

## **RULE FOUR**

### **INVESTIGATIONS, DISCIPLINE AND APPEALS**

#### **Section I Inspection and Investigation**

##### **4001 Information**

(16.10.89, 11.03.92, 15.03.05)

Approved participants, their employees, approved persons and restricted trading permit holders must comply with the obligation to provide information as set forth in this Section I.

Upon the request of the Bourse or of one of its representatives, these persons must provide forthwith all information related to their business, trades, positions or conduct as well as to the identity, business, trades or positions of any of their customers and employees and customers of persons for whom they provide account maintenance services. To this end, these persons must submit and give to the Bourse access to any records, registers, data, data bases, files, documents, papers and information for examination, and allow the Bourse or its representative to obtain copy thereof on demand.

For the purposes of any investigation or examination, the Bourse or its representative may obtain such information from any source whatsoever, including any of the customers of any approved participants.

The Bourse may at any time make available to any other exchange or securities commission or similar authority any report or information of the sort described in this article. For that purpose, the Bourse may enter into agreements with any person or entity, in Québec or outside of Québec, for the sharing of information.

The obligation to inform extends to officers, partners, directors, employees and auditors of any approved participant and also entails the obligation to appear before the Bourse at the time and place indicated by the Bourse.

Compliance with the provisions of this Section I shall not create any liability towards any other approved participant, employee of an approved participant, approved person, restricted trading permit holder or client.

##### **4002 Notice of Non-Compliance**

(11.03.85, 11.03.92, 15.03.05)

Immediate notice must be given in writing to the Bourse by an approved participant, approved person or restricted trading permit holder in the event that:

- a) such person, or any other approved participant, employee, permit holder or approved person fails to comply with the regulations of the Bourse, or
- b) such person, or any other approved participant, employee, restricted trading permit holder or approved person fails to be able to continue to meet its obligations or becomes insolvent or commits an act of bankruptcy within the meaning of the Bankruptcy and Insolvency Act.

**4003 Special Inspection or Investigation**  
(11.03.85, 11.03.92, 15.03.05)

Without in any way limiting the powers conferred upon the staff of the Bourse by article 4001, the Special Committee or the Vice-President of the Regulatory Division of the Bourse may in their absolute discretion, at any time, direct a special examination or investigation to be made in respect of the conduct, the business or affairs of an approved participant, an approved person or a restricted trading permit holder.

**4004 Summary Proceedings**  
(11.03.92, 15.03.05)

If, following an examination or investigation or by reason of any information otherwise obtained by the Bourse, it appears that circumstances so warrant, the Special Committee may proceed by way of summary proceedings in accordance with the provisions of articles 4301 and following of this Rule.

**4005 Failure to Provide Information or to Appear**  
(11.03.85, 11.03.92, 15.03.05)

Any approved participant, approved person or restricted trading permit holder who refuses or neglects to provide information in the manner prescribed in this Section I or who fails to attend a hearing after having been given notice thereof, may be suspended without any notice, hearing or formality by the Special Committee until the required information has been provided or an attendance made as set out in the summary proceedings provided for in articles 4301 and following.

**4006 Costs and Expenses**  
(11.03.85, 11.03.92, 15.03.05)

The costs and expenses paid or incurred by the Bourse in connection with any examination or investigation instituted pursuant to the provisions of articles 4001 or 4003 and all proceedings relating thereto or steps taken as a result thereof shall be a debt owed to the Bourse by the approved participant, approved person or restricted trading permit holder who must pay the amount thereof upon demand.

**4007 Information to other organizations**  
(05.02.98, 15.03.05)

Upon request from any recognized organization to provide information in connection with an investigation being carried out by such organization and subject to the legislation relating to the protection of personal information, each approved participant must submit the requested information directly to the organization making the request and this, in the form and manner prescribed by that organization, including electronically.

For the purposes of this article, the term “recognized organization” means an exchange, a self-regulatory organization, a securities commission or any similar authority and to whose jurisdiction the approved participant is subjected in any manner in reason of the approved participant’s status as a member, a participant or as a registered or approved entity or such organization.

