

**Companion Policy 21-101 CP
to National Instrument 21-101
Marketplace Operation**

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PART 1 INTRODUCTION

1.1 Introduction - Traditionally, the Canadian securities regulatory authorities have regulated securities markets by regulating dealers, exchanges and, in some jurisdictions, quotation and trade reporting systems. In recent years, particularly in the United States, new types of markets have emerged that take different forms and trade securities in a different manner than on those markets. These entities are referred to as alternative trading systems. While the existing regulatory system will generally apply to the activities of these markets, there are instances where the existing regulatory system needs to be supplemented. Accordingly, the Canadian securities regulatory authorities have adopted National Instrument 21-101 Marketplace Operation (the "Instrument") to create an appropriate regulatory regime to deal with these new types of markets and to supplement the regime applicable to exchanges and quotation and trade reporting systems.

The purpose of this Companion Policy is to state the views of the Canadian securities regulatory authorities on various matters related to the Instrument, including:

- (a) a discussion of the general approach taken by the Canadian securities regulatory authorities in, and the general regulatory purpose for, the Instrument; and
- (b) the interpretation of various terms and provisions in the Instrument.

1.2 Definition of Exchange-Traded Security - Section 1.1 of the Instrument defines an "exchange-traded security" as a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of NI 21-101 and NI 23101. A security that is inter-listed would be considered to be an exchange-traded security. A security that is listed on a foreign exchange or quoted on a foreign quotation and trade reporting system, and is not listed or quoted on a domestic exchange or quotation and trade reporting system, falls within the definition of "foreign exchange-traded security".

1.3 Definition of Foreign Exchange-Traded Security - The definition of foreign exchange-traded security includes a reference to ordinary members of the International Organization of Securities Commissions (IOSCO). To determine the current list of ordinary members, reference should be made to the IOSCO website at www.iosco.org.

1.4 Definition of Regulation Services Provider – The definition of regulation services provider is meant to capture a third party provider that provides regulation services to marketplaces. A recognized exchange or recognized quotation and trade reporting system would not be a regulation services provider if it only conducts these regulatory services for its own marketplace or an affiliated marketplace.

PART 2 MARKETPLACE

2.1 Marketplace

(1) The Instrument uses the term "marketplace" to encompass the different types of trading systems that match trades. A marketplace is an exchange, a quotation and trade reporting system or an ATS. Paragraphs (c) and (d) of the definition of "marketplace" describe marketplaces that the Canadian securities regulatory authorities consider to be ATSs. A dealer that internalizes its orders of exchange-traded securities and does not execute and print the trades on an exchange or quotation and trade reporting system in accordance with the rules of the exchange or the quotation and trade reporting system (including an exemption from those rules) is considered to be a marketplace pursuant to paragraph (d) of the definition of "marketplace" and an ATS.

- (2) Two of the characteristics of a "marketplace" are
 - (a) that it brings together orders for securities of multiple buyers and sellers; and
 - (b) that it uses established, non-discretionary methods under which the orders interact with each other.
- (3) The Canadian securities regulatory authorities consider that a person or company brings together orders for securities if it
 - (a) displays, or otherwise represents to marketplace participants, trading interests entered on the system; or

receives orders centrally for processing and execution (regardless of the level of automation used).

(4) The Canadian securities regulatory authorities are of the view that "established, nondiscretionary methods" include any methods that dictate the terms of trading among the multiple buyers and sellers entering orders on the system. Such methods include providing a trading facility or setting rules governing trading among marketplace participants. Common examples include a traditional exchange and a computer system, whether comprised of software, hardware, protocols, or any combination thereof, through which orders interact, or any other trading mechanism that provides a means or location for the bringing together and execution of orders. Rules imposing execution priorities, such as time and price priority rules, would be "established, non-discretionary methods."

(5) The Canadian securities regulatory authorities do not consider the following systems to be marketplaces for purposes of the Instrument:

1. A system operated by a person or company that only permits one seller to sell its securities, such as a system that permits issuers to sell their own securities to investors.
2. A system that merely routes orders for execution to a facility where the orders are executed.
3. A system that posts information about trading interests, without facilities for execution.

In the first two cases, the criteria of multiple buyers and sellers would not be met. In the last two cases, routing systems and bulletin boards do not establish non-discretionary methods under which parties entering orders interact with each other.

(6) A person or company operating any of the systems described in subsection (5) should consider whether the person or company is trading for the purposes of securities legislation and is required to be registered as a dealer under securities legislation.

(7) Inter-dealer bond brokers *have a choice as to how to be regulated under the Instrument and NI 23-101*. Each inter-dealer bond broker can choose to be subject to ~~IDA IIROC By-law No. 36 Rule 36~~ and ~~IDA IIROC Regulation 2400 Rule 2100~~, fall within the definition of inter-dealer bond broker in the Instrument and be subject to the transparency requirements of Part 8 of the Instrument. Alternatively, the inter-dealer bond broker can choose to be an ATS and comply with the provisions of the Instrument and NI 23101 applicable to a marketplace and an ATS. An inter-dealer bond broker that chooses to be an ATS will not be subject to ~~By-law No. 36 Rule 36~~ or ~~IDA IIROC Regulation 2400 Rule 2100~~, but will be subject to all other ~~IDA IIROC~~ requirements applicable to a dealer.

PART 3 CHARACTERISTICS OF EXCHANGES, QUOTATION AND TRADE REPORTING SYSTEMS AND ATSS

3.1 Exchange

(1) Canadian securities legislation of most jurisdictions does not define the term "exchange".

