

13.1.2 Notice and Request for Comment – TSX Group Inc. – Proposed Combination with Bourse de Montréal Inc.

**NOTICE AND REQUEST FOR COMMENT – TSX GROUP INC. –
PROPOSED COMBINATION WITH BOURSE DE MONTRÉAL INC.**

TSX Group Inc. (TSX Group) and Bourse de Montréal Inc. (Bourse) have agreed to combine their organizations (Proposed Transaction). The Commission recognizes both TSX Group and TSX Inc. as an exchange. We are publishing TSX Group's submissions regarding the Proposed Transaction. TSX Group has submitted that no changes are necessary to TSX Group and TSX Inc.'s current recognition order as a result of the Proposed Transaction.

The Commission exempts the Bourse from the requirement to be recognized as an exchange in Ontario (Bourse exemption order). The Bourse filed an application with the Autorité des marchés financiers (AMF), seeking an amendment to its recognition order in Québec. The application and related materials were published for comment by the AMF on February 1, 2008. Any amendments to the recognition order of the Bourse will need to be reflected in the Bourse exemption order. For additional information regarding the Bourse's application to the AMF, please refer to www.lautorite.qc.ca.

We are seeking comments on TSX Group's submission. You are asked to provide your comments in writing and delivered on or before **March 10, 2008**, addressed to:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, Ontario M5H 3S8
E-mail: jstevenson@osc.gov.on.ca

We request that you submit a diskette containing an electronic copy of your submission. The confidentiality of submissions cannot be maintained as a summary of written comments received during the comment period will be published.

Questions may be referred to:

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February 4, 2008

via e-mail

Ms Barb Fydell
Senior Legal Counsel, Market Regulation
Ontario Securities Commission
20 Queen Street West
Suite 1903, Box 55
Toronto, ON M5H 3S8

Dear Ms Fydell:

Re: Proposed Combination of TSX Group Inc. and Montréal Exchange Inc. (Proposed Transaction)

We are responding to Ontario Securities Commission (OSC) staff's request for information on the details of the Proposed Transaction and analysis supporting our conclusion that no amendments are required to the existing terms and conditions of TSX Group Inc.'s (TSX Group) and TSX Inc.'s (TSX) recognition orders (collectively, the Recognition Order) as a consequence of the Proposed Transaction.

We believe that the changes contemplated as a result of the Proposed Transaction are not prejudicial to the public interest and will not require changes to the existing terms and conditions of the Recognition Order. We provide our review and analysis below, specifically addressing questions raised by OSC staff.

Details of the Proposed Transaction

The Proposed Transaction will be effected through a series of amalgamations under Part 1A of the *Quebec Companies Act* that involve Montréal Exchange Inc., and that ultimately will result in the formation of a successor company, "Amalco", at the effective date of the Proposed Transaction. Following these transactions, Amalco will be a direct subsidiary of TSX Group. Subsidiaries of Montréal Exchange Inc. will become subsidiaries of Amalco as a result of the Proposed Transaction. Amalco, as the corporate successor to Montréal Exchange Inc., will continue to be recognized as a self-regulatory organization and will be authorized to continue to carry on business as an exchange in Québec.

The name of Amalco in the English language form shall be "Montréal Exchange Inc." and "Bourse de Montréal Inc." in the French language form. In this letter, "Amalco" and "Bourse" are used interchangeably to refer to the amalgamated entity after the effective date of the Proposed Transaction.

According to the terms of the Proposed Transaction, the shareholders of Montréal Exchange Inc. may elect to receive consideration in the form of shares of TSX Group (0.7784 of a share) or in cash (\$39.00) for each share of Montréal Exchange Inc., subject to a maximum of \$428,200,000 in cash and 15,346,000 shares of TSX Group. Each shareholder of Montréal Exchange Inc. will thus be entitled to 0.5 of a common share of TSX Group and \$13.95 in cash for each share of Montréal Exchange Inc., after giving effect to full proration.

The Proposed Transaction is subject to the approval of 66 $\frac{2}{3}$ % of the votes cast by shareholders of Montréal Exchange Inc. at a special meeting of Montréal Exchange Inc. to be held on February 13, 2008 and to all other required approvals.

The name "TMX Group Inc." will be submitted for approval to the shareholders of TSX Group at the next annual meeting of TSX Group called after the effective date of the Proposed Transaction. In this letter, TMX Group refers to the TSX Group/Amalco combined entity after the effective date of the Proposed Transaction.