**Section II**  
**Standards of Conduct**  
(abr. 15.03.05)

**4051 Standards of Conduct**  
(11.03.85, 11.03.92, abr. 15.03.05)

**4052 Disclosure of Conflicting Interests or Contrary Views**  
(11.03.85, 11.03.92, abr. 15.03.05)

**Section II**  
**Disciplinary and Other Matters**  
**Subject to Hearings**

**A. Complaints**

**4101 Complaints**  
(11.03.85, 11.03.92, 15.03.05, 29.03.06)

a) The Bourse, an approved participant, an approved person or a restricted trading permit holder may, in accordance with the procedures provided in articles 4151 and following, file a complaint against an approved participant, an approved person or a restricted trading permit holder, in respect of:

- i) a breach of the regulations of the Bourse;
- ii) any act, conduct, practice or proceeding unbecoming an approved participant of the Bourse, an approved person or a restricted trading permit holder, inconsistent with just and equitable principles of trade, or detrimental to the reputation of the Bourse or to the interests or the welfare of the public or of the Bourse,

whether or not such act, conduct or proceeding is related to dealings or transactions on the Bourse.

b) The Bourse may also file a complaint of the type described in paragraph a) above against a former approved participant, approved person or restricted trading permit holder, provided an originating notice is served on such person within thirty six (36) months from the date upon which the person ceased to be an approved participant, an approved person or a restricted trading permit holder.

This provision is in addition to the powers the Bourse may hold and choose to exercise pursuant to powers delegated by a securities commission.

c) Without in any way limiting the generality of the foregoing, the following actions of an approved participant, approved person or restricted trading permit holder shall be deemed an act, conduct, practice or proceeding covered by sub-paragraph a) ii) of the present article:

- i) misleading or attempting to mislead the Bourse on any material point;
- ii) breaching any statute or regulation related to the trading of securities or derivative instruments;
- iii) indiscriminate or improper solicitations of orders, either by telephone or otherwise;

- iv) using high pressure or other sales tactics of a character considered undesirable according to the standards of the industry;
  - v) using or knowingly participating in the use of any manipulative or deceptive methods of trading, including those set out in article 6306 of the Rules of the Bourse;
  - vi) breaching any provisions of the Code of Ethics and Conduct for Registered Representatives, included in the Conduct and Practices Handbook Course, published by the Canadian Securities Institute.
- d) The Disciplinary Committee or the Special Committee shall, in accordance with this Rule, decide whether an act, conduct, practice or proceeding is of the sort described in sub-paragraph a) ii) of the present article.

**4102 Disciplinary Committee**  
(11.03.92, 15.03.05)

- a) A committee known as the Disciplinary Committee is constituted pursuant to the provisions of this article to hear complaints brought under article 4101.
- b) The Disciplinary Committee is comprised of three persons named by the Secretary of the Bourse who shall select two of them among the persons mentioned in sub-paragraph a) of article 4103 or among the members of the Special Committee, and one among persons mentioned in sub-paragraph b) of article 4103.

**4103 List of Designated Persons**  
(22.03.88, 11.03.92, 15.03.05)

The Bourse maintains a list of persons eligible to sit on a Disciplinary Committee. This list and any change thereto must be approved by the Special Committee.

The list shall consist of:

- a) Individuals:
  - i) who are directors, officers or partners of approved participants; or
  - ii) who are retired from the securities industry and who were previously directors, officers or partners of an approved participant.
- b) at least two (2) individuals who are related neither to an approved participant, nor to the Bourse.

**4104 Solemn Affirmation**  
(11.03.92, 15.03.05)

Before a hearing, each persons designated to hear the case must make a solemn affirmation to the effect that:

- i) to her knowledge, there is no legitimate grounds for her recusation as provided in paragraphs 1 to 10 of article 234 or in article 235 of the Code of Civil Procedure; and
- ii) she will not reveal or make known, without being authorized by law, anything whatsoever of which she takes cognizance in the performance of her duties.

