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NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION

PART 1 – DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Instrument

"accounting principles" means accounting principles as defined in National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards;

"alternative trading system",

(a) in every jurisdiction other than Ontario, means a marketplace that

(i) is not a recognized quotation and trade reporting system or a recognized exchange, and

(ii) does not

(A) require an issuer to enter into an agreement to have its securities traded on the marketplace,

(B) provide, directly, or through one or more subscribers, a guarantee of a two-sided market for a security on a continuous or reasonably continuous basis,

(C) set requirements governing the conduct of subscribers, other than conduct in respect of the trading by those subscribers on the marketplace, and

(D) discipline subscribers other than by exclusion from participation in the marketplace, and

(b) in Ontario has the meaning set out in subsection 1(1) of the *Securities Act* (Ontario);

"ATS" means an alternative trading system;

"corporate debt security" means a debt security issued in Canada by a company or corporation that is not listed on a recognized exchange or quoted on a recognized quotation and trade reporting system or listed on an exchange or quoted on a quotation and trade reporting system that has been recognized for the purposes of this Instrument and NI 23-101, and does not include a government debt security;

"exchange-traded security" means 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 this Instrument and NI 23-101;

"foreign exchange-traded security" means a security that is listed on an exchange, or quoted on a quotation and trade reporting system, outside of Canada that is regulated by an ordinary member of the International Organization of Securities Commissions and is not listed on an exchange or quoted on a

quotation and trade reporting system in Canada;

"government debt security" means

(a) a debt security issued or guaranteed by the government of Canada, or any province or territory of Canada,

(b) a debt security issued or guaranteed by any municipal corporation or municipal body in Canada, or secured by or payable out of rates or taxes levied under the law of a jurisdiction of Canada on property in the jurisdiction and to be collected by or through the municipality in which the property is situated,

(c) a debt security issued or guaranteed by a crown corporation or public body in Canada,

(d) in Ontario, a debt security of any school board in Ontario or of a corporation established under section 248(1) of the *Education Act* (Ontario), or

(e) in Québec, a debt security of the Comité de gestion de la taxe scolaire de l'île de Montréal

that is not listed on a recognized exchange or quoted on a recognized quotation and trade reporting system or listed on an exchange or quoted on a quotation and trade reporting system that has been recognized for the purposes of this Instrument and NI 23-101;

"IIROC" means the Investment Industry Regulatory Organization of Canada;

"information processor",

(a) in every jurisdiction except for British Columbia, means any person or company that receives and provides information under this Instrument and has filed Form 21-101F5 and,

(b) in British Columbia, means a person or company that is designated as an information processor for the purposes of this Instrument.

"inter-dealer bond broker" means a person or company that is approved by IIROC under IIROC Rule 36 Inter-Dealer Bond Brokerage Systems, as amended, and is subject to IIROC Rule 36 and IIROC Rule 2100 Inter-Dealer Bond Brokerage Systems, as amended;

"market integrator" [repealed]

"marketplace",

(a) in every jurisdiction other than Ontario, means

(i) an exchange,

(ii) a quotation and trade reporting system,

(iii) a person or company not included in clause (i) or (ii) that

(A) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities,

(B) brings together the orders for securities of multiple buyers and sellers, and

(C) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade, or

(iv) a dealer that executes a trade of an exchange-traded security outside of a marketplace, but does not include an inter-dealer bond broker, and

(b) in Ontario has the meaning set out in subsection 1(1) of the *Securities Act* (Ontario);

"marketplace participant" means a member of an exchange, a user of a quotation and trade reporting system, or a subscriber of an ATS;

"member" means, for a recognized exchange, a person or company

(a) holding at least one seat on the exchange, or

(b) that has been granted direct trading access rights by the exchange and is subject to regulatory oversight by the exchange,

and the person or company's representatives; "NI 23-101" means National Instrument 23-101 Trading Rules;

"order" means a firm indication by a person or company, acting as either principal or agent, of a willingness to buy or sell a security;

"participant dealer" means a participant dealer as defined in Part 1 of National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces;

"private enterprise" means a private enterprise as defined in Part 3 of National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards;

"publicly accountable enterprise" means a publicly accountable enterprise as defined in Part 3 of National Instrument 52-107 Acceptable Accounting Principles and Auditing Standards;

"recognized exchange" means

(a) in Ontario, a recognized exchange as defined in subsection 1(1) of the *Securities Act* (Ontario),

(b) in Québec, an exchange recognized by the securities regulatory authority under securities or derivatives legislation as an exchange or self-regulatory organization, and

