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Headnote

Relief from the market integration requirements in NI 21-101 and the regulation services provider agreement requirements in NI 23-101 for an ATS.

Exemption Order

State Street Global Markets Canada Inc.

**National Instrument 21-101 *Marketplace Operation* and
National Instrument 23-101 *Trading Rules***

Background

¶ 1 State Street Global Markets Canada Inc. (State Street Canada) applied under section 15.1 of National Instrument 21-101 *Marketplace Operation* (NI 21-101) and section 12.1 of National Instrument 23-101 *Trading Rules* (NI 23-101) for the following exemptions:

- (a) from the market integration requirements in section 9.2(1) of NI 21-101, and
- (b) from the regulation services provider agreement requirements in sections 8.1, 8.3 and 8.4 of NI 23-101.

Representations

¶ 2 State Street Canada represents that:

1. it is incorporated under the laws of Canada and is registered as an investment dealer in British Columbia, Ontario, Alberta, Québec, Manitoba, Saskatchewan, Prince Edward Island and New Brunswick and is a member of the Investment Dealers Association of Canada;
2. it has filed its Form 21-101F2 with the British Columbia Securities Commission;
3. it proposes to offer in British Columbia a proprietary electronic trading system called the Lattice Network which permits users to simultaneously access information, and request bids and offers and execute transactions, respecting U.S. equity securities from United States broker-dealers electronically;

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4. it is a wholly-owned subsidiary of State Street Corporation;
5. the Lattice Network is an alternative trading system under NI 21-101 and NI 23-101 (collectively, the ATS Rules);
6. the Lattice Network executes trades only in securities allowed under the ATS Rules;
7. only U.S. equity securities, including U.S. equity securities that may be inter-listed on a recognized exchange, are traded on or through the facilities of the Lattice Network;
8. participants can use the Lattice Network to route orders to an exchange to which the Lattice Network is connected or to match a given order with a contemporaneous countervailing order from another participant;
9. the Lattice Network is not currently connected to a recognized exchange or recognized quotation and trade reporting system (as these terms are defined in NI 21-101);
10. all matches of listed securities are effected outside of Canada, on or through the facilities of a securities exchange in the United States;
11. section 9.2(1) of NI 21-101 requires a marketplace that displays orders of exchange-traded securities and foreign exchange-traded securities to have an electronic connection to the principal market for each security traded on that marketplace;
12. section 8.1 of NI 23-101 requires that an ATS must not execute a subscriber's order unless the ATS has executed and is subject to the written agreements required by sections 8.3 and 8.4 of NI 23-101;
13. section 8.3 of NI 23-101 requires that an ATS enter into a written agreement with a regulation services provider that provides, amongst other things, that the regulation services provider will monitor the conduct of the ATS and its subscribers;
14. section 8.4 of NI 23-101 requires that an ATS enter into a written agreement with its subscribers that provides, amongst other things, an acknowledgment of the subscriber that the regulation services provider will monitor the conduct of the subscriber;

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15. Market Regulation Services Inc. (RS Inc.) has been authorized to carry on the business of a regulation services provider within the meaning of the ATS Rules;
16. State Street Canada will enter into an agreement with RS Inc. with respect to U.S. equity securities that are inter-listed on a recognized exchange;
17. because State Street Canada will be exempt from the requirement to comply with the rules, policies and other instruments established by a regulation services provider with respect to trades in foreign exchange-traded securities, State Street Canada cannot rely on the exemption in section 2.1 of NI 23-101 and State Street Canada must comply with Parts 3, 4 and 5 of NI 23-101 for trades in foreign exchange-traded securities.

Order

- ¶ 3 Because it would not be prejudicial to the public interest, the Executive Director orders that State Street Canada is exempt from:
- (a) subsection 9.2(1) of NI 21-101;
 - (b) the requirements of sections 8.1 and 8.3 of NI 23-101 with respect to foreign exchange-traded securities, provided that State Street Canada routes subscriber orders via the Lattice Network to marketplaces subject to regulatory oversight by either an IOSCO member or a self-regulatory organization that is regulated by an IOSCO member; and
 - (c) the requirements of section 8.4 of NI 23-101 with respect to foreign exchange-traded securities, provided that State Street Canada enters into an agreement with its subscribers that includes an acknowledgement by subscribers that orders routed via the Lattice Network to foreign marketplaces will not be regulated by a regulation services provider but by the regulatory body in the jurisdiction where the order has been routed.

¶ 4 December 4, 2003

L.E. Evans, C.A.
Director