**4105 Disciplinary Penalties**

(11.03.85, 11.03.92, 18.10.00, 15.03.05)

In finding any approved participant, approved person or permit holder guilty pursuant to a complaint therein made, or of some lesser and included offence, the Disciplinary Committee or the Special Committee may, with respect to each offence, impose any one or more of the following penalties or orders :

- a) a reprimand;
- b) a fine not exceeding \$ 1,000,000;
- c) the suspension or the revocation of the rights as an approved participant, approved person or permit holder for such period and upon such conditions, including conditions of reinstatement, as the Committee may determine;
- d) the prohibition to obtain an approval for the time and upon such conditions determined by the Committee, including the conditions for the release of such a prohibition.
- e) the expulsion of the approved participant;
- f) the revocation of the permit;
- g) the making of restitution to any person who has suffered a loss as a result of the acts or omissions of a person under the jurisdiction of the Exchange;
- h) the obligation to take one or more courses given by the Canadian Securities Institute or any other course deemed appropriate;
- i) the reimbursement in whole or in part of the costs and expenses (including professional fees) paid or incurred by the Bourse in connection with the complaint and the matters out of which it arose including all investigations, hearings, appeals and other proceedings before or after the complaint.

These penalties and orders shall be in addition to such other action as the Bourse may take pursuant to any other provision of its regulations.

**4106 Costs and Expenses**

(11.03.85, 11.03.92, 18.10.00, 15.03.05)

Where the Bourse conducts an investigation following a complaint that was made, or information that was provided by a person under its jurisdiction and determines that the complaint or information was frivolous or unfounded, the Bourse may recover the costs of the investigation from that person.

## B. Proceedings

### 4151 Originating Notice

(11.03.85, 11.03.92, 15.03.05)

- a) The Bourse must serve an originating notice on any person who is directly concerned whenever, as a result of an investigation or otherwise, the Bourse :
  - i) decides to initiate disciplinary proceedings pursuant to articles 4101 and following;
  - ii) intends to deny granting an unconditional approval to a partnership or corporation as an approved participant or an unconditional approval of a person;
  - iii) proposes to revoke, suspend or amend any of the rights or privileges of an approved participant, of an approved person or restricted trading permit holder;
  - iv) proposes to exercise the powers delegated to it by a securities commission or other regulatory organization.
- b) The originating notice must contain:
  - i) a reference to the regulatory provisions governing the matter;
  - ii) a summary statement of the facts alleged and intended to be relied upon by the Bourse and the conclusions drawn by the Bourse based on the alleged facts;
  - iii) a statement of the intent of the Bourse to conduct a hearing of the matter on a date and at a place to be determined in the originating notice or, subsequently, in the notice of hearing;
  - iv) a reminder of the existence of articles 4201 and following;
  - v) a warning that failure to file a reply within the prescribed delay may result in foreclosure from producing any witness at the hearing.
- c) A copy of the originating notice, together with proof of service, shall be filed with the Secretary of the Bourse.

### 4152 Reply

(11.03.85, 11.03.92, 15.03.05)

A person served with an originating notice must, within ten (10) business days from the date of service, serve to the Secretary of the Bourse a reply signed by the person or by an individual authorized to sign on behalf of the person.

The reply must set out specifically for each fact alleged in the originating notice, whether such fact is admitted or denied, and contain a statement of the person's position with regard to the conclusions drawn by the Bourse in the originating notice and a statement of any additional facts relied on by the person.

Failure to file a reply within the prescribed delay may result in foreclosure from producing any witness at the hearing.

**4153 Notice of Hearing**  
(22.03.88, 11.03.92, 15.03.05)

When by reason of the reply to the originating notice or for any other reason the Bourse determines that a formal hearing is required, it shall proceed as follows:

After the expiry of the ten (10) business days delay for the service of the reply, the Bourse shall serve a notice of hearing of at least ten (10) business days indicating the date, time and place of the hearing on the persons to whom the originating notice was addressed.

The notice of hearing shall include a statement requiring the person to attend the hearing, failing which the Disciplinary Committee may proceed with the hearing of the matter in that person's absence.

**4154 Public Hearing**  
(11.03.92, 15.03.05)

All hearings are held in public.

However, the Disciplinary Committee hearing the matter may, on its own initiative or upon request, order that a hearing be held in camera, in part or in whole, or prohibit the publication or disclosure of specific information or documents, in the interest of good morals or public order, particularly to preserve confidential business information or privileged communications or to preserve an individual's privacy or reputation.