(c) in every other jurisdiction, an exchange recognized by the securities regulatory authority as an exchange, self-regulatory organization or self-regulatory body;

"recognized quotation and trade reporting system" means

(a) in every jurisdiction other than British Columbia, Ontario and Québec, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation to carry on business as a quotation and trade reporting system,

(b) in British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation as a quotation and trade reporting system or as an exchange,

(b.1) in Ontario, a recognized quotation and trade reporting system as defined in subsection 1(1) of the *Securities Act* (Ontario), and

(c) in Québec, a quotation and trade reporting system recognized by the securities regulatory authority under securities or derivatives legislation as an exchange or a self-regulatory organization;

"regulation services provider" means a person or company that provides regulation services and is

- (a) a recognized exchange,
- (b) a recognized quotation and trade reporting system, or
- (c) a recognized self-regulatory entity;

"self-regulatory entity" means a self-regulatory body or self-regulatory organization that

- (a) is not an exchange, and
- (b) is recognized as a self-regulatory body or self-regulatory organization by the securities regulatory authority;

"subscriber" means, for an ATS, a person or company that has entered into a contractual agreement with the ATS to access the ATS for the purpose of effecting trades or submitting, disseminating or displaying orders on the ATS, and the person or company's representatives;

"trading fee" means the fee that a marketplace charges for execution of a trade on that marketplace;

"trading volume" means the number of securities traded;

"unlisted debt security" means a government debt security or corporate debt security; and

"user" means, for a recognized quotation and trade reporting system, a person or company that quotes orders or reports trades on the recognized quotation and trade reporting system, and the person or company's representatives.

Interpretation – marketplace

1.2 For the purpose of the definition of "marketplace" in section 1.1, a person or company is not considered to constitute, maintain or provide a market or facilities for bringing together buyers and sellers of securities, solely because the person or company routes orders to a marketplace or a dealer for execution.

Interpretation - affiliated entity, controlled entity and subsidiary entity

1.3(1) In this Instrument, a person or company is considered to be an affiliated entity of another person or company if one is a subsidiary entity of the other or if both are subsidiary entities of the same person or company, or if each of them is a controlled entity of the same person or company.

1.3(2) In this Instrument, a person or company is considered to be controlled by a person or company if

- (a) in the case of a person or company,
 - (i) voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company, and
 - (ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;

(b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person or company holds more than 50 percent of the interests in the partnership; or

(c) in the case of a limited partnership, the general partner is the second- mentioned person or company.

1.3(3) In this Instrument, a person or company is considered to be a subsidiary entity of another person or company if

(a) it is a controlled entity of,

(i) that other,

(ii) that other and one or more persons or companies each of which is a controlled entity of that other, or

(iii) two or more persons or companies, each of which is a controlled entity of that other; or

(b) it is a subsidiary entity of a person or company that is the other's subsidiary entity.

Interpretation – security

1.4(1) In British Columbia, the term "security", when used in this Instrument, includes an option that is an exchange contract but does not include a futures contract.

1.4(2) In Ontario, the term "security", when used in this Instrument, does not include a commodity futures contract or a commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under the *Commodity Futures Act* or the form of which is not accepted by the Director under the *Commodity Futures Act*.

1.4(3) In Québec, the term "security", when used in this Instrument, includes a standardized derivative as this notion is defined in the *Derivatives Act*.

1.4(4) In Alberta, New Brunswick, Nova Scotia and Saskatchewan, the term "security", when used in this Instrument, includes an option that is an exchange contract.

Interpretation – NI 23-101

1.5 Terms defined or interpreted in NI 23-101 and used in this Instrument have the respective meanings ascribed to them in NI 23-101.

PART 2 – APPLICATION

Application

2.1 This Instrument does not apply to a marketplace that is a member of a recognized exchange or a member of an exchange that has been recognized for the purposes of this Instrument and NI 23-101.

PART 3 – MARKETPLACE INFORMATION

Initial filing of information

3.1(1) A person or company must file as part of its application for recognition as an exchange or a quotation and trade reporting system Form 21-101F1.

3.1(2) A person or company must not carry on business as an ATS unless it has filed Form 21-101F2 at least 45 days before the ATS begins to carry on business as an ATS.

Change in information

3.2(1) Subject to subsection (2), a marketplace must not implement a significant change to a matter set out in Form 21-101F1 or in Form 21-101F2 unless the marketplace has filed an amendment to the information provided in Form 21-101F1 or in Form 21-101F2 in the manner set out in the applicable form at least 45 days before implementing the change.