Recognition Order

TSX Group

Corporate Governance

1. *Please provide analysis with respect to the corporate governance terms and conditions in the recognition order in light of the proposals that 25% of the TSX Group board of directors will be Québec residents, 5 qualified Amalco nominees will be nominated to the TSX Group board of directors and a qualified Amalco nominee will sit on each committee of the TSX Group board of directors.*

The Recognition Order imposes conditions on TSX Group's governance structure that are consistent with the OSC's mandate to protect the public interest. These conditions include board representation and independence requirements.

At the effective date of the Proposed Transaction, the number of TMX Group directors will increase to 18. TMX Group shall cause five Bourse nominees to be nominated for election to the TMX Group board of directors at each of the first three annual meetings of TMX Group called following the effective date of the Proposed Transaction.

Also as a consequence of the Proposed Transaction, TMX Group shall nominate every year, without limit as to time, for election to the board of directors of TMX Group, at every annual meeting of TMX Group held following the effective date of the Proposed Transaction, such number of directors who are resident in Québec as represents 25% of the total number of directors nominated for election in any such year. TMX Group shall also cause at least one Bourse nominee to sit on each committee of the board of directors of TMX Group for a period of three years after the effective date of the Proposed Transaction. These provisions will be provided in a written undertaking by TSX Group to the Autorité des marchés financiers (Autorité) in support of the Bourse's recognition order.

The 25% Québec resident requirement on the TMX Group board of directors will be a factor to consider annually when directors are nominated to the TMX Group board. The TSX Group Director Qualification Policy currently requires that the TSX Group Governance Committee consider geographic representation, among other things, when reviewing board composition. As with all public company boards of directors, TSX Group currently exercises meticulous reviews of the skill sets and other attributes of its board members in order to ensure that its board of directors is as strong and knowledgeable as it can be in order to make necessary strategic decisions and steer the corporation accordingly. For example, TSX Group analyzes director skills for experience in: public companies, regulated entities, technology, strategy, financial/risk, transactions, sales/marketing, human resources, energy, broker/dealer, derivatives, and international/U.S. dealings. This will not change as a result of the Proposed Transaction. TMX Group will continue to ensure that it has fair and meaningful representation on its board of directors, as required by the Recognition Order. There are many members of the Québec business community who would bring strong skill sets and meaningful representation to the TMX Group board, including expertise in technology, equities trading, derivatives trading, finance and governance to name a few.

Under the terms of the agreement between TSX Group and Montréal Exchange Inc., the five Bourse nominees will be Québec residents or will be deemed to be Québec residents. Thus, for the three years in which Bourse nominees are nominated to the TMX Group board of directors, assuming the number of TMX Group board members does not exceed 18, the 25% Québec residency requirement will be met automatically by the Bourse nominees. As described on page 4 under the heading "*Recognition Order – TSX Group – Fitness*", the Bourse nominees must be fit and proper persons as required by the Recognition Order.

The Recognition Order requires that there be fair and meaningful representation on TSX Group's Governance Committee and that there be an appropriate representation of independent directors on TSX Group's committees. TMX Group will ensure that these conditions are met when a Bourse nominee is appointed to each board committee. As with other board members, TMX Group will evaluate the skill sets of each Bourse nominee to ensure that he or she will bring value to the board committee that he or she will join. Further, as per the requirements of National Policy 58-201, the Bourse nominee on each of the Governance Committee and Human Resources Committee must be fully independent, as must be the Bourse nominee to the TSX Group Finance and Audit Committee, in compliance with Multilateral Instrument 52-110.

The Proposed Transaction will not affect TSX Group's ability to comply with the corporate governance provisions in the Recognition Order.

The board independence requirements in the Recognition Order will not change. Fair and meaningful representation requirements on the board of directors and the Governance Committee will not change. Appropriate representation requirements on the TMX Group board committees will not change.

2. *Will there be any changes to the committee structure of the TSX Board or the mandate of any committee of the TSX Group Board?*

No. There will not be any such changes.

3. *Will there be any changes to the quorum requirements for the TSX Board or any committee of the Board?*

No. There will not be any such changes.

4. *Please confirm that there will be no changes to the by-laws of TSX Group.*

We confirm that there will not be any changes to TSX Group's by-laws.

Fitness

The Recognition Order requires that TSX Group take reasonable steps to ensure that each of its officers and directors is a fit and proper person and that the past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity. In order to ensure compliance with this condition, the Bourse nominees will be required to submit to the procedures that TSX Group has established for these purposes.

The Proposed Transaction will not affect TSX Group's ability to comply with these provisions.