**4155 Hearing Procedure**  
(22.03.88, 11.03.92, 15.03.05)

- a) Any person on whom an originating notice was served and that person's representatives is entitled to attend the hearing for the purpose of hearing the evidence, cross-examining the witnesses presented by the Bourse, presenting their own witnesses subject to the last paragraph of article 4152, and making representations to the Disciplinary Committee hearing the matter;
- b) Such person may be assisted by a lawyer at the hearing;
- c) If a written report in respect of the matter has been prepared by the Bourse and if the latter proposes to table such report at the hearing, a copy of such report must be given to the parties beforehand;
- d) The Disciplinary Committee may admit as evidence any documentary proof without a witness if the Committee is of the opinion that the rights of cross-examination would not be affected.
- e) In the event of a guilty verdict in disciplinary matters, the parties are entitled to be heard on the penalty to be imposed, unless the Disciplinary Committee has previously ruled that representations on the penalty shall be made prior to its deliberations on the merits.

**4156 Testimony**  
(11.03.92, 15.03.05)

Any person required to testify before the Disciplinary Committee must make a solemn declaration.

**4157 Obligation to Answer**  
(11.03.92, 15.03.05)

The Bourse has the right to question a person who is subject to a complaint or who is accused of having breached a provision of the regulations of the Bourse as well as to any other person under its jurisdiction, and such person shall be obliged to answer all questions.

**4158 Ex Parte Hearing**  
(22.03.88, 11.03.92, 15.03.05)

If a person notified of the hearing fails to attend the hearing specified in the notice of hearing, the Disciplinary Committee may proceed with the hearing and disposition of the matter on the date and at the time and place set out in the notice of hearing without further notice, and in the absence of the person, even if the person has served a reply in accordance with article 4152.

**4159 Deliberations**  
(11.03.92, 15.03.05)

The deliberations of the Disciplinary Committee hearing the matter must be made in the absence of any other person.

**4160 Decision**  
(11.03.85, 29.04.86, 11.03.92, 15.03.05)

- a) The decision of the Disciplinary Committee must be in writing and served on the person concerned.
- b) The Disciplinary Committee must give the reasons supporting its decision.
- c) A notice of the decision must be sent to the complainant, distributed to the approved participants and restricted trading permit holders of the Bourse, filed in the records of the Bourse and be made available to the public and the press.
- d) Notice of the decision must be given to such other persons designated by the Disciplinary Committee hearing the matter.

**4161 Report to the Special Committee**  
(11.03.85, 11.03.92, 15.03.05)

If no appeal has been brought at the expiry of the delay to appeal, the Disciplinary Committee that has conducted the hearing must report thereon to the Special Committee.

**C. Settlement****4201 Offer of Settlement**  
(29.06.87, 11.03.92, 15.03.05)

The Bourse may accept at any time an offer of settlement from any person served with an originating notice.

**4202 Form of the Offer of Settlement**

(29.06.87, 11.03.92, 25.03.94, 15.03.05)

The offer of settlement must:

- i) be in writing in the form prescribed by the Bourse;
- ii) be signed by the person proposing the settlement; and
- iii) contain the following :
  - a) the provisions of the regulations that have been breached or not complied with, according to the Bourse;
  - b) a statement of the facts agreed upon by the Bourse and the person;
  - c) the disposition of the matter, including any penalty to be imposed and the amount of costs and expenses of the Bourse to be paid by the person;
  - d) the consent of the person to the settlement;
  - e) a statement that the settlement must be approved by the Special Committee or, in the cases provided for in article 4204, by an authorized officer, failing which it shall not bind the parties concerned, and the Bourse shall proceed with the hearing of the matter; and
  - f) a waiver by the person of all rights under the regulations of the Bourse to a hearing or to an appeal should the offer of settlement be accepted by the Special Committee or, in the cases provided for in article 4204, by an authorized officer.

**4203 Submission and Acceptance of an Offer of Settlement**

(29.06.87, 11.03.92, 15.03.05)

The offer of settlement must be submitted to an officer of the Bourse who, subject to article 4204, must refer the matter to the Special Committee which alone may decide whether to accept or reject the offer of settlement.

