be extended to listed derivatives. Participants would be required to follow all applicable rules related to the trading of listed derivatives including applicable securities legislation, UMIR and Policies as well as the Marketplace Rules of the marketplace on which the order is entered or the trade is executed.

The obligation to comply with all applicable Requirements⁵⁷ in UMIR 10.1 would also be extended to listed derivatives. For example, in accordance with subsection (2) of UMIR 10.1, orders entered (including orders entered by a client under DEA, an investment dealer or foreign dealer equivalent under a RA or by a client through an OEO) must comply with the Marketplace Rules of the marketplace on which they are entered.

Subsection (5) of UMIR 10.1 further provides that a Subject Person⁵⁸ shall not impede or obstruct the ability of a Market Integrity Official to exercise a power under UMIR 10.9. For example, under the

⁵⁷ “Requirements” means, collectively:

- (a) UMIR;
 - (b) the Policies;
 - (c) the Trading Rules;
 - (d) the Marketplace Rules;
 - (e) any direction, order or decision of the Market Regulator or a Market Integrity Official; and
 - (f) securities legislation,
- as amended, supplemented and in effect from time to time.

⁵⁸ “Subject Person” means, in respect of the jurisdiction of a Market Regulator in connection with the conduct of a person:

- (a) any marketplace for which the Market Regulator is the regulation services provider or was the regulation services provider at the time of the conduct;
- (b) any Participant or Access Person of a marketplace for which the Market Regulator is the regulation services provider or was the regulation services provider at the time of the conduct;
- (c) any person to whom responsibility for compliance with UMIR by other persons are extended in accordance with Consolidated Rule 1400 or to whom responsibility had been extended at the time of the conduct;
- (d) any person to whom the application of UMIR are extended in accordance with Rule 10.4 or to whom UMIR had been extended at the time of the conduct; and
- (e) any person subject to a Marketplace Rule of a marketplace for which the Market Regulator is the regulation services provider or was the regulation services provider at the time of the conduct.



Proposed Amendments a Subject Person would be considered to have impeded or obstructed the ability of a Market Integrity Official to exercise a power if the Subject Person did not follow an order from the Market Integrity Official to liquidate positions that exceed the established position limits.

2.11. Audit Trail and Record Keeping Requirements

Provisions that would be extended to apply (or already applies) to derivatives:

UMIR 10.11	<i>Audit Trail Requirements</i>
UMIR 10.12	<i>Retention and Inspection of Records and Instructions</i>
Part 3 of Policy 7.1	<i>Supervision and Compliance Procedures for Trading on a Marketplace</i>
Part 10 of Policy 7.1	<i>Specific Procedures Respecting Audit Trail and Record Retention Requirements</i>
DMR 200.2(k) / IIROC Rule 3815	<i>Memoranda of Orders</i>

Under the Proposed Amendments, Participants would be required to create and maintain records of each order entered, and trade executed, in a listed derivative on an exchange for which IIROC is the RSP, along with the information prescribed under Part 11 of National Instrument 23-101 *Trading Rules (NI 23-101)*, UMIR 10.11 and UMIR 10.12.⁵⁹

The Proposed Amendments would mainly affect Dealer Members that currently do not trade in listed derivatives in Canada, as Dealer Members currently trading listed derivatives in Canada are already be subject to such requirements. For example, where a Dealer Member receives a client order for a derivative, the Dealer Member currently needs to record the time of order receipt from the client pursuant to paragraph (j) of s. 11.2 of NI 23-101, as well as keep a record of the client order along with the instructions pursuant to DMR 200.2(k) *Memoranda of Orders* or IIROC Rule 3815 *Memoranda of Orders*.

Under Parts 3 and 10 of Policy 7.1, Participants that trade in listed derivatives on an exchange for which IIROC is the RSP would need to ensure their supervision systems include the regular review of compliance with respect to audit trail requirements and record retention requirements under UMIR 10.11 and UMIR 10.12.

