

TSX Venture Exchange Request for Comments Trading Rule Amendments to Eliminate the Anti-scooping Rule

The Board of Directors of TSX Venture Exchange Inc. (TSXV) has approved amendments (Amendments) to the TSXV Trading Rule Book (TSXV Rules). The Amendments, shown as blacklined text, are attached at Schedule A.

The Amendments will be effective upon approval by the British Columbia and Alberta Securities Commissions (Commissions) following public notice and comment. Comments on the proposed amendments should be in writing and delivered no later than Monday, October 31, 2011 to:

Deanna Dobrowsky
Director, Regulatory Affairs
TMX Group Inc.
The Exchange Tower
130 King Street West, 3rd Floor
Toronto, Ontario M5X 1J2
Fax: (416) 947-4461
email: tsxrequestforcomments@tsx.com

A copy should also be provided to:

Michael Brady
Legal Counsel, Capital Markets Regulation Division
British Columbia Securities Commission
701 West Georgia Street
P.O. Box 10142, Pacific Centre
Vancouver, British Columbia V7Y 1L2
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Terms not defined in this Request for Comments are defined in the TSXV Rules.

I Proposed Change

The Amendments conform to a change that is being proposed to the Rules of Toronto Stock Exchange (TSX) to eliminate the anti-scooping rule.

II Description of Amendments

Provided below is a summary of the Amendments. A blacklined text of the amendments is provided in Appendix "A".

TSXV Rule C.2.04 – Execution of Trades at an Opening

The Amendments remove the "anti-scooping" rule. The original purpose of this rule, which applies only to "pro" (i.e. professional) orders entered in the two minutes prior to opening, was to prevent pros from shutting out client orders that were already in the book at the calculated opening price (COP), unless the pro order improved the COP. With better and quicker access to trading and real-time market data, it was felt that pros should not be guaranteed a fill at the

opening for an order entered in the two minutes prior to the opening unless the pro contributed to the improvement of the COP.

With the changes to Canadian market structure in recent years, the consequence of this rule is now to give an unfair advantage to client order flow, as a large percentage of “clients” are now Direct Market Access and/or high frequency trading clients and have the same or better technology than the pros, giving these clients better access to trading and real-time market data. In effect, the anti-scooping rule now inadvertently disadvantages the true pro traders. In eliminating the rule, TSXV does not believe that this will have a negative impact on market quality as the rule no longer provides the protection that it once did given the shift in market structure to electronic trading among sophisticated clients.

III Impact

We believe that the impact to the market will be positive as it will level the playing field between pro traders and professional type clients with sophisticated technologies.

IV Consultation and Review

TSX consulted with its Market Making Advisory Committee which includes representatives from 22 firms that provide Market Making services on TSX. Many of these firms also participate extensively on TSXV and have been able to provide input on the elimination of the anti-scooping rule on TSXV. TSXV did not consult independently with other firms.

V Alternatives

No alternatives were considered.

VI Comparable Rules

No Canadian marketplace with a pre-open or opening session (other than TSX) offers an anti-scooping mechanism. TSX is also proposing to delete its anti-scooping rule at this time as part of its market making rule changes.

VII Questions

Questions concerning this notice should be directed to Deanna Dobrowsky, Director, Regulatory Affairs, TMX Group Inc. at (416) 947-4361.

Schedule A

SCHEDULE "A"

Rule C.2.04 Execution of Trades at an Opening

(1) Subject to Rule C.2.05, listed securities shall open for trading at the opening time and opening trades shall be at the Calculated Opening Price.

(2) The following shall be completely filled at the opening:

- (a) market orders and better-priced limit orders ~~for client accounts;~~
- ~~(b) market orders and better-priced limit orders for non-client accounts that were entered prior to the two minutes immediately preceding the time of the opening;~~
- ~~(c) market orders and better-priced limit orders for non-client accounts entered during the two minutes immediately preceding the time of the opening and that affected the Calculated Opening Price, where the security opens at the opening time; and~~
- ~~(d) market orders and better-priced limit orders for non-client accounts entered during the two minutes immediately preceding the time of the opening where the opening of the security is delayed pursuant to Rule C.2.05.~~

[\(b\)](#)
[Repealed \(•\)](#)

[\(c\)](#)
[Repealed \(•\)](#)

[\(d\)](#)
[Repealed \(•\)](#)

(3) The following orders are eligible to participate during the opening in time priority sequence but are not guaranteed to be filled:

- (a) limit orders at the opening price; ~~and~~
- ~~(b) market orders and better-priced limit orders for non-client accounts that were entered during the two minutes immediately preceding the time of the opening and that did not affect the Calculated Opening Price, where the security opens at the opening time.~~

[\(b\)](#)
[Repealed \(•\)](#)

(4) Trades shall be allocated among orders at the Calculated Opening Price in the following manner and sequence:

- (a) to orders guaranteed a fill pursuant to Rule 2.04(2); then
- (b) all possible crosses shall be executed; then
- (c) limit orders at the opening price, ~~and better-priced limit orders and market orders for non-client accounts that were entered during the two minutes immediately preceding the time of the opening and did not affect the Calculated Opening Price,~~ according to time priority.

(5) Orders at the opening price that are not completely filled at the opening shall remain in the Book, at the opening price.

Rule C.2.04 Amended [May 4, 2009\(•\)](#)