**4204 Acceptance by an Authorized Officer**

(11.03.92, 15.03.05)

An offer of settlement of a disciplinary matter may be approved by an officer of the Bourse when the penalty to be imposed is a reprimand, a fine not exceeding \$5,000, the penalty provided in paragraph h) of article 4105, or a combination of the three (3). Upon submission of the offer, the authorized officer must:

- i) accept the offer of settlement,
- ii) reject the offer of settlement, or
- iii) accept the offer with a lesser penalty than the one agreed upon.

**4205 Rejection of an Offer of Settlement**  
(29.06.87, 11.03.92, 15.03.05)

In the event that an offer of settlement is rejected by the Special Committee or by an authorized officer, as the case may be, the Bourse must proceed with the hearing of the matter.

**4206 Privilege of Settlement Offers**  
(11.03.92, 15.03.05)

All discussions in relation with the offer of settlement are without prejudice. No part of such a discussion must be used as evidence or referred to in any proceedings whatsoever.

**4207 Acceptance of a Settlement Offer**  
(11.03.92, 15.03.05)

In the event an offer of settlement is accepted by the Special Committee of the Bourse or, in the cases provided for in article 4204, by an authorized officer :

- i) the matter becomes final and the settlement constitutes a decision;
- ii) there can be no appeal of the matter;
- iii) the disposition of the matter agreed upon in the settlement must be recorded in the permanent records of the Bourse; and
- iv) a notice of the decision must be sent to the complainant, distributed to the approved participants and restricted trading permit holders of the Bourse, filed in the records of the Bourse and made available to the public and the press.

#### **D. Appeals**

**4251 Sole Jurisdiction of the Special Committee**  
(11.03.85, 11.03.92, 15.03.05)

An appeal from a decision of the Disciplinary Committee, any other committee of the Bourse or the staff of the Bourse may be brought before the Special Committee. The members of the Disciplinary Committee who participated to the hearing of the case in the first instance, can not participate to the hearing of the appeal by the Special Committee.

**4252 Delay of Appeal**  
(11.03.92, 15.03.05)

The appeal must be brought within ten (10) business days of the service of the decision.

**4253 Notice of Appeal**  
(11.03.92, 15.03.05)

Any appeal of a decision of the Disciplinary Committee, of another committee of the Bourse, or of a member of the staff of the Bourse must be brought by filing a written notice of appeal with the Secretary

of the Bourse. The notice must contain a brief statement of the grounds for appeal and be served upon the parties.

**4254 Security for Costs**  
(11.03.92, 15.03.05)

When the appeal appears abusive, dilatory, frivolous, or for some other special reason, the Special Committee may, upon request, order the appellant to furnish, within a set delay, security to guarantee, in whole or in part, the payment of the costs of appeal, the amount of the fine and the costs and expenses listed in article 4106, should the appeal be dismissed.

If the appellant does not furnish security within the prescribed delay, the Special Committee may dismiss the appeal.

**4255 Appeal Briefs**  
(11.03.92, 17.06.98, 15.03.05)

Within fifteen (15) business days of the filing of the notice of appeal, the appellant must file with the Secretary of the Bourse a brief containing the appellant's arguments, in nine (9) copies, and must serve another copy on the respondent.

Within fifteen (15) business days of the receipt of the appellant's brief, the respondent must file with the Secretary of the Bourse nine (9) copies of the respondent's brief and serve another copy on the appellant.

If the appellant fails to file the brief within the above-mentioned delay, the appeal may be dismissed upon application to the Special Committee.

**4256 Stay of Execution**  
(11.03.92, 15.03.05)

Unless otherwise ordered by the Special Committee, an appeal suspends the execution of the decision of the Disciplinary Committee or of the staff of the Bourse when such decision imposes a penalty other than those provided for under paragraphs c), d), e) and f) of article 4105.

However, the suspension of the rights of an approved participant, approved person or restricted trading permit holder, the prohibition to obtain an approval, the expulsion of an approved participant and the revocation of a permit or of an approval of the Bourse is executory, notwithstanding appeal, unless otherwise ordered by the Special Committee.