2.12 Synchronization of Clocks

Provisions that would be amended or extended to apply to derivatives:

UMIR 10.14	<i>Synchronization of Clocks</i>
Part 3 of Policy 7.1	<i>Supervision and Compliance Procedures for Trading on a Marketplace</i>
UMIR 10.11	<i>Audit Trail Requirements</i>

Each marketplace and Participant must currently synchronize the clocks used for recording the time and date of any event that must be recorded under UMIR to the clock used by the Market Regulator under UMIR 10.14. We propose extending this requirement to a derivatives exchange for which IIROC

⁵⁹ This approach is aligned with the requirements applicable to persons and entities carrying out derivatives activities in Quebec, see Quebec [Derivatives Regulation, CQLR c I-14.01, s. 175, section 11.22.3.](#)



is the RSP. The common reference time for synchronization purposes would be Coordinated Universal Time (**UTC**) as administered and offered by the National Research Council, or UTC as administered and offered by any other recognized contributor to UTC.⁶⁰

Under Part 3 of Policy 7.1, Participants that trade on a derivatives exchange for which IIROC is the RSP would need to ensure their supervision systems include the regular review of compliance with respect to time synchronization requirements under UMIR 10.14.

2.13 Other Changes

Provisions that would be amended or extended to apply to derivatives:

UMIR 7.3	<i>Liability for Bids, Offers and Trades</i>
UMIR 7.4	<i>Contract Record and Official Transaction Record</i>
UMIR 7.6	<i>Cancelled Trades</i>

We propose extending the following UMIR provisions to apply to a derivatives exchange for which IIROC is the RSP:

- each Participant would be responsible for all bids and offers entered on the exchange that originates from a terminal or computer system that the Participant operates or controls (UMIR 7.3)
- the electronic record of an order or trade in a listed derivative provided by the exchange pursuant to NI 21-101 would be the official transaction record for determining the best ask price, best bid price and last sale price for that listed derivative (UMIR 7.4)
- where a trade in a listed derivative is cancelled, a subsequent trade on the exchange shall stand unless cancelled:
 - with consent from both parties to the trade, or
 - under the direction of a Market Integrity Official (UMIR 7.6).

3. Impacts

See Impact Assessment in Appendix E.

4. Technological Implications

The main technological implications to Participants that trade on a derivatives exchange where IIROC is the RSP, vendors or marketplaces of the Proposed Amendments have been identified as follows:

- Participants or their vendors would need to make necessary systems and operational changes to be able to send orders in a listed derivative to an exchange for which IIROC is the RSP
- a derivatives exchange that retains IIROC as its RSP would need to develop a FIX-based Market Regulation Feed to submit trading data to IIROC.

⁶⁰ IIROC Notice [16-0022](#) – Rule Notice - Guidance – UMIR - Guidance on Time Synchronization.



5. Policy Development Process

5.1. Regulatory Purpose

As previously stated, the objective of the Proposed Amendments is to ensure our rules provide an appropriate framework for the regulation of derivatives trading on an exchange. To do so we are proposing to:

- expand, where appropriate, the scope of the rule requirements that apply only to securities trading to also apply to derivatives trading
- limit, where appropriate, certain existing rule requirements to apply only to securities
- adopt requirements that are specific to derivatives trading.

An important consideration in developing these Proposed Amendments was that all rule amendments pursued should, where possible and appropriate, result in the consistent regulation of trading in listed securities and trading in listed derivatives.

We classified the Proposed Amendments as a public comment rule proposal due to their substantive nature and their importance in achieving the goal of ensuring consistent and materially harmonized regulatory standards between the regulation of trading in listed securities and trading in listed derivatives.

5.2. Regulatory Process

The Board of Directors of IIROC (**Board**) has determined the Proposed Amendments to be in the public interest and on September 23, 2020 approved them for public comment.

The IIAC Derivatives Committee, Quebec District Council Derivatives and Institutional Brokerage Subcommittee, and Market Rules Advisory Committee have considered this matter as proposed in concept by IIROC staff. These advisory committees are comprised of representatives of the marketplaces for which IIROC is the RSP, Dealer Members, institutional investors and subscribers, and the legal and compliance community.