(2) The Canadian securities regulatory authorities generally consider a marketplace, other than a quotation and trade reporting system, to be an exchange for purposes of securities legislation, if the marketplace

(a) requires an issuer to enter into an agreement in order for the issuer's securities to trade on the marketplace, i.e., the marketplace provides a listing function;

(b) provides, directly, or through one or more marketplace participants, a guarantee of a two-sided market for a security on a continuous or reasonably continuous basis, i.e., the marketplace has one or more marketplace participants that guarantee that a bid and an ask will be posted for a security on a continuous or reasonably continuous basis. For example, this type of liquidity guarantee can be carried out on exchanges through traders acting as principal such as registered traders, specialists or market makers;

(c) sets requirements governing the conduct of marketplace participants, in addition to those requirements set by the marketplace in respect of the method of trading or algorithm used by those marketplace participants to execute trades on the system (see subsection (3)); or

(d) disciplines marketplace participants, in addition to discipline by exclusion from trading, i.e., the marketplace can levy fines or take enforcement action.

(3) An ATS that requires a subscriber to agree to comply with the requirements of a regulation services provider as part of its contract with that subscriber is not setting "requirements governing the conduct of subscribers". In addition, marketplaces are not precluded from imposing credit conditions on subscribers or requiring subscribers to submit financial information to the marketplace.

(4) The criteria in subsection 3.1(2) are not exclusive and there may be other instances in which the Canadian securities regulatory authorities will consider a marketplace to be an exchange.

3.2 Quotation and Trade Reporting System

(1) Canadian securities legislation in certain jurisdictions contains the concept of a quotation and trade reporting system. A quotation and trade reporting system is defined under Canadian securities legislation in those jurisdictions as a person or company, other than an exchange or registered dealer, that operates facilities that permit the dissemination of price quotations for the purchase and sale of securities and reports of completed transactions in securities for the exclusive use of registered dealers. A person or company that carries on business as a vendor of market data or a bulletin board with no execution facilities would not normally be considered to be a quotation and trade reporting system.

(2) A quotation and trade reporting system is considered to have "quoted" a security if

- (a) the security has been subject to a listing or quoting process, and
- (b) the issuer issuing the security or the dealer trading the security has entered into an agreement with the quotation and trade reporting system to list or quote the security.

3.3 Definition of an ATS

(1) In order to be an ATS for the purposes of the Instrument, a marketplace cannot engage in certain activities or meet certain criteria such as

- (a) requiring listing agreements,
- (b) having one or more marketplace participants that guarantee that a two-sided market will be posted for a security on a continuous or reasonably continuous basis,
- (c) setting requirements governing the conduct of subscribers, in addition to those requirements set by the marketplace in respect of the method of trading or algorithm used by those subscribers to execute trades on the system, and
- (d) disciplining subscribers.

A marketplace, other than a quotation and trade reporting system, that engages in any of these activities or meets these criteria would, in the view of the Canadian securities regulatory authorities, be an exchange and would have to be recognized as such in order to carry on business, unless exempted from this requirement by the securities regulatory authorities.

(2) An ATS can establish trading algorithms that provide that a trade takes place if certain events occur. These algorithms are not considered to be "requirements governing the conduct of subscribers".

(3) A marketplace that would otherwise meet the definition of an ATS in the Instrument may apply to the Canadian securities regulatory authorities for recognition as an exchange.

3.4 Requirements Applicable to ATSS

(1) Part 6 of the Instrument applies only to an ATS that is not a recognized exchange or a member of a recognized exchange or an exchange recognized for the purposes of the Instrument and NI 23-101. If an ATS is recognized as an exchange, the provisions of the Instrument relating to marketplaces and recognized exchanges apply.

(2) If the ATS is a member of an exchange, the rules, policies and other similar instruments of the exchange apply to the ATS.

(3) Under subsection 6.1(a) of the Instrument, an ATS that is not a member of a recognized exchange or an exchange recognized for the purposes of the Instrument and NI 23-101 must register as a dealer if it wishes to carry on business. Unless otherwise specified, an ATS registered as a dealer is subject to all of the requirements applicable to dealers under Canadian securities legislation, including the requirements imposed by the Instrument and NI 23-101. An ATS will be carrying on business in a local jurisdiction if it provides direct access to subscribers located in that jurisdiction.

(4) If an ATS registered as a dealer in one jurisdiction in Canada provides access in another jurisdiction in

Canada to subscribers who are not registered dealers under securities legislation, the ATS must be registered in that other jurisdiction. However, if all of the ATS's subscribers in the other jurisdiction are registered as dealers in that other jurisdiction, the securities regulatory authority in the other jurisdiction may consider granting the ATS an exemption from the requirement to register as a dealer under subsection 6.1(a) of the Instrument and from the registration requirements of securities legislation. In determining if the exemption is in the public interest, a securities regulatory authority will consider a number of factors, including whether the ATS is registered in another jurisdiction and whether the ATS deals only with registered dealers in that jurisdiction.

(5) Subsection 6.1(b) of the Instrument prohibits an ATS to which the provisions of the Instrument apply from carrying on business unless it is a member of a self-regulatory entity. Membership in a self-regulatory entity is required for purposes of membership in the Canadian Investor Protection Fund, capital requirements and clearing and settlement procedures. At this time, the [IDA IIROC](#) is the only entity that would come within the definition.

(6) Any registration exemptions that may otherwise be applicable to a dealer under securities legislation are not available to an ATS, even though it is registered as a dealer (except as provided in the Instrument), because of the fact that it is also a marketplace and different considerations apply.