**4257 Hearing of the Appeal and Additional Evidence**  
(11.03.92, 15.03.05)

The appeal is argued on the basis of the file in first instance and of the appeal briefs.

However, in exceptional circumstances and if the ends of justice so require, the Special Committee may authorize the presentation of additional evidence.

**4258 Applicable Rules**  
(11.03.92, 15.03.05)

Subject to the provisions of this Subsection D, the same rules as set forth in articles 4153 and following apply to any hearing before the Special Committee, with the necessary changes.

**4259 Disqualification**  
(11.03.85, 11.03.92, 15.03.05)

- a) No officer of the Bourse is eligible to sit at a hearing in first instance or on appeal.
- b) A member of the Special Committee who has any grounds for recusation pursuant to article 4104 is not eligible to sit in appeal from a decision.

**4260 Appeal Under the Securities Act**  
(11.03.92, 15.03.05)

Any appeal from a decision of the Special Committee is governed by the Quebec Securities Act.

**Section IV**  
**Summary Proceedings**

**4301 Intervention by the Bourse**  
(11.03.85, 11.03.92, 15.03.05)

- a) Where the Special Committee deems it necessary for the protection of the public and the reputation of the Bourse, it may suspend an approved participant or suspend or revoke approval of any person without following the procedures set forth in articles 4151 and following, provided that the Bourse issues forthwith a notice of hearing and convene a hearing within the following fifteen (15) business days.
- b) Articles 4302 to 4306 provide examples of circumstances which may cause the Special Committee to intervene without notice, but the power of the Special Committee to intervene pursuant to paragraph a) shall not be limited to such circumstances.

**4302 Conviction**  
(11.03.85, 11.03.92, 15.03.05)

- a) If any approved participant, approved person or restricted trading permit holder is convicted of a crime or of an infraction in connection with trading in securities or futures contracts or of an offence under any statute or regulation applicable to securities or derivative instruments, or if any approved participant, approved person or restricted trading permit holder has their registration or license under any such statute or regulation suspended or revoked, the Special Committee may, without any notice, hearing or formality whatsoever, suspend the approved participant, approved person or restricted trading permit holder and withdraw the approval of such approved person pending the completion of all appeal proceedings relating to such conviction, suspension or revocation;
- b) if no appeal is launched within the prescribed delay from such conviction, suspension or revocation, or if such a conviction, suspension or revocation is made or upheld in appeal, the Special Committee may thereupon, without any notice, hearing or formality whatsoever, suspend or expel such approved

participant, or suspend or revoke the permit of such restricted trading permit holder and suspend or revoke the approval of such approved person.

**4303 Expulsion or Suspension by Another Exchange**

(11.03.85, 11.03.92, 15.03.05)

If any approved participant, approved person or restricted trading permit holder is suspended, expelled or has their approval or permit suspended, withdrawn or revoked by another exchange or self-regulatory organization, the Special Committee may suspend or expel such approved participant or suspend or revoke the approval or permit of such approved person or restricted trading permit holder, provided that the Bourse shall forthwith issue a Notice of Hearing and convene a hearing within the following fifteen business (15) days.

**4304 Failure to Provide Information or to Appear**

(11.03.85, 11.03.92, 15.03.05)

If any approved participant, employee of an approved participant, approved person or restricted trading permit holder refuses or neglects to provide information or to appear before the Bourse in the manner prescribed by the regulations of the Bourse, the Special Committee may without any notice, hearing or formality whatsoever, suspend the approved participant, approved person or restricted trading permit holder until the information has been provided or the appearance has been made.

**4305 Interim Orders for Unsatisfactory Financial Condition or Practices**

(11.03.85, 14.08.90, 11.03.92, 15.03.05)

a) Notwithstanding anything to the contrary contained in any other provision of the regulations of the Bourse, if following any inspection or investigation with respect to the business, affairs or conduct of an approved participant, approved person or restricted trading permit holder, whether made pursuant to the regulations of the Bourse, the Securities Act or otherwise, or if, on the basis of any reliable information otherwise obtained by or given to the Bourse, it is established that:

