

**National Instrument 23-101
Trading Rules**

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**National Instrument 23-101
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PART 1 DEFINITION AND INTERPRETATION

1.1 Definition - In this Instrument

“automated functionality” means the ability to

- (a) immediately allow an incoming order that has been entered on the marketplace electronically to be marked as immediate-or-cancel;
- (b) immediately and automatically execute an order marked as immediate-or-cancel against the displayed volume;
- (c) immediately and automatically cancel any unexecuted portion of an order marked as immediate-or-cancel without routing the order elsewhere;
- (d) immediately and automatically transmit a response to the sender of an order marked as immediate-or-cancel indicating the action taken with respect to the order; and
- (e) immediately and automatically display information that updates the displayed orders on the marketplace to reflect any change to their material terms;

“best execution” means the most advantageous execution terms reasonably available under the circumstances;

“NI 21-101” means National Instrument 21-101 Marketplace Operation;

“protected bid” means a bid for an exchange-traded security, other than an option

- (a) that is displayed on a marketplace that provides automated functionality; and
- (b) about which information is required to be provided pursuant to Part 7 of NI 21-101 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;

“protected offer” means an offer for an exchange-traded security, other than an option,

- (a) that is displayed on a marketplace that provides automated functionality; and
- (b) about which information is required to be provided pursuant to Part 7 of NI 21-101 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;

“protected order” means a protected bid or protected offer;

1.2 Interpretation - NI 21-101 – Terms defined or interpreted in NI 21-101 and used in this Instrument have the respective meanings ascribed to them in NI 21-101.

PART 2 APPLICATION OF THIS INSTRUMENT

2.1 Application of this Instrument – A person or company is exempt from subsection 3.1(1) and Parts 4 and 5 if the person or company complies with similar requirements established by

- (a) a recognized exchange that monitors and enforces the requirements set under subsection 7.1(1) directly;
- (b) a recognized quotation and trade reporting system that monitors and enforces requirements set under subsection 7.3(1) directly; or
- (c) a regulation services provider.

PART 3 MANIPULATION AND FRAUD

3.1 Manipulation and Fraud

(1) A person or company shall not, directly or indirectly, engage in, or participate in any transaction or series of transactions, or method of trading relating to a trade in or acquisition of a security or any act, practice or course of conduct, if the person or company knows, or ought reasonably to know, that the transaction or series of transactions, or method of trading or act, practice or course of conduct

- (a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a security or a derivative of that security; or
- (b) perpetrates a fraud on any person or company.

(2) In Alberta, British Columbia, Ontario, Québec and Saskatchewan, instead of subsection (1), the provisions of the *Securities Act* (Alberta), the *Securities Act* (British Columbia), the *Securities Act* (Ontario), the *Securities Act* and the *Derivatives Act* (Québec) and *The Securities Act, 1988* (Saskatchewan), respectively, relating to manipulation and fraud apply.

PART 4 BEST EXECUTION

4.1 Application of this Part - This Part does not apply to a dealer that is carrying on business as an ATS in compliance with section 6.1 of NI 21-101.

4.2 Best Execution – A dealer and an adviser must make reasonable efforts to achieve best execution when acting for a client.

4.3 Order and Trade Information – To satisfy the requirements in section 4.2, a dealer or adviser shall make reasonable efforts to use facilities providing information regarding orders and trades.

PART 5 REGULATORY HALTS

5.1 Regulatory Halts - If a regulation services provider, a recognized exchange, recognized quotation and trade reporting system or an exchange or quotation and trade reporting system that has been recognized for the purposes of this Instrument and NI 21-101 makes a decision to

prohibit trading in a particular security for a regulatory purpose, no person or company shall execute a trade for the purchase or sale of that security during the period in which the prohibition is in place.

PART 6 TRADING HOURS AND LOCKED OR CROSSED ORDERS

6.1 Trading Hours - Each marketplace shall set requirements in respect of the hours of trading to be observed by marketplace participants.

