

## DERIVATIVES ACT, R.S.Q., c. I-14.01

### Definitions relevant to ICE Futures Europe and its Contracts

For the purposes of the Act, unless the context indicates otherwise,

**“accredited counterparty”** means

- (1) a government, government department or public body or a wholly owned enterprise or entity of a government;
- (2) a municipality, public board or commission or other similar municipal administration, a metropolitan community, a school board, the Comité de gestion de la taxe scolaire de l'Île de Montréal or an intermunicipal management board in Québec;
- (3) a financial institution, including the Business Development Bank of Canada established under the Business Development Bank of Canada Act (S.C. 1995, c. 28), or a subsidiary of such a financial institution to the extent that the financial institution holds all the subsidiary's voting shares, other than the voting shares held by directors of the subsidiary or its employees;
- (4) a dealer or adviser registered under this Act, a dealer or adviser registered under the Securities Act (chapter V-1.1) or a person authorized to act as such or to exercise similar functions under equivalent legislation applicable outside Québec;
- (5) a registered representative of a person described in paragraph 4 or a representative who has ceased to be so registered within the last three years;
- (6) a pension fund regulated by the Office of the Superintendent of Financial Institutions established by the Office of the Superintendent of Financial Institutions Act (R.S.C. 1985, c. 18 (3rd Suppl.)), the Régie des rentes du Québec or a pension commission or similar regulatory authority in Canada whose investment policy provides for or authorizes the use of derivatives, or an entity that is analogous in form and function established under legislation applicable outside Québec;
- (7) a person who establishes in a conclusive and verifiable manner
  - (a) that the person has the requisite knowledge and experience to evaluate the information provided to the person about derivatives, the appropriateness to the person's needs of proposed derivatives strategies, and the characteristics of the derivatives to be traded on the person's behalf;
  - (b) that the person has assets equal to or in excess of the minimum assets specified by regulation; and

- (c) that the person has at the person's disposal net assets in the amount specified by regulation and sufficient to fulfill the person's delivery or payment obligations under the terms of derivatives to which the person is party, in light of the positions held in the person's account and the orders the person is seeking to have executed;
- (8) an investment fund whose investment policy includes or authorizes the use of derivatives, that distributes or has distributed its securities under a prospectus for which the Autorité des marchés financiers ("the Authority") or another authority empowered to issue receipts under the securities legislation of another province or a territory of Canada has issued a receipt, or that distributes or has distributed its securities exclusively to
  - (a) a person who is or was an accredited investor within the meaning of the Securities Act at the time of the distribution;
  - (b) a person who acquires or has acquired securities of the fund in order to make a minimum amount investment or an additional investment under the conditions prescribed by the Securities Act; or
  - (c) a person described in subparagraph *a* or *b* who acquires or has acquired securities of the fund in order to reinvest in the fund, in the circumstances set out in the Securities Act;
- (9) an investment fund that is advised by an adviser described in paragraph 4;
- (10) a charity registered under the Income Tax Act (R.S.C. 1985, c. 1, (5th Suppl.)) or the Taxation Act (chapter F-3) that, in regard to the trade in question, has used the services of an adviser registered under this Act or of a person authorized to act as such or to exercise similar functions under the equivalent legislation of another province or a territory of Canada;
- (11) a person all of whose interest holders, except the holders of voting securities required by law to be held by directors, are accredited counterparties within the meaning of this Act;
- (12) a hedger, that is, a person who, because of the person's activities,
  - (a) is exposed to one or more risks attendant upon those activities, including supply, credit, exchange and environmental risks and the risk related to fluctuations in the price of an underlying interest; and
  - (b) seeks to hedge that risk by engaging in a derivatives transaction, or a series of derivatives transactions, where the underlying interest is the underlying interest directly associated with that risk or a related underlying interest; or
- (13) a person specified by regulation or designated by the Authority as an accredited counterparty under section 87;

“**dealer**” means a person who engages or purports to engage in the business of

- (1) derivatives trading on the person's own behalf or on behalf of others; or
- (2) any act, advertisement, solicitation, conduct or negotiation directly or indirectly in furtherance of an activity described in paragraph 1;

“**derivative**” means a n option, a swap, a futures contract, a contract for difference or any other contract or instrument whose market price, value, or delivery or payment obligations are derived from, referenced to or based on an underlying interest, or any other contract or instrument designated by regulation or considered equivalent to a derivative on the basis of criteria determined by regulation;

“**market participant**” or “**participant**” means a dealer, adviser or representative, an accredited counterparty with direct access to trading on a published market, a subscriber of an alternative trading system, or any other person designated as such by regulation;

“**person**” means a natural person or a legal person, and also includes a partnership, a trust, a fund, an association, a syndicate, a body, an entity or any other group of persons that is not constituted as a legal person and any person acting as trustee, liquidator, executor or legal representative;

“**published market**” means an exchange, an alternative trading system or any other derivatives market that

- (1) constitutes or maintains a system for bringing together buyers and sellers of standardized derivatives;
- (2) brings together the orders of multiple derivatives buyers and sellers; and
- (3) uses non-discretionary methods under which the orders interact with each other and the derivatives buyers and sellers entering the orders agree to the terms of a trade.