3.2(1.1) A marketplace that has entered into an agreement with a regulation services provider under NI 23-101 must not implement a significant change to a matter set out in Exhibit E – Operation of the Marketplace of Form 21-101F1 or Exhibit E – Operation of the Marketplace of Form 21-101F2 as applicable, or Exhibit I – Securities of Form 21-101F1 or Exhibit I – Securities of Form 21-101F2 as applicable, unless the marketplace has provided the applicable exhibit to its regulation services provider at least 45 days before implementing the change.

3.2(2) A marketplace must file an amendment to the information provided in Exhibit L – Fees of Form 21-101F1 or Exhibit L – Fees of Form 21-101F2, as applicable, at least seven business days before implementing a change to the information provided in Exhibit L – Fees.

3.2(3) For any change involving a matter set out in Form 21-101F1 or Form 21-101F2 other than a change referred to in subsection (1) or (2), a marketplace must file an amendment to the information provided in the applicable form by the earlier of

(a) the close of business on the 10th day after the end of the month in which the change was made, and

(b) if applicable, the time the marketplace discloses the change publicly.

3.2(4) The chief executive officer of a marketplace, or an individual performing a similar function, must certify in writing, within 30 days after the end of each calendar year, that the information contained in the marketplace's current Form 21-101F1 or Form 21-101F2, as applicable, including the description of its operations, is true, correct, and complete and that the marketplace is operating as described in the applicable form.

3.2(5) A marketplace must file an updated and consolidated Form 21-101F1 or Form 21-101F2, as applicable, within 30 days after the end of each calendar year.

Reporting requirements

3.3 A marketplace must file Form 21-101F3 within 30 days after the end of each calendar quarter during any part of which the marketplace has carried on business.

Ceasing to carry on business as an ATS

3.4(1) An ATS that intends to cease carrying on business as an ATS must file a report on Form 21-101F4 at least 30 days before ceasing to carry on that business.

3.4(2) An ATS that involuntarily ceases to carry on business as an ATS must file a report on Form 21-101F4 as soon as practicable after it ceases to carry on that business.

Forms filed in electronic form

3.5 A person or company that is required to file a form or exhibit under this Instrument must file that form or exhibit in electronic form.

PART 4 – MARKETPLACE FILING OF AUDITED FINANCIAL STATEMENTS

Filing of initial audited financial statements

4.1(1) A person or company must file as part of its application for recognition as an exchange or a quotation and trade reporting system, together with Form 21-101F1, audited financial statements for its latest financial year that

- (a) are prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises or IFRS,
- (b) include notes to the financial statements that identify the accounting principles used to prepare the financial statements, and
- (c) are audited in accordance with Canadian GAAS or International Standards on Auditing and are accompanied by an unmodified auditor's report.

4.1(2) A person or company must not carry on business as an ATS unless it has filed, together with Form 21-101F2, audited financial statements for its latest financial year.

Filing of annual audited financial statements

4.2(1) A recognized exchange and a recognized quotation and trade reporting system must file annual audited financial statements within 90 days after the end of its financial year in accordance with the requirements outlined in subsection 4.1(1).

4.2(2) An ATS must file annual audited financial statements.

PART 5 – MARKETPLACE REQUIREMENTS

Access requirements

5.1(1) A marketplace must not unreasonably prohibit, condition or limit access by a person or company to services offered by it.

5.1(2) A marketplace must

- (a) establish written standards for granting access to each of its services, and
- (b) keep records of
 - (i) each grant of access including the reasons for granting access to an applicant, and
 - (ii) each denial or limitation of access, including the reasons for denying or limiting access to an applicant.

5.1(3) A marketplace must not

- (a) permit unreasonable discrimination among clients, issuers and marketplace participants, or
- (b) impose any burden on competition that is not reasonably necessary and appropriate.

No restrictions on trading on another marketplace

5.2 A marketplace must not prohibit, condition, or otherwise limit, directly or indirectly, a marketplace participant from effecting a transaction on any marketplace.

Public interest rules

5.3(1) Rules, policies and other similar instruments adopted by a recognized exchange or a recognized quotation and trade reporting system

- (a) must not be contrary to the public interest; and
- (b) must be designed to
 - (i) ensure compliance with securities legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,
 - (iii) promote just and equitable principles of trade, and
 - (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating, transactions in securities.

5.3(2) [repealed]

Compliance rules

5.4 A recognized exchange or a recognized quotation and trade reporting system must have rules or other similar instruments that

- (a) require compliance with securities legislation; and
- (b) provide appropriate sanctions for violations of the rules or other similar instruments of the exchange or quotation and trade reporting system.

Filing of rules

5.5 A recognized exchange or a recognized quotation and trade reporting system must file all rules, policies and other similar instruments, and all amendments thereto.