6.2 Locked or Crossed Orders – A marketplace participant shall not intentionally

- (a) enter on a marketplace a protected order to buy a security at a price that is the same as or higher than the best protected offer; or
- (b) enter on a marketplace a protected order to sell a security at a price that is the same as or lower than the best protected bid.

PART 7 MONITORING AND ENFORCEMENT OF REQUIREMENTS SET BY A RECOGNIZED EXCHANGE AND A RECOGNIZED QUOTATION AND TRADE REPORTING SYSTEM

7.1 Requirements for a Recognized Exchange

- (1) A recognized exchange shall set requirements governing the conduct of its members, including requirements that the members will conduct trading activities in compliance with this Instrument.
- (2) A recognized exchange shall monitor the conduct of its members and enforce the requirements set under subsection (1), either
 - (a) directly, or
 - (b) indirectly through a regulation services provider.

7.2 Agreement between a Recognized Exchange and a Regulation Services Provider –

A recognized exchange that monitors the conduct of its members indirectly through a regulation services provider shall enter into a written agreement with the regulation services provider that provides

- (a) that the regulation services provider will monitor the conduct of the members of a recognized exchange;
- (b) that the regulation services provider will enforce the requirements set under subsection 7.1(1);
- (c) that the recognized exchange will transmit to the regulation services provider the information required by Part 11 of NI 21-101 and any other information reasonably required to effectively monitor
 - (i) the conduct of and trading by marketplace participants on and across marketplaces, and
 - (ii) the conduct of the recognized exchange, as applicable; and

(d) that the recognized exchange will comply with all orders or directions made by the regulation services provider.

7.3 Requirements for a Recognized Quotation and Trade Reporting System

(1) A recognized quotation and trade reporting system shall set requirements governing the conduct of its users, including requirements that the users will conduct trading activities in compliance with this Instrument.

(2) A recognized quotation and trade reporting system shall monitor the conduct of its users and enforce the requirements set under subsection (1) either

(a) directly; or

(b) indirectly through a regulation services provider.

7.4 Agreement between a Recognized Quotation and Trade Reporting System and a Regulation Services Provider – A recognized quotation and trade reporting system that monitors the conduct of its users indirectly through a regulation services provider shall enter into a written agreement with the regulation services provider that provides

(a) that the regulation services provider will monitor the conduct of the users of a recognized quotation and trade reporting system;

(b) that the regulation services provider will enforce the requirements set under subsection 7.3(1);

(c) that the recognized quotation and trade reporting system will transmit to the regulation services provider the information required by Part 11 of NI 21-101 and any other information reasonably required to effectively monitor

(i) the conduct of and trading by marketplace participants on and across marketplaces, and

(ii) the conduct of the recognized quotation and trade reporting system, as applicable; and

(d) that the recognized quotation and trade reporting system will comply with all orders or directions made by the regulation services provider.

7.5 Co-ordination of Monitoring and Enforcement – A regulation services provider, recognized exchange, or recognized quotation and trade reporting system shall enter into a written agreement with all other regulation services providers, recognized exchanges, and recognized quotation and trade reporting systems to coordinate monitoring and enforcement of the requirements set. under Parts 7 and 8.

PART 8 MONITORING AND ENFORCEMENT REQUIREMENTS FOR AN ATS

8.1 Pre-condition to Trading on an ATS – An ATS shall not execute a subscriber's order to buy or sell securities unless the ATS has executed and is subject to the written agreements required by sections 8.3 and 8.4.

8.2 Requirements Set by a Regulation Services Provider for an ATS

(1) A regulation services provider shall set requirements governing an ATS and its subscribers, including requirements that the ATS and its subscribers will conduct trading activities in compliance with this Instrument.

(2) A regulation services provider shall monitor the conduct of an ATS and its subscribers and shall enforce the requirements set under subsection (1).