(7) Subsection 6.7(1) of the Instrument requires an ATS to notify the securities regulatory authority if one of three thresholds is met or exceeded. Upon being informed that one of the thresholds is met or exceeded, the securities regulatory authority intends to review the ATS, its structure and operations in order to consider whether the person or company operating the ATS should be considered to be an exchange for purposes of securities legislation. The securities regulatory authority intends to conduct this review because each of these thresholds may be indicative of an ATS having market dominance over a type of security, such that it would be more appropriate that the ATS be regulated as an exchange. If more than one Canadian securities regulatory authority is conducting this review, the reviewing jurisdictions intend to coordinate their review. The volume thresholds referred to in subsection 6.7(1) and section 12.2 of the Instrument are based on the type of security. The Canadian securities regulatory authorities consider a type of security to refer to a distinctive category of security such as equity securities, preferred securities, debt securities or options.

(8) Any marketplace that is required to provide notice under section 6.7 of the Instrument will determine the calculation based on publicly available information.

(9) Subsections 6.10(2) and 6.11(2) of the Instrument require an ATS to obtain an acknowledgement from its subscribers. The acknowledgement may be obtained in a number of ways, including requesting the subscriber's signature or requesting that the subscriber initial an initial box or check a check-off box. This may be done electronically. The acknowledgement must be specific to the information required to be disclosed under the relevant subsection and must confirm that the subscriber has received the required disclosure. The Canadian securities regulatory authorities are of the view that it is the responsibility of the ATS to ensure that an acknowledgement is obtained from the subscriber in a timely manner.

PART 4 RECOGNITION AS AN EXCHANGE OR QUOTATION AND TRADE REPORTING SYSTEM

4.1 Recognition as an Exchange or Quotation and Trade Reporting System

(1) In determining whether to recognize an exchange or quotation and trade reporting system, the Canadian securities regulatory authorities must determine whether it is in the public interest to do so.

(2) In exercising this discretion, the Canadian securities regulatory authorities will look at a number of factors, including

(a) the manner in which the exchange or quotation and trade reporting system proposes to comply with the Instrument;

(b) whether the exchange or quotation and trade reporting system has fair and meaningful representation on its governing body, in the context of the nature and structure of the exchange or quotation and trade reporting system;

(c) Whether the exchange or quotation and trade reporting system has sufficient financial resources for the proper performance of its functions; and

(d) whether the rules, policies and other similar instruments of the exchange or quotation and trade reporting system ensure that its business is conducted in an orderly manner so as to afford protection to investors.

PART 5 ORDERS

5.1 Orders

(1) The term "order" is defined in section 1.1 of the Instrument as a firm indication by a person *or company, acting as either principal or agent, of a willingness to buy or sell a security*. By *virtue of* this definition, a marketplace that displays good faith, non-firm indications of interest, including, but not limited to, indications of interest to buy or sell a particular security without either prices or quantities associated with those indications, is not displaying "orders".

(2) The label put on a transaction is not determinative of whether the transaction constitutes an order. Instead, whether *or not an indication is "firm"* will depend *on what actually takes place* between the buyer and seller. At a minimum, the Canadian securities regulatory authorities will consider an indication to be firm if it can be executed without further discussion between the person or company entering the indication and the counterparty. Even if the person or company must give *its subsequent agreement to an execution, the Canadian securities regulatory authorities will still consider the indication to be firm if this subsequent agreement is always, or almost always, granted* so that the agreement is largely a formality. For instance, an indication where there is a clear or prevailing presumption *that a trade will take place at the indicated price, based on understandings or past dealings, will be viewed as an order.*

(3) A firm indication of a willingness to buy or sell a security includes *bid or offer quotations, market orders, limit orders and any other priced orders*. For the purpose of sections 7.1, 7.3, 8.1 and 8.2 of the Instrument, the Canadian securities regulatory authorities do not consider special terms orders that are not immediately executable or that trade in special terms books, such as all-or-none, minimum fill or cash or delayed delivery, to be orders that must be provided to an information processor or, if there is no information processor, to an information vendor for consolidation.

(4) The determination of whether an order has been placed does not turn on the level of automation used. Orders can be given over the telephone, as well as electronically.

PART 6 FORMS FILED BY MARKETPLACES

6.1 Forms Filed by Marketplaces

(1) Subsection 3.1(1) of the Instrument requires an applicant for recognition as an exchange to file Form 21-101 F1. This subsection does not apply to an exchange that was recognized before the Instrument came into force.

(2) The forms filed by a marketplace under the Instrument will be kept confidential. The Canadian securities regulatory authorities are of the view that the forms contain intimate financial, commercial and technical information and that the interests of the filers in non-disclosure outweigh the desirability of adhering to the principle that the forms be available for public inspection.

(3) Under subsection 3.2(1) of the Instrument, at least 45 days prior to implementing a significant change to a matter set out in Form 21-101F1, a recognized exchange must file information describing the change or an amendment to the information provided in Form 21-101F1, in each case, in the manner set out in Form 21-101F1. In the view of the Canadian securities regulatory authorities, a significant change includes a change to the information contained in Exhibits A, B, G, I, J, K, M, N, P and O of Form 21-101F1. This is also applicable to recognized quotation and trade reporting systems under subsection 4.2(1) of the Instrument.

(4) A recognized exchange or recognized quotation and trade reporting system that files amendments to the information provided in Form 21-101F1 should number each filing consecutively.

(5) Securities legislation or the terms and conditions of the recognition of the exchange or quotation and trade reporting system may require that a recognized exchange or recognized quotation and trade reporting system that is voluntarily surrendering its recognition file a notice or application with the securities regulatory authority.