Allocation of Resources

The Recognition Order requires that TSX Group will allocate sufficient financial and other resources to TSX to ensure that TSX can carry out its functions in compliance with the terms and conditions of the Recognition Order.

The Proposed Transaction will not affect TSX Group's ability to comply with these provisions.

Financial Information

The Recognition Order requires that TSX Group files certain financial statements with the OSC on a periodic basis.

The Proposed Transaction will not affect TSX Group's ability to comply with these provisions.

Compliance

The Recognition Order requires that TSX Group carry out its activities as a stock exchange and do everything within its control to cause TSX to carry out its activities as a stock exchange, recognized under section 21 of the *Securities Act*.

The Proposed Transaction will not affect TSX Group's ability to ensure that these requirements are met and that TSX complies with the terms and conditions of the Recognition Order.

Access to Information

The Recognition Order requires that TSX Group and its subsidiaries give access to the OSC for the inspection of data and information to allow the OSC to perform its regulatory oversight of TSX Group and TSX. TSX Group will continue to comply with this requirement, which will extend to information and data in the possession of the Bourse as of the effective date of the Proposed Transaction.

The Proposed Transaction will not affect TSX Group's ability to comply with these provisions.

Share Ownership Restrictions

The Recognition Order confirms that the restriction on share ownership in section 21.11(1) of the *Securities Act*, as amended, applies to TSX Group.

The Proposed Transaction will not affect this restriction. However, as of the effective date of the Proposed Transaction, TSX Group will also be subject to a new ownership restriction whereby no person or company and no combination of persons or companies acting jointly or in concert shall beneficially own or exercise control or direction over more than 10% of any class or series of voting shares of TSX Group without the prior approval of the Autorité. This ownership restriction is included in the written undertakings to be made by TSX Group to the Autorité.

TSX Inc.

Corporate Governance

The Recognition Order corporate governance requirements for TSX are very similar to those of TSX Group, with the additional condition that TSX must ensure diversity of representation to provide a proper balance between interests of the different entities using its services and facilities. Because the board of directors of TSX is currently comprised of the same individuals as the board of TSX Group, the number of TSX board of directors will also increase to 18 directors as of the effective date of the Proposed Transaction. Similarly, so long as the TSX board of directors continues to be a mirror board to TSX Group, individuals who are resident in Québec will represent 25% of the total number of directors nominated for election to the TSX board of directors at every annual meeting of TSX held following the effective date of the Proposed Transaction.

For the reasons provided under the heading “*Recognition Order - TSX Group - Corporate Governance*” on page 2, TSX will continue to be able to comply with the corporate governance terms in the Recognition Order. TSX will continue to be able to maintain a balance of interests on its board of directors between the different entities using its services and facilities. Because the composition requirements on the board of TSX are not mutually exclusive, it is possible that entities using TSX’s services may be represented on the board by a Québec-based director who is also counted in the 25% Québec resident requirement. In any event, the condition on TSX to compose its board in a manner that provides for this balance of interests will continue to be met whether through Québec-based individuals or otherwise.

Fees

The Recognition Order provides that any and all fees imposed by TSX on its Participating Organizations shall be equitably allocated, shall not have the effect of creating barriers to access, and shall be balanced with TSX’s need for sufficient revenues. The process for setting fees shall be fair and appropriate.

The Proposed Transaction will not affect TSX’s ability to comply with these provisions.

Access

The Recognition Order outlines to whom TSX shall permit access to its trading facilities, and how such standards should be established.

The Proposed Transaction will not affect TSX’s ability to comply with these provisions.

Fitness

TSX has the same fitness requirements as TSX Group. Given that the board of directors of TSX is a mirror board to that of TSX Group, the new TSX directors (that is, the Bourse nominees) will be subject to the procedures that have been established by TSX Group to ensure that its directors are fit and proper persons.

The Proposed Transaction will not affect TSX’s ability to comply with these provisions.

Financial Viability

TSX must maintain sufficient financial resources for the proper performance of its functions. The Recognition Order also requires that TSX shall calculate monthly certain specified financial ratios and make quarterly reporting to the OSC of these monthly calculations.

The Proposed Transaction will not affect TSX’s ability to comply with these provisions.

Regulation

The Recognition Order requires that TSX shall continue to retain Market Regulation Services Inc. as its regulation services provider to provide, as agent for TSX, certain regulation services which have been approved by the OSC.

The Proposed Transaction will not affect TSX’s ability to comply with these provisions.