- i) such approved participant or restricted trading permit holder is insolvent or does not have the risk adjusted capital required under the regulations of the Bourse;
- ii) the financial or general condition of such approved participant or restricted trading permit holder is such that it is or may become detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public;
- iii) the system of book or record keeping or accounting used by such approved participant or restricted trading permit holder is unsatisfactory; or
- iv) the methods or practices adopted by such approved participant, approved person or restricted trading permit holder in carrying on business may be detrimental to the reputation of the Bourse or to the interests or welfare of the Bourse or the public;

the Special Committee may impose without any notice, hearing or formality whatsoever, one or more of the interim orders described in paragraph b) hereunder.

b) The interim orders that may be imposed pursuant to paragraph a) are:

- i) the suspension of the approved participant or of any of the rights and privileges of the approved participant, approved person or restricted trading permit holder for a period and upon the terms and conditions, if any, determined by the Special Committee;
- ii) the suspension or amendment of the terms and conditions of a previously granted approval;
- iii) the imposition of any terms and conditions that must be satisfied by a person to continue as an approved participant, approved person or restricted trading permit holder; or
- iv) the imposition of any other terms, conditions or instructions deemed appropriate in the circumstances including, without limitation :
  - 1. imposing special or additional capital requirements taking into account the circumstances of the approved participant's business or its financial condition;
  - 2. restricting one or more sectors of the approved participant's operations with a view to reducing its future liabilities;
  - 3. requiring the attendance at the approved participant's premises, for the surveillance of its affairs, of employees or representatives of the Bourse according to such terms of reference as the Special Committee may decide upon in the circumstances;
  - 4. changing the banking resolutions and instructions for clearing and delivery of securities in order to ensure surveillance and restriction of payments and deliveries which otherwise might affect the approved participant's ability to meet its obligations to arms-length clients and creditors;
  - 5. requiring the mailing of notices to clients in terms specified by the Bourse.
- c) If interim orders are imposed pursuant to the above paragraph b), the Bourse must issue a notice of hearing to be held within fifteen (15) business days following the Special Committee's decision unless the parties agree to an extension of the delay or to a waiver of the hearing.
- d) Interim orders imposed by the Special Committee remain in force until the hearing is held, at which time the orders may be confirmed, set aside or modified.

**4306 Defaulters**

(11.03.85, 11.03.92, 13.04.99, 15.03.05)

- a) An approved participant, an approved person or a restricted trading permit holder may be declared a defaulter by the Special Committee without any notice, hearing or formality whatsoever in any of the following cases:
  - i) the approved participant, the approved person or the restricted trading permit holder fails to pay on demand any assessment, fee or charge which has become due to the Bourse pursuant to the regulations of the Bourse or its list of fees, or any other indebtedness to the Bourse, such as a fine, or the costs of a hearing, investigation or surveillance operation;
  - ii) the approved participant, the approved person or the restricted trading permit holder fails to meet or admits or discloses his inability to meet his liabilities or obligations to the Bourse, the

clearing corporation, another approved participant, restricted trading permit holder, or to the public;

- b) An approved participant, an approved person or a restricted trading permit holder who is declared a defaulter by the Special Committee who makes an assignment of his property under the Bankruptcy and Insolvency Act or against whom a receiving order is issued under this same law shall automatically be suspended.
- c) If the cause of such default is not corrected to the satisfaction of the Special Committee within fourteen (14) business days after a person was declared a defaulter or such other period as the Special Committee may decide, the approved participant may be expelled, or the approval of the approved person or the permit of the restricted trading permit holder may be suspended or revoked by the Special Committee without any notice, hearing or formality whatsoever.
- d) No approved participant shall do business for the account of a defaulter without the written consent of the Special Committee.