(6) Under subsection 6.4(2) of the Instrument, at least 45 days prior to implementing a significant change to a matter set out in Form 21-101 F2, an ATS is required to file an amendment to the information provided in Form 21-101 F2 in the manner set out in Form 21-101 F2. The Canadian securities regulatory authorities consider that a significant change includes ~~any change to the operating platform of an ATS, the types of securities traded, or the types of subscribers.~~ **a change to the information in Exhibits A,B,C,F,G,I, and J of Form 21-101F2.**

(7) Subsection 6.4(4) of the Instrument requires an ATS to file Form 21-101 F3 by the following dates: April 30 (for the quarter ending March 31), July 30 (for the quarter ending June 30), October 30 (for the quarter ending September 30) and January 30 (for the quarter ending December 31).

(8) If an ATS files notice of its intention to carry on exchange activities pursuant to section 6.6 of the Instrument, and the ATS intends to begin to carry on business as an exchange, the ATS is required to file Form 21-101F1.

6.2 Forms Filed in Electronic Format - The Canadian securities regulatory authorities request that all forms and exhibits required to be filed under the Instrument be filed in electronic format, where possible.

PART 7 CERTAIN REQUIREMENTS APPLICABLE ONLY TO EXCHANGES AND QUOTATION AND TRADE REPORTING SYSTEMS

~~7.1 Access Requirements - Section 5.1 of the Instrument sets out access requirements that apply to a recognized exchange and a recognized quotation and trade reporting system. The Canadian securities regulatory authorities note that the requirements regarding access for members do not, however, restrict the authority of an exchange or quotation and trade reporting system to maintain reasonable standards for access. In addition, the reference to "a person or company" in subsection (b) includes a system or facility that is operated by a person or company.~~

7.1 Access Requirements

(1) Section 5.1 of the Instrument sets out access requirements that apply to a recognized exchange and a recognized quotation and trade reporting system. The Canadian securities regulatory authorities note that the requirements regarding access for members do not restrict the authority of a recognized exchange or recognized quotation and trade reporting system to maintain reasonable standards for access. The purpose of these access requirements is to ensure that rules, policies, procedures, fees and practices of the exchange or quotation and trade reporting system do not unreasonably create barriers to access to the services provided by the exchange or quotation and trade reporting system.

(2) For the purposes of complying with the order protection requirements in Part 6 of NI 23-101, a recognized exchange or recognized quotation and trade reporting system should permit fair and efficient access to

(a) a member or user that directly accesses the exchange or quotation and trade reporting system,

(b) a person or company that is indirectly accessing the exchange or quotation and trade reporting system through a member or user, or

(c) a marketplace routing an order to the exchange or quotation and trade reporting system.

The reference to "a person or company" in subsection (b) includes a system or facility that is operated by a person or company and a person or company that obtains access through a member or user.

(3) The reference to "services" in paragraph 5.1(b) of the Instrument means all services that may be offered to a person or company and includes all services relating to order entry, trading, execution, routing and data.

(4) Recognized exchanges and recognized quotation and trade reporting systems are responsible for ensuring that the fees they set are in compliance with section 5.1 of the Instrument. In assessing whether its fees unreasonably condition or limit access to its services, a recognized exchange or recognized quotation and trade reporting system should consider a number of factors, including

(a) the value of the security traded,

(b) the amount of the fee relative to the value of the security traded,

(c) the amount of fees charged by other marketplaces to execute trades in the market,

(d) with respect to market data fees, the amount of market data fees charged relative to the market share of the exchange or quotation and trade reporting system, and,

(e) with respect to order – execution terms, including fees, whether the outcome of their application is consistent with the policy goals of order protection.

The Canadian securities regulatory authorities will consider these factors, among others, in determining whether the fees charged by a recognized exchange or recognized quotation and trade reporting system unreasonably condition or limit access to its services. With respect to trading fees, our view is that a trading fee equal to or greater than the minimum trading increment as defined in IIROC's Universal Market Integrity Rules, as amended, would unreasonably condition or limit access to a recognized exchange's or recognized quotation and trade reporting system's services as it would be inconsistent with the policy goals of order protection. Trading fees below the minimum trading increment may also unreasonably condition or limit access to a recognized exchange's or recognized quotation and trade

reporting system's services when taking into account factors including those listed above.

7.2 Compliance Rules - Section 5.4 of the Instrument requires a recognized exchange and recognized quotation and trade reporting system to have appropriate procedures to deal with violations of rules, policies or other similar instruments of the exchange or quotation and trade reporting system. This section does not preclude enforcement action by any other person or company, including the Canadian securities regulatory authorities or the regulation services provider.

7.3 Filing of Rules - Section 5.5 of the Instrument requires a recognized exchange and recognized quotation and trade reporting system to file all rules, policies and other similar instruments and amendments as required by the securities regulatory authority. Initially, all rules, policies and other similar instruments will be reviewed before implementation by the exchange or quotation and trade reporting system. It is the intention of the securities regulatory authority to develop and implement a protocol that will set out the procedures to be followed with respect to the review and approval of rules, policies and other similar instruments and amendments.

PART 8 REQUIREMENTS ONLY APPLICABLE TO ATSS

8.1 Confidential Treatment of Trading Information by ATSS

(1) Subsection 6.8(2) of the Instrument provides that an ATS shall not carry on business as an ATS unless it has implemented reasonable safeguards and procedures to protect a subscriber's trading information. These include

(a) limiting access to the trading information of subscribers, such as the identity of subscribers and their orders, to those employees of, or persons or companies retained by, the ATS to operate the system or to be responsible for its compliance with Canadian securities legislation; and

(b) having in place procedures to ensure that employees of the ATS cannot use such information for trading in their own accounts.