Systems

5. *We have reviewed materials which indicate that Mr. Luc Bertrand will be assuming responsibility for information technology (IT) of TSX Group after the effective date of the Proposed Transaction. Please provide information on any resulting changes to TSX Group’s IT operations, including whether TSX Group’s IT operations will continue to reside in Toronto.*

After the effective date of the Proposed Transaction, Mr. Luc Bertrand will assume the role of Deputy Chief Executive Officer of TMX Group. Mr. Bertrand’s responsibilities will include all of the information technology functions of TMX Group. The Chief Information Officer of TMX Group will report to Mr. Bertrand. No further decisions have been made regarding possible changes to TSX’s IT operations; however, we currently anticipate that the IT function will continue to exist both in Toronto and Montréal.

The Recognition Order provides, among other things, that TSX ensure that certain testing and reviews of its systems are executed on a reasonably frequent basis.

The Proposed Transaction will not affect TSX’s ability to comply with these provisions.

Purpose of Rules

TSX must establish rules and policies that are necessary or appropriate to govern and regulate its business and affairs.

The Proposed Transaction will not impact TSX's ability to comply with these provisions.

Rules and Rule-Making

TSX must comply with the existing protocol between TSX and the OSC and all rules and amendments adopted by TSX must be filed with the OSC.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Financial Statements

The Recognition Order requires that TSX file certain financial statements with the OSC.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Sanction Rules

The Recognition Order requires that TSX ensures that its Participating Organizations and listed issuers are appropriately sanctioned for rule violations. TSX is also required to notify the OSC of any violations of securities legislation of which it becomes aware in the ordinary course operation of its business.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Due Process

TSX must ensure that its access requirements, including the imposition of conditions on access and denial of access, are fair and reasonable and afford an opportunity to be heard and provide provisions for appeals.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Information Sharing

TSX must co-operate by sharing information with the OSC and other self-regulatory organizations, subject to applicable privacy laws.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Listed Company Rules

TSX is required to have appropriate review procedures in place to monitor and enforce issuer compliance.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Self-Listing Conditions

TSX is subject to certain terms and conditions relating to the listing of TSX Group on TSX.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Outsourcing

The Recognition Order requires that any material outsourcing of any of TSX's business functions with parties other than TSX Group or an affiliate or associate of TSX Group shall be done in accordance with industry best practices.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Related Party Transactions

If TSX enters into a material agreement or transaction with TSX Group or any subsidiary or associate of TSX Group, that agreement or transaction must be on terms and conditions that are at least as favourable to TSX as market terms and conditions.

This provision will apply to any material agreement or transaction that TSX enters into with the Bourse after the effective date of the Proposed Transaction.

The Proposed Transaction will not affect TSX's ability to comply with these provisions.

Clearing and Settlement

6. *We have reviewed materials which indicate that CDCC will assume an expanded clearing mandate. Please provide any additional information available at this time. We note that the TSX's recognition order currently requires the TSX rules to impose a requirement on Participating Organizations to have appropriate arrangements in place for clearing and settlement through a clearing agency recognized by the Commission.*

No specific plans have been developed at this time. TSX is aware of the Recognition Order requirements and will continue to comply with the terms and conditions in the Recognition Order.

Other OSC Questions

Operational Changes

7. *We note that the Montréal Exchange Inc. management proxy circular dated January 10, 2008 states, at page 21, that "the parties are currently targeting annual cost synergies of \$25 million, expected to be achieved by reducing corporate costs, rationalizing premises and data centres and optimizing technology". Please provide details on any anticipated changes to TSX Group and TSX operations.*

No specific plans have been agreed yet and no additional details are currently available respecting how synergies will be achieved. Mr. Luc Bertrand will be in charge of integration and of realizing synergies. It is expected that synergies will be realized from across the combined organization. Depending on when the effective date of the Proposed Transaction occurs, synergies will be partially phased in during 2008, with most of the \$25 million in synergies expected to be realized in 2009.

8. *Will there be any changes to the activities currently being carried out in TSX's Montréal office?*

We do not anticipate any changes to the activities currently being carried out in TSX's Montréal office.

Conclusion

It is our submission that the Proposed Transaction will not give rise to any public interest concerns that would require changes to be made to the existing terms and conditions of TSX Group's and TSX's Recognition Order.

Yours truly,

"Sharon Pel"

Sharon C. Pel
Senior Vice President, Legal and Business Affairs

cc. Pierre Bernier, *Autorité*
Jacinthe Bouffard, *Autorité*
Susan Greenglass, *OSC*
Joëlle St-Arnault, *Bourse de Montréal*