After considering the comments on the Proposed Amendments received in response to this Request for Comments together with any comments of the CSA, IIROC may recommend that revisions be made to the applicable Proposed Amendments. If the revisions and comments received are not material, the Board has authorized the President to approve the revisions on behalf of IIROC and the Proposed Amendments as revised will be subject to approval by the CSA. If the revisions or comments are material, the Proposed Amendments, including any revisions, will be submitted to the Board for approval for re-publication or implementation, as applicable.



5.3. Issues and alternatives considered

In developing these Proposed Amendments, IIROC considered whether to adopt a separate set of rule requirements that specifically apply to listed derivatives trading. For clarity and consistency, it was decided that the Proposed Amendments should be incorporated into the UMIR requirements, with the necessary modifications. We believe maintaining one set of comprehensive trading rules that apply to both listed securities and listed derivatives will help ensure that the regulation of both these assets remains as consistent and clear as possible.

5.4. Comparison with similar provisions

We looked at requirements applicable to derivatives trading in several other jurisdictions and conducted a comprehensive comparative analysis when developing the Proposed Amendments. Namely, we compared similar provisions of the U.S. Securities and Exchange Commission (**SEC**), U.S. Commodity Futures Trading Commission (**CFTC**), Financial Industry Regulatory Authority (**FINRA**), National Futures Association (**NFA**), European Securities and Markets Authority (**ESMA**), U.K. Financial Conduct Authority (**FCA**), Montreal Exchange (**MX**), Chicago Board Options Exchange (**CBOE**), Chicago Mercantile Exchange (**CME**), ICE Futures US and EUREX Exchange.

5.5. Effects of the Proposed Amendments on market structure, Dealer Members, non-members, competition and costs of compliance

The Proposed Amendments seek to ensure our rules provide an appropriate framework for the regulation of derivatives trading on a marketplace. The proposed requirements would only be applicable to Dealer Members that become Participants of a derivative exchange that retains IIROC as its RSP. In such cases, the proposed changes would introduce incremental costs of compliance to Dealer Members, especially to those that already trade listed derivatives in Canada.

A benefit of the Proposed Amendments is ensuring that one set of trading rules apply to both listed securities and listed derivatives, which we believe would simplify adherence to the rules for Dealer Members currently subject to UMIR and thereby keep cost of compliance to a minimum while achieving IIROC's regulatory objectives.

A detailed assessment of the impact of the Proposed Amendments is included as Appendix E.

Overall, we believe that the Proposed Amendments impose costs and restrictions on the activities of market participants that are proportionate to the goals of investor protection and market integrity in the trading of listed derivatives.

5.6. Public interest determination

The Proposed Amendments impose costs and restrictions on the activities of market participants that are proportionate to the goals of the regulatory objectives sought to be realized and the streamlined



standards for trading listed derivatives that will result. The IIROC Board has determined that the Proposed Amendments are not contrary to the public interest.

5.7. Proposed implementation dates

The proposed implementation date for the Proposed Amendments would be at least 90 days after the publication of the Notice of Approval.

5.8. Classification of amendments and filing in other jurisdictions

IIROC has determined that the Proposed Amendments are Public Comment Rules and are therefore published for public comment.

The Proposed Amendments have been filed with each of IIROC's Recognizing Regulators, in accordance with section 3 of the Joint Rule Review Protocol contained in the Memorandum of Understanding Regarding Oversight of IIROC.

6. Appendices

[Appendix A](#) – Text of the Proposed Amendments

[Appendix B](#) – Blackline of UMIR, DMR and the IIROC Rules to Reflect the Proposed Amendments

[Appendix C](#) – List of Rules under Phase 1 that would apply to derivatives

[Appendix D](#) – Rules to be addressed under Phase 2

[Appendix E](#) – Impact assessment

[Appendix F](#) – List of questions included in this Notice