(2) The procedures referred to in subsection (1) should be clear and unambiguous and presented to all employees and agents of the ATS, whether or not they have direct responsibility for the operation of the ATS.

(3) Nothing in section 6.8 of the Instrument prohibits an ATS from complying with National Policy 41 Shareholder Communication, or its successor instrument. This statement is necessary because an investment dealer that operates an ATS may be an intermediary for the purposes of National Policy 41, or its successor instrument, and may be required to disclose information under that Instrument

~~8.2 Access Requirements - Section 6.13 of the Instrument sets out access requirements that apply to an ATS. The Canadian securities regulatory authorities note that the requirements regarding access do not prevent an ATS from setting reasonable standards for access. In addition, the reference to "a person or company" in subsection (b) includes a system or facility that is operated by a person or company~~

8.2 Access Requirements (1) Section 6.13 of the Instrument sets out access requirements that apply to an ATS. The Canadian securities regulatory authorities note that the requirements regarding access do not prevent an ATS from setting reasonable standards for access. The purpose of these access requirements is to ensure that the policies, procedures, fees and practices of the ATS do not unreasonably create barriers to access to the services provided by the ATS.

(2) For the purposes of complying with the order protection requirements in section 6 of NI 23-101, an ATS should permit fair and efficient access to

(a) a subscriber that directly accesses the ATS,

(b) a person or company that is indirectly accessing the ATS through a subscriber, or

(c) a marketplace routing an order to the ATS.

In addition, the reference to "a person or company" in subsection (b) includes a system or facility that is operated by a person or company and a person or company that obtains access through a subscriber that is a dealer.

(3) The reference to “services” in paragraph 6.13(b) of the Instrument means all services that may be offered to a person or company and includes all services related to order entry, trading, execution, routing and data.

(4) ATSs are responsible for ensuring that the fees they set are in compliance with section 6.13 of the Instrument. In assessing whether its fees unreasonably condition or limit access to its services, an ATS should consider a number of factors, including

(a) the value of the security traded,

(b) the amount of the fee relative to the value of the security traded,

(c) the amount of fees charged by other marketplaces to execute trades in the market,

(d) with respect to market data fees, the amount of market data fees charged relative to the market share of the ATS, and,

(e) with respect to order-execution terms, including fees, whether the outcome of their application is consistent with the policy goals of order protection.

The Canadian securities regulatory authorities will consider these factors, among others, in determining whether the fees charged by an ATS unreasonably condition or limit access to its services. With respect to trading fees, our view is that a trading fee equal to or greater than the minimum trading increment as defined in IIROC’s Universal Market Integrity Rules, as amended, would unreasonably condition or limit access to an ATS’s services as it would be inconsistent with the policy goals of order protection. Trading fees below the minimum trading increment may also unreasonably condition or limit access to an ATS’s services when taking into account factors including those listed above.

PART 9 INFORMATION TRANSPARENCY REQUIREMENTS FOR EXCHANGE-TRADED SECURITIES

9.1 Information Transparency Requirements for Exchange-Traded Securities

(1) Subsection 7.1(1) of the Instrument requires a marketplace that displays orders of exchange-traded securities to any person or company to provide information to an information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider. Section 7.2 requires the marketplace to provide information regarding trades of exchange-traded securities to an information processor or, if there is no information processor, an information vendor that meets the standards set by a regulation services provider. Subsection 7.1(1) of the Instrument requires a marketplace that displays orders of exchange-traded securities to any person or company to provide accurate and timely information regarding those orders to an information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider. Section 7.2 requires a marketplace to provide accurate and timely information regarding trades of exchange-traded securities to an information processor or, if there is no information processor, an information vendor that meets the standards set by a regulation services provider. Some marketplaces, such as exchanges, may be regulation services providers and will establish standards for the information vendors they use to display order and trade information to ensure that the information displayed by the information vendors is timely, accurate and promotes market integrity. If the marketplace has entered into a contract with a regulation services provider under NI 23-101, the marketplace must provide information to the regulation services provider and an information vendor that meets the standards set by that regulation services provider.

(2) To comply with subsections 7.1 and 7.2 of the Instrument, any information provided by a marketplace to an information processor or information vendor must include identification of the marketplace and should contain all relevant information including details as to volume, symbol, price and time of the order or trade.

(2) In complying with sections 7.1 and 7.2 of the Instrument, a marketplace should not make the required order and trade information available to any other person or company on a more timely basis than it makes that information available to the information processor of information vendor. In addition, any information provided by a marketplace to an information processor or information vendor must include identification of the marketplace and should contain all relevant information including details at to volume, symbol, price and time of the order or trade.

(3) [Repealed]

(4) [Repealed]

(5) It is expected that if there are multiple regulation service providers, the standards of the various regulation service providers must be consistent. In order to maintain market integrity for securities trading in different marketplaces, the Canadian securities regulatory authorities will, through their oversight of the regulation service

providers, review and monitor the standards established by all regulation service providers so that business content, service level standards, and other relevant standards are substantially similar for all regulation service providers.

9.2 [Repealed]

PART 10 INFORMATION TRANSPARENCY REQUIREMENTS FOR UNLISTED DEBT SECURITIES

10.1 Information Transparency Requirements for Unlisted Debt Securities

(1) The requirement to provide transparency of information regarding orders and trades of government debt securities in section 8.1 of the Instrument does not apply until January 1, 2012. The Canadian securities regulatory authorities will continue to review the transparency requirements, in order to determine if the transparency requirements summarized in subsections (2) and (3) below should be amended.