8.3 Agreement between an ATS and a Regulation Services Provider - An ATS and a regulation services provider shall enter into a written agreement that provides

(a) that the ATS will conduct its trading activities in compliance with the requirements set under subsection 8.2(1);

(b) that the regulation services provider will monitor the conduct of the ATS and its subscribers;

(c) that the regulation services provider will enforce the requirements set under subsection 8.2(1);

(d) that the ATS will transmit to the regulation services provider the information required by Part 11 of NI 21-101 and any other information reasonably required to effectively monitor

(i) the conduct of and trading by marketplace participants on and across marketplaces, and

(ii) the conduct of the ATS; and

(e) that the ATS will comply with all orders or directions made by the regulation services provider.

8.4 Agreement between an ATS and its Subscriber - An ATS and its subscriber shall enter into a written agreement that provides

(a) that the subscriber will conduct its trading activities in compliance with the requirements set under subsection 8.2(1);

(b) that the subscriber acknowledges that the regulation services provider will monitor the conduct of the subscriber and enforce the requirements set under subsection 8.2(1);

(c) that the subscriber will comply with all orders or directions made by the regulation services provider in its capacity as a regulation services provider, including orders excluding the subscriber from trading on any marketplace.

8.5 [Repealed]

PART 9 MONITORING AND ENFORCEMENT REQUIREMENTS FOR AN INTER-DEALER BOND BROKER

9.1 Requirements Set by a Regulation Services Provider for an Inter-Dealer Bond Broker

(1) A regulation services provider shall set requirements governing an inter-dealer bond broker, including requirements that the inter-dealer bond broker will conduct trading activities in compliance with this Instrument.

(2) A regulation services provider shall monitor the conduct of an inter-dealer bond broker and shall enforce the requirements set under subsection (1).

9.2 Agreement between an Inter-Dealer Bond Broker and a Regulation Services

Provider – An inter-dealer bond broker and a regulation services provider shall enter into a written agreement that provides

(a) that the inter-dealer bond broker will conduct its trading activities in compliance with the requirements set under subsection 9.1(1);

(b) that the regulation services provider will monitor the conduct of the inter-dealer bond broker;

(c) that the regulation services provider will enforce the requirements set under subsection 9.1(1); and

(d) that the inter-dealer bond broker will comply with all orders or directions made by the regulation services provider.

9.3 Exemption for an Inter-Dealer Bond Broker

(1) Sections 9.1 and 9.2 do not apply to an inter-dealer bond broker, if the inter-dealer bond broker complies with the requirements of IIROC Rule 2800 Code of Conduct for Corporation Dealer Member Firms Trading in Wholesale Domestic Debt Markets, as amended.

(2) [Repealed]

PART 10 MONITORING AND ENFORCEMENT REQUIREMENTS FOR A DEALER EXECUTING TRADES OF UNLISTED DEBT SECURITIES OUTSIDE OF A MARKETPLACE

10.1 Requirements Set by a Regulation Services Provider for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace

(1) A regulation services provider shall set requirements governing a dealer executing trades of unlisted debt securities outside of a marketplace, including requirements that the dealer will conduct trading activities in compliance with this Instrument.

(2) A regulation services provider shall monitor the conduct of a dealer executing trades of unlisted debt securities outside of a marketplace and shall enforce the requirements set under subsection (1).

10.2 Agreement between a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace and a Regulation Services Provider – A dealer executing trades of unlisted debt securities outside of a marketplace shall enter into an agreement with a regulation services provider that provides

- (a) that the dealer will conduct its trading activities in compliance with the requirements set under subsection 10.1(1);
- (b) that the regulation services provider will monitor the conduct of the dealer;
- (c) that the regulation services provider will enforce the requirements set under subsection 10.1(1); and
- (d) that the dealer will comply with all orders or directions made by the regulation services provider.

10.3 [Repealed]

PART 11 AUDIT TRAIL REQUIREMENTS

11.1 Application of this Part

- (1) This Part does not apply to a dealer that is carrying on business as an ATS in compliance with section 6.1 of NI 21-101.
- (2) A dealer or inter-dealer bond broker is exempt from this Part if the dealer or inter-dealer bond broker complies with similar requirements, for any securities specified, established by a regulation services provider and approved by the applicable securities regulatory authority.

