



THE COMMODITY FUTURES ACT)
)
Section 66(1))

Order No. 7658

July 31, 2024

DESJARDINS SECURITIES INC.

WHEREAS:

(A) Desjardins Securities Inc. (the “**Applicant**”) has applied to The Manitoba Securities Commission (the “**Commission**”) for an order pursuant to section 66(1) of the *Commodity Futures Act* (the “**CFA**”) exempting the Applicant from the trade confirmation, statement of purchase and sale and monthly statement delivery requirements that apply to a registered dealer pursuant to sections 44 and 45 of the CFA (the “**Trade Reporting Requirements**”).

(B) The Applicant has represented to the Commission that:

1. The Applicant is a corporation governed by the *Business Corporations Act* (Québec). It is an indirect, wholly-owned subsidiary of Fédération des caisses Desjardins du Québec. Its head office is located in Montreal, Québec.

2. The Applicant is registered as an investment dealer under the securities legislation of all provinces and territories of Canada, as a futures commission merchant under the *Commodity Futures Act* (Ontario) and as a derivatives dealer under the *Derivatives Act* (Québec). It is also a member of the Canadian Investment Regulatory Organization (“**CIRO**”) and the TSX Venture Exchange, an approved participant of the Montréal Exchange (“**MX**”) and a participating organization of the Toronto Stock Exchange.

3. The Applicant acts as an executing broker for give-up transactions that involve the purchase and sale of commodity futures contracts and commodity futures options (collectively, “**Futures Contracts**”) that are listed on one or more domestic or foreign commodity futures and derivatives exchanges.

4. Give-up transactions are conducted by institutional investors, each of which is an “institutional client” within the meaning of Rule 1200 of CIRO’s Investment Dealer and Partially Consolidated Rules (the “**Investment Dealer Rules**”) that has an existing relationship as a client with a clearing broker but wishes to use the trade execution services of one or more executing brokers for the purpose of executing trades on one or more markets. Under these circumstances, the executing broker will execute trades in accordance with the client's instructions and then “give up” the trades to the clearing broker for clearing, settlement and/or custody.

5. A give-up trade client is a client of the clearing broker and the service provided by the executing broker is limited to trade execution. As a result, the clearing broker maintains an account for the client that is administered in accordance with the terms and conditions of the account documentation of the clearing broker that has been signed by the client. The client does not sign account documentation with the executing broker and the executing broker does not receive any money, securities, margin or collateral from the client. The client does, however, enter

into an agreement with the executing broker and the clearing broker that governs their give-up transaction relationship (a "Give-Up Agreement").

6. In connection with give-up trades pertaining to Futures Contracts traded on Canadian commodity futures (derivatives) exchanges, including the MX, the Applicant acts as an executing broker for such transactions and gives up the trades to the client's clearing broker for clearing, settlement and/or custody. In connection with give-up trades pertaining to Futures Contracts traded on foreign commodity futures exchanges of which the Applicant is not a member (and therefore not in a position to execute trades itself), the Applicant is able to provide access to Futures Contracts execution ("Futures Execution Access Services") by forwarding client orders, either directly or through an agent, to a broker known as a direct market access partner (the "DMAP") for the relevant foreign commodity futures exchange, which DMAP will execute the trades in accordance with the client's instructions and give up the trades to the client's clearing broker for clearing, settlement and/or custody.

7. As an executing broker, although the Applicant or the DMAP, as applicable, is responsible for record keeping, bookkeeping, custody and other requirements in respect of its own clients, it is not responsible for most of these requirements in respect of execution only clients because execution only clients are clients of the clearing broker. The Applicant or the DMAP, as applicable, does, however, capture each give-up trade that it executes in its electronic blotter. Give-up trades effected through the electronic platforms used by the Applicant and the DMAP are in most cases automatically allocated to clearing brokers as trades executed under a Give-Up Agreement, and a manual daily control is also conducted by the Applicant or the DMAP to identify the Futures Contract positions held by the Applicant or the DMAP, as applicable, that have not been allocated to any of its client accounts. Each such leftover position is then investigated by the Applicant's or the DMAP's trader (or back-office, as needed) and is either:

- (a) sent to the clearing broker as a trade that was executed under a Give-Up Agreement; or
- (b) upon receipt of new instructions, and supporting documentation to open a brokerage account if the client does not have an account with the Applicant or the DMAP, as applicable, allocated to a client's account.

8. For each execution only client that is a party to a Give-Up Agreement, the Applicant prepares a monthly or trade-by-trade invoice that provides details of all give-up trades that the Applicant or the DMAP, as applicable, conducted for the client during the month and the amount of commission owing to the Applicant and/or, indirectly, to the DMAP, as applicable, for such trade execution services or Futures Execution Access Services. The Applicant delivers the monthly invoice to the clearing broker which reconciles the trades described in the invoice with its own records and then pays the Applicant and/or the DMAP the amount owing to it pursuant to the invoice (this function may also be performed by the FIA TECH ATLANTIS electronic platform, which connect futures exchange, execution brokers and clearing agents together). Payment of the invoice therefore serves as evidence of the fact that the Applicant's own internal records reconcile with those of the client.

9. Section 44(1) of the CFA requires a registered dealer that has acted as agent in connection with any trade in a Futures Contract to promptly deliver a prescribed form of written trade confirmation of the transaction to its client.

10. Section 45(1) of the CFA requires every registered dealer who has acted as an agent in connection with a liquidity trade in a commodity futures contract for a client to promptly

deliver a prescribed form of the statement of purchase and sale to the client in addition to the trade conformation that must be delivered in accordance with section 44(1) of the CFA.

11. Section 45(2) of the CFA provides that so long as any unexpired and unexercised Futures Contract is outstanding in a client's account with a registered dealer, the registered dealer must deliver a prescribed form of monthly statement to the client.

12. The application of the Trade Reporting Requirements to the Applicant when it provides trade execution only services or Futures Execution Access Services in respect of give-up trades would:

- (a) be both duplicative and confusing because they would capture only some, but not all, of the trades that are captured by the trade confirmations, statements of account, statements of purchase and sale and monthly statements that are delivered to such clients by their clearing brokers; and
- (b) not be required to establish an audit trail or to facilitate reconciliation of give-up trades as between an executing broker and a clearing broker.

(C) Based on the foregoing, the Commission is of the opinion that it would not be prejudicial to the public interest to grant the order requested.

IT IS ORDERED:

1. **THAT** pursuant to section 66(1) of the CFA, the Applicant is exempt from the requirements of sections 44(1), 45(1) and 45(2) of the CFA for the purposes of acting as executing broker for give-up trades provided that:

- (a) the Applicant provides trade execution services in respect of give-up trades only for "institutional clients" within the meaning of Investment Dealer Rule 1200;
- (b) the Applicant enters into a Give-Up Agreement with the clearing broker and the client; and
- (c) the clearing broker clears and settles all give-up trades and delivers related trade confirmation, statements of purchase and sale and monthly statements to its clients.

2. THAT the fee for this Order is \$650.00.

BY ORDER OF THE COMMISSION



Director