(2) The requirements of the information processor for government debt securities are as follows:

(a) Marketplaces trading government debt securities and inter-dealer bond brokers are required to provide in real time quotation information displayed on the marketplace for all bids and offers with respect to unlisted debt securities designated by the information processor, including details as to type, issuer, coupon and maturity of security, best bid price, best ask price and total disclosed volume at such prices; and

(b) Marketplaces trading government debt securities and inter-dealer bond brokers are required to provide in real time details of trades of all government debt securities designated by the information processor, including details as to the type, issuer, series, coupon and maturity, price and time of the trade and the volume traded.

(3) The requirements of the information processor for corporate debt securities are as follows:

(a) Marketplaces trading corporate debt securities, inter-dealer bond brokers and dealers trading corporate debt securities outside of a marketplace are required to provide details of trades of all corporate debt securities designated by the information processor, including details as to the type of counterparty, issuer, type of security, class, series, coupon and maturity, price and time of the trade and, subject to the caps set out below, the volume traded, no later than one hour from the time of the trade or such shorter period of time determined by the information processor. If the total par value of a trade of an investment grade corporate debt security is greater than \$2 million, the trade details provided to the information processor are to be reported as "\$2 million+". If the total par value of a trade of a non-investment grade corporate debt security is greater than \$200,000, the trade details provided to the information processor are to be reported as "\$200,000+".

(b) Although subsection 8.2(1) of the Instrument requires marketplaces to provide information regarding orders of corporate debt securities, the information processor has not required this information to be provided.

(c) A marketplace, an inter-dealer bond broker or a dealer will satisfy the requirements in subsections 8.2(1), 8.2(3), 8.2(4) and 8.2(5) of the Instrument by providing accurate and timely information to an information vendor that meets the standards set by the regulation services provider for the fixed income markets.

(4) The marketplace upon which the trade is executed will not be shown, unless the marketplace determines that it wants its name to be shown.

(5) The information processor is required to use transparent criteria and a transparent process to select government debt securities and designated corporate debt securities. The information processor is also required to make the criteria and the process publicly available.

(6) An "investment grade corporate debt security" is a corporate debt security that is rated by one of the listed rating organizations at or above one of the following rating categories or a rating category that preceded or replaces a category listed below:

| Rating Organization | Long Term Debt | Short Term Debt |
|--------------------------------------|-----------------------|------------------------|
| Fitch, Inc. | BBB | F3 |
| Dominion Bond Rating Service Limited | BBB | R-2 |
| Moody's Investors Service, Inc. | Baa | Prime-3 |
| Standard & Poors Corporation | BBB | A-3 |

(7) A "non-investment grade corporate debt security" is a corporate debt security that is not an investment grade corporate debt security.

(8) The information processor will publish the list of designated government debt securities and designated corporate debt securities. The information processor will give reasonable notice of any change to the list.

(9) The information processor may request changes to the transparency requirements by filing an amendment to Form 21-101 F5 with the Canadian securities regulatory authorities pursuant to subsection 14.2(1) of the Instrument. The Canadian securities regulatory authorities will review the amendment to Form 21-101 F5 to determine whether the proposed changes are contrary to the public interest, to ensure fairness and to ensure that there is an appropriate balance between the standards of transparency and market quality (defined in terms of market liquidity and efficiency) in each area of the market. The proposed changes to the transparency requirements will also be subject to consultation with market participants.

~~10.2 [Repealed]~~

10.2 Availability of Information – In complying with the requirements in sections 8.1 and 8.2 of the Instrument to provide accurate and timely order and trade information to an information processor or an information vendor that meets the standards set by a regulation services provider, a marketplace, an inter-dealer bond broker or dealer should not make the required order and trade information available to any other person or company on a more timely basis than it makes that information available to the information processor or information vendor.

10.3 Consolidated Feed - Section 8.3 of the Instrument requires the information processor to produce a consolidated feed in real-time showing the information provided to the information processor.

PART 11 MARKET INTEGRATION

11.1 [Repealed]

11.2 [Repealed]

11.3 [Repealed]

11.4 [Repealed]

11.5 Market Integration - Although the Canadian securities regulatory authorities have removed the concept of a market integrator, we continue to be of the view that market integration is important to our marketplaces. We expect to achieve market integration by focusing on compliance with fair access and best execution requirements. We will continue to monitor developments to ensure that the lack of a market integrator does not unduly affect the market.

PART 12 DISCLOSURE OF TRADING FEES FOR MARKETPLACES

12.1 Disclosure of Trading Fees by Marketplaces - Section 10.1 of the Instrument requires that each marketplace make its schedule of trading fees publicly available. The schedule should include all trading fees and provide the minimum and maximum fees payable for certain representative transactions. It is not the intention of the Canadian securities regulatory authorities that a commission fee charged by a dealer for dealer services be disclosed. Each marketplace is required to publicly post a schedule of all trading fees that are applicable to outside marketplace participants that are accessing an order and executing a trade displayed through an information processor or information vendor. The requirement to disclose trading fees does not require a combined price calculation by each marketplace.

12.2 Discriminatory Terms – Section 10.2 of the Instrument prohibits a marketplace from imposing terms that have the effect of discriminating between orders that are routed to that marketplace and orders that are entered on that marketplace.

PART 13 RECORDKEEPING REQUIREMENTS FOR MARKETPLACES

13.1 Recordkeeping Requirements for Marketplaces - Part 11 of the Instrument requires a marketplace to maintain certain records. Generally, under provisions of Canadian securities legislation, the Canadian securities regulatory authorities can require a marketplace to deliver to them any of the records required to be kept by them under securities legislation, including the records required to be maintained under Part 11.