11.2 Audit Trail Requirements for Dealers and Inter-Dealer Bond Brokers

- (1) **Recording Requirements for Receipt or Origination of an Order** – Immediately following the receipt or origination of an order for equity, fixed income and other securities identified by a regulation services provider, a dealer and inter-dealer bond broker shall record specific information relating to that order including,
 - (a) the order identifier;
 - (b) the dealer or inter-dealer bond broker identifier;
 - (c) the type, issuer, class, series and symbol of the security;
 - (d) the face amount or unit price of the order, if applicable;
 - (e) the number of securities to which the order applies;
 - (f) the strike date and strike price, if applicable;
 - (g) whether the order is a buy or sell order;
 - (h) whether the order is a short sale order, if applicable;
 - (i) whether the order is a market order, limit order or other type of order, and if the order is not a market order, the price at which the order is to trade;
 - (j) the date and time the order is first originated or received by the dealer or inter-dealer bond broker;

- (k) whether the account is a retail, wholesale, employee, proprietary or any other type of account;
- (l) the client account number or client identifier;
- (m) the date and time that the order expires;
- (n) whether the order is an intentional cross;
- (o) whether the order is a jitney and if so, the underlying broker identifier;
- (p) any client instructions or consents respecting the handling or trading of the order, if applicable;
- (q) the currency of the order;
- (r) an insider marker; and
- (s) any other markers required by a regulation services provider.

(2) **Recording Requirements for Transmission of an Order** - Immediately following the transmission of an order for securities to a dealer, inter-dealer bond broker or a marketplace, a dealer or inter-dealer bond broker transmitting the order shall add to the record of the order maintained in accordance with this section specific information relating to that order including,

- (a) the dealer or inter-dealer bond broker identifier assigned to the dealer or inter-dealer bond broker transmitting the order and the identifier assigned to the dealer, inter-dealer bond broker or marketplace to which the order is transmitted; and
- (b) the date and time the order is transmitted.

(3) **Recording Requirements for Variation, Correction or Cancellation of an Order** - Immediately following the variation, correction or cancellation of an order for securities, a dealer or inter-dealer bond broker shall add to the record of the order maintained in accordance with this section specific information relating to that order including,

- (a) the date and time the variation, correction or cancellation was originated or received;
- (b) whether the order was varied, corrected or cancelled on the instructions of the client, the dealer or the inter-dealer bond broker;
- (c) in the case of variation or correction, any of the information required by subsection (1) which has been changed; and
- (d) the date and time the variation, correction or cancellation of the order is entered.

(4) **Recording Requirements for Execution of an Order** - Immediately following the execution of an order for securities, the dealer or inter-dealer bond broker shall add to the record maintained in accordance with this section specific information relating to that order including,

(a) the identifier of the marketplace where the order was executed or the identifier of the dealer or inter-dealer bond broker executing the order if the order was not executed on a marketplace;

(b) the date and time of the execution of the order;

(c) whether the order was fully or partially executed;

(d) the number of securities bought or sold;

(e) whether the transaction was a cross;

(f) whether the dealer has executed the order as principal;

(g) the commission charged and all other transaction fees; and

(h) the price at which the order was executed, including mark-up or mark-down.

(5) [Repeal]

(6) [Repeal]

(7) **Record Preservation Requirements** – A dealer and an inter-dealer bond broker shall keep all records for a period of not less than seven years from the creation of the record referred to in this section, and for the first two years in a readily accessible location.

11.3 Transmission in Electronic Form – A dealer and inter-dealer bond broker shall transmit

(a) to a regulation services provider the information required by the regulation services provider, within ten business days, in electronic form; and

(b) to the securities regulatory authority the information required by the securities regulatory authority under securities legislation, within ten business days, in electronic form.

PART 12 EXEMPTION

12.1 Exemption

(1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.

(2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

PART 13 EFFECTIVE DATE

13.1 Effective Date – This Instrument comes into force on December 1, 2001

[Amended January 28, 2010]