**4307 Closing Out Contracts Against Defaulters and Bankrupts**

(11.03.85, 11.03.92, 15.03.05)

a) Exchange Trades

- i) All outstanding exchange trades with a defaulter or with a bankrupt or insolvent approved participant shall be closed out by the other approved participants concerned at the first trading session at which this can reasonably be done after the notice of the default, bankruptcy or insolvency has been received or posted, otherwise the prices quoted at such trading session shall be held to be the basis for the settlement of claims. However the Special Committee in its entire discretion may postpone the time for closing out any or all such trades.
- ii) Any profit on a closed-out trade shall be paid to the Bourse and any claims for losses shall be filed with the Bourse. All losses shall be settled from out of the profits and any surplus remitted to the defaulter or the trustee or liquidator.

b) Non-Exchange Trades

- i) All outstanding contracts other than exchange trades with a defaulter or with a bankrupt or insolvent approved participant shall be closed out by the other approved participants concerned as soon as this can reasonably be done after the receipt or posting of the notice of default, bankruptcy or insolvency; otherwise the price quoted at such time shall be held to be the basis for the settlement of claims.. However, the Special Committee in its discretion may postpone the time for closing out any or all such trades.
- ii) Profits and losses shall be dealt with in the manner provided in sub-paragraph a) ii) above.

**4308 Reinstatement of Defaulters**

(11.03.85, 11.03.92, 15.03.05)

An approved participant who has been expelled may apply to the Special Committee for reinstatement as an approved participant. No one may be reinstated as an approved participant pursuant to the present article, if:

- a) the approved participant was expelled pursuant to a provision of the regulations of the Bourse other than those covered by articles 4301 and following;
- b) the approved participant is insolvent or bankrupt;
- c) the Special Committee is not satisfied that the approved participant is no longer in default of any of its liabilities or obligations;
- d) the application for reinstatement is not approved by the Special Committee.

## **Section V Responsibility**

### **4351 Responsibility of Approved Participants** (11.03.85, 11.03.92, 15.03.05)

An approved participant may be found liable by the Bourse for the conduct of one of its approved person or employee . The approved participant shall be subject to the same penalties as if it had engaged itself in that conduct and the imposition of any penalty against an approved participant does not prevent the imposition by the Bourse of any penalty against any of the approved persons or employees of such approved participant in respect of the same facts.

### **4352 Responsibility of Partners, Directors and Officers of Approved Participant** (11.03.85, 11.03.92, 15.03.05)

Any partner, director or officer of an approved participant may be found liable by the Bourse for the conduct, business or affairs of the approved participant if they had responsibility for same, in fact or in law, and shall be subject to the same penalties as if they had engaged themselves in that conduct, business or affairs.

The imposition of any penalty against any partner, director or officer of an approved participant does not prevent the imposition by the Bourse of any penalty against the approved participant in respect of the same facts.

### **4353 Responsibility of Supervisors** (11.03.85, 11.03.92, 15.03.05)

An approved person or an employee of an approved participant who has authority over, supervises or is responsible to the approved participant for another approved person or employee of the approved participant may be found liable by the Bourse for the conduct of the approved person or employee under their supervision and shall be subject to the same penalties as if they had themselves engaged in that conduct.

The imposition of any sanction against a supervising approved person or employee does not prevent the imposition by the Bourse of any penalty against the supervised approved person, or employee, or the approved participant in respect of the same facts.

**Section VI**  
**Miscellaneous Provisions**

**4401 Service**

(11.03.85, 11.03.92, 15.03.05)

- a) For the purposes of this Rule :
- i) any document required to be served on the Bourse must be addressed to the attention of the Secretary of the Bourse and delivered by messenger or by registered mail, in either case, with proof of receipt signed by a representative of the Bourse;
  - ii) any document required to be served on any person other than the Bourse must be served by delivering it directly to the person or by sending it by registered mail addressed to the person to their latest residence or business address shown in the records of the Bourse;
- b) If it is not possible to serve a document in accordance with the requirements of paragraph a) ii), the Bourse may use any other manner of service that is likely to bring the document to the attention of the person.
- c) An affidavit signed by an employee or representative of the Bourse attesting that the service requirements of subparagraph a) ii) have been complied with is sufficient proof of service.

**4402 Computation of Delay**

(11.03.85, 11.03.92, 15.03.05)

In computing any delay fixed by this Rule, the day which marks the start of the delay is not counted, but the terminal day is counted.

**4403 Severability**

(11.03.92, 15.03.05)

The powers and procedures provided for in this Rule are to be construed as severable, and the in validity of any provision hereof shall not affect the validity of any other provision of this Rule.

**4404 Transitional Provision**

(11.03.92, 15.03.05)

The present rules take effect immediately but shall not apply to any matter in which a hearing has already begun.