~~13.2 Synchronization of Clocks – Subsection 11.5(1) requires a marketplace trading exchange-traded securities or foreign exchange-traded securities, an information processor receiving information about those securities, a dealer trading those securities and a regulation services provider monitoring the activities of marketplaces trading those securities shall synchronize their clocks. Subsection 11.5(2) requires a marketplace trading corporate debt securities or government debt securities, an information processor receiving information about those securities, a dealer trading those securities, an inter-dealer bond broker trading those securities and a regulation services provider monitoring the activities of marketplaces, inter-dealer bond brokers or dealers trading those securities shall synchronize their~~

~~clocks. The Canadian securities regulatory authorities are of the view that synchronization means that in most circumstances, the clocks will be within 2 seconds of each other. The clocks should be checked at least daily for synchronization and should be adjusted on a weekly basis. For exchange-traded securities and foreign exchange-traded securities, the marketplaces, information processor, dealers and regulation services provider should select an appropriate national time standard to be used by all parties to synchronize the clocks. For unlisted debt securities, the marketplaces, information processor, dealers and regulation services provider should select an appropriate national time standard to be used by all parties to synchronize the clocks.~~

13.2 Synchronization of Clocks – Subsections 11.5(1) and (2) of the Instrument require the synchronization of clocks with a regulation services provider that monitors the trading of the relevant securities on marketplaces, and by, as appropriate, inter-dealer bond brokers or dealers. The Canadian securities regulatory authorities are of the view that synchronization requires continual synchronization using an appropriate national time standard as chosen by a regulation services provider. Even if a marketplace has not retained a regulation services provider, its clocks should be synchronized with any regulation services provider monitoring trading in the particular securities traded on that marketplace. Each regulation services provider will monitor the information that it receives from all marketplaces, dealers and, if appropriate, inter-dealer bond brokers, to ensure that the clocks are appropriately synchronized. If there is more than one regulation services provider, in meeting their obligation to coordinate monitoring and enforcement under section 7.5 of NI 23-101, regulation services providers are required to agree on one standard against which synchronization will occur. In the event there is no regulation services provider, a recognized exchange or recognized quotation and trade reporting system are also required to coordinate with other recognized exchanges or recognized quotation and trade reporting systems regarding the synchronization of clocks.

PART 14 CAPACITY, INTEGRITY AND SECURITY OF MARKETPLACE SYSTEMS

~~**14.1 Capacity, Integrity and Security of Marketplace Systems**~~

~~(1) Subsection (a) of section 12.1 of the Instrument requires a marketplace to meet certain systems, capacity, integrity and security standards. Subsections (b) and (c) of section 12.1 of the Instrument require a recognized exchange, a recognized quotation and trade reporting system and an ATS that exceeds the threshold in section 12.2 of the Instrument to meet certain additional systems, capacity, integrity and security standards.~~

~~(2) The activities in subsection (a) of section 12.1 of the Instrument must be carried out at least once a year. The Canadian securities regulatory authorities would expect these activities to be carried out even more frequently if there is a change to the marketplace that is material either in terms of structure or volume of trading that necessitates that these functions be carried out more frequently in order to ensure that the marketplace can appropriately service its marketplace participants.~~

~~(3) The independent review contemplated by subsection (b) of section 12.1 of the Instrument should be performed by competent, independent audit personnel following established audit procedures and standards.~~

~~(4) An ATS becomes subject to subsections (b) and (c) of section 12.1 of the Instrument after it first satisfies the trading volume test in section 12.2 of the Instrument. It remains subject to subsections (b) and (c) of section 12.1 even if, thereafter, it no longer satisfies the trading volume test, unless it is successful in obtaining relief under section 15.1 of the Instrument.~~

14.1 Systems Requirements - This section applies to all the systems of a particular marketplace that are identified in the introduction to section 12.1 of the Instrument.

(1) Paragraph 12.1(a) of the Instrument requires the marketplace to develop and maintain an adequate system of internal control over the systems specified. As well, the marketplace is required to develop and maintain adequate general computer controls. These are the controls which are implemented to support information technology planning, acquisition, development and maintenance, computer operations, information systems support, and security. Recognized guides as to what constitutes adequate information technology controls include 'Information Technology Control Guidelines' from the Canadian Institute of Chartered Accountants (CICA) and 'COBIT' from the IT Governance Institute.

(2) Paragraph 12.1(b) of the Instrument requires a marketplace to meet certain systems capacity, performance, business continuity and disaster recovery standards. These standards are consistent with prudent business practice. The activities and tests required in this paragraph are to be carried out at least once a year. In practice, continuing changes in technology, risk management requirements and competitive pressures will often result in these activities being carried out or tested more frequently.

(3) Subsection 12.2(1) of the Instrument requires a marketplace to engage a qualified party to conduct an annual independent assessment of the internal controls referred to in paragraph 12.1(a) of the Instrument. A qualified party is a person or company or a group of persons or companies with relevant experience in both

information technology and in the evaluation of related internal controls in a complex information technology environment. Before engaging a qualified party, a marketplace should discuss its choice with the regulator or, in Québec, the securities regulatory authority.

(4) Under section 15.1 of the Instrument, a regulator or the securities regulatory authority may consider granting a marketplace an exemption from the requirements to engage a qualified party to conduct an annual independent systems review and prepare a report under subsection 12.2(1) of the Instrument provided that the marketplace prepare a control self-assessment and file this self-assessment with the regulator or in Québec, the securities regulatory authority. The scope of the self-assessment would be similar to the scope that would have applied if the marketplace underwent an independent systems scope that would have applies if the marketplace underwent an independent systems review. Reporting of the self-assessment results and the timeframe for reporting would be consistent with that established for an independent systems review.

In determining if the exemption is in the public interest, the regulator or securities regulatory authority may consider a number of factors including: the market share of the marketplace, the timing of the last independent systems review, and changes to systems or staff of the marketplace.

14.2 Availability of Technology Specifications and Testing Facilities –

(1) Subsection 12.3(1) of the Instrument requires marketplaces to make their technology requirements regarding interfacing with or accessing the marketplace publicly available in their final form for at least three months. If there are material changes to these requirements after they are made publicly available and before operations begin, the revised requirements should be made publicly available for a new three month period prior to operations. The subsection also requires that an operating marketplace make its technology specifications publicly available for at least three months before implementing a material change to its technology requirements.

(2) Subsection 12.3(2) of the Instrument requires marketplaces to provide testing facilities for interfacing with or accessing the marketplace for at least two months immediately prior to operations once the technology requirements have been made publicly available. Should the marketplace make its specifications publicly available for longer than three months, it may make the testing available during that period or thereafter as long as it is at least two months prior to operations. If the marketplace, once it has begun operations, proposes material changes to its technology systems, it is required to make testing facilities available for at least two months before implementing the material systems change.

(3) Subsection 12.3(4) of the Instrument provides that if a marketplace must make a change to its technology requirements regarding interfacing with or accessing the marketplace to immediately address a failure, malfunction or material delay of its systems or equipment, it must immediately notify the regulator or, in Québec, the securities regulatory authority, and, if applicable, its regulation services provider. We expect the amended technology requirements to be made publicly available as soon as practicable, either while the changes are being made or immediately after.

PART 15 CLEARING AND SETTLEMENT

15.1 Clearing and Settlement - Subsection 13.1(1) of the Instrument requires that all trades executed through an ATS shall be reported and settled through a clearing agency. Subsections 13.1(2) and (3) of the Instrument require that an ATS and its subscriber enter into an agreement that specifies which entity will report and settle the trades of securities. If the subscriber is registered as a dealer under securities legislation, either the ATS, the subscriber or an agent for the subscriber that is a member of a clearing agency may report and settle trades. If the subscriber is not registered as a dealer under securities legislation, either the ATS or an agent for the subscriber that is a clearing member of a clearing agency may report and settle trades. The ATS is responsible for ensuring that an agreement with the subscriber is in place before any trade is executed for the subscriber. If the agreement is not in place at the time of the execution of the trade, the ATS is responsible for clearing and settling that trade if a default occurs.

PART 16 INFORMATION PROCESSOR

16.1 Information Processor

(1) The Canadian securities regulatory authorities believe that it is important for those who trade to have access to accurate information on the prices at which trades in particular securities are taking place (i.e., last sale reports) and the prices at which others have expressed their willingness to buy or sell (i.e., orders).

~~(2) The purpose of an information processor is to ensure the availability of prompt and accurate order and trade information and to guarantee fair access to the information.~~

(2) An information processor is required under subsection 14.4(2) of the Instrument to provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities. The Canadian securities regulatory authorities expect that in meeting this requirement, an information processor will ensure that all marketplaces, inter-dealer bond brokers and dealers that are required to provide information are given access to the information processor on fair and reasonable terms. In addition, it is expected that an information processor will not give preference to the information of any marketplace, inter-dealer bond broker or dealer when collecting, processing, distributing or publishing that information.

(3) An information processor is required under subsection 14.4(5) of the Instrument to provide prompt and accurate order and trade information, and to not unreasonably restrict fair access to the information. As part of the obligation relating to fair access, an information processor is expected to make the disseminated and published information available on terms that are reasonable and not discriminatory. For example, an information processor will not provide order and trade information to any single person or company or group of persons or companies on a more timely basis than is afforded to others, and will not show preference to any single person or company or group of persons or companies in relating to pricing.

16.2 Selection of an Information Processor

(1) The Canadian securities regulatory authorities will review Form 21-101 F5 to determine whether it is contrary to the public interest for the person or company who filed the form to act as an information processor. The Canadian securities regulatory authorities will look at a number of factors when reviewing the form filed, including,

- (a) the performance capability, standards and procedures for the collection, processing, distribution, and publication of information with respect to orders for, and trades in, securities;
- (b) whether all marketplaces may obtain access to the information processor on fair and reasonable terms-~~which are not unreasonably discriminatory~~;
- (c) personnel qualifications;
- (d) whether the information processor has sufficient financial resources for the proper performance of its functions;
- (e) the existence of another entity performing the proposed function for the same type of security;
- (f) the systems report referred to in subsection 14.5(b) of the Instrument.

(2) The Canadian securities regulatory authorities request that the forms and exhibits be filed in electronic format, where possible.

(3) The forms filed by an information processor under the Instrument will be kept confidential. The Canadian securities regulatory authorities are of the view that they contain intimate financial, commercial and technical information and that the interests of the filers in non-disclosure outweigh the desirability of adhering to the principle that all forms be available for public inspection.

16.3 Change to Information - Under subsection 14.2(1) of the Instrument, an information processor is required to file an amendment to the information provided in Form 21-101 F5 at least *45 days* before implementing a *significant change involving a matter set out in Form 21-101 F5, in the manner set out in Form 21-101 F5*. In the view of the Canadian securities regulatory *authorities*, a significant change includes a change to the information contained in Exhibits A, B, F, G, H, O, P, Q, R and S and Item 10 of Form 21-101F5.

16.4 System Requirements – Section 14.1 of this Companion Policy contains guidance on the systems requirements as it applies to an information processor.