5.6 [repealed]

Fair and orderly markets

5.7 A marketplace must take all reasonable steps to ensure that its operations do not interfere with fair and orderly markets.

Discriminatory terms

5.8 A marketplace must not impose terms that have the effect of discriminating between orders that are routed to the marketplace and orders that are entered on that marketplace for execution.

Risk disclosure for trades in foreign exchange-traded securities

5.9(1) A marketplace that is trading foreign exchange-traded securities must provide each marketplace participant with disclosure in substantially the following words:

"The securities traded by or through the marketplace are not listed on an exchange in Canada and may not be securities of a reporting issuer in Canada. As a result, there is no assurance that information concerning the issuer is available or, if the information is available, that it meets Canadian disclosure requirements."

5.9(2) Before the first order for a foreign exchange-traded security is entered onto the marketplace by a marketplace participant, the marketplace must obtain an acknowledgement from the marketplace participant that the marketplace participant has received the disclosure required in subsection (1).

Confidential treatment of trading information

5.10(1) A marketplace must not release a marketplace participant's order or trade information to a person or company, other than the marketplace participant, a securities regulatory authority or a regulation services provider unless

- (a) the marketplace participant has consented in writing to the release of the information,
- (b) the release of the information is required by this Instrument or under applicable law, or
- (c) the information has been publicly disclosed by another person or company, and the disclosure was lawful.

5.10(1.1) Despite subsection (1), a marketplace may release a marketplace participant's order or trade information to a person or company if the marketplace

- (a) reasonably believes that the information will be used solely for the purpose of capital markets research,
- (b) reasonably believes that if information identifying, directly or indirectly, a marketplace participant or a client of the marketplace participant is released,
 - (i) it is required for the purpose of the capital markets research, and
 - (ii) that the research is not intended for the purpose of
 - (A) identifying a particular marketplace participant or a client of the marketplace participant, or
 - (B) identifying a trading strategy, transactions, or market positions of a particular marketplace participant or a client of the marketplace participant,
- (c) has entered into a written agreement with each person or company that will receive the order and trade information from the marketplace that provides that
 - (i) the person or company must
 - (A) not disclose to or share any information with any person or company if that information could, directly or indirectly, identify a marketplace participant or a client of the marketplace participant without the marketplace's consent, other than as provided under subparagraph (ii) below,
 - (B) not publish or otherwise disseminate data or information that discloses, directly or indirectly, a trading strategy, transactions, or market positions of a marketplace participant or a client of the marketplace participant,
 - (C) not use the order and trade information, or provide it to any other person or company, for any purpose other than capital markets research,
 - (D) keep the order and trade information securely stored at all times,

(E) keep the order and trade information for no longer than a reasonable period of time after the completion of the research and publication process, and

(F) immediately inform the marketplace of any breach or possible breach of the confidentiality of the information provided,

(ii) the person or company may disclose order or trade information used in connection with research submitted to a publication if

(A) the information to be disclosed will be used solely for the purposes of verification of the research carried out by the person or company,

(B) the person or company must notify the marketplace prior to disclosing the information for verification purposes, and

(C) the person or company must obtain written agreement from the publisher and any other person or company involved in the verification of the research that the publisher or the other person or company will

(I) maintain the confidentiality of the information,

(II) use the information only for the purposes of verifying the research,

(III) keep the information securely stored at all times,

(IV) keep the information for no longer than a reasonable period of time after the completion of the verification, and

(V) immediately inform the marketplace of any breach or possible breach of the agreement or of the confidentiality of the information provided, and

(iii) the marketplace has the right to take all reasonable steps necessary to prevent or address a breach or possible breach of the confidentiality of the information provided or of the agreement.

5.10(1.2) A marketplace that releases a marketplace participant's order or trade information under subsection (1.1) must

(a) promptly inform the regulator or, in Québec, the securities regulatory authority, in the event the marketplace becomes aware of any breach or possible breach of the confidentiality of the information provided or of the agreement, and

(b) take all reasonable steps necessary to prevent or address a breach or possible breach of the confidentiality of the information provided or of the agreement.

5.10(2) A marketplace must not carry on business unless it has implemented reasonable safeguards and procedures to protect a marketplace participant's order or trade information, including

(a) limiting access to order or trade information of marketplace participants to

(i) employees of the marketplace, or

(ii) persons or companies retained by the marketplace to operate the system or to be responsible for compliance by the marketplace with securities legislation; and

(b) implementing standards controlling trading by employees of the marketplace for their own accounts.

5.10(3) A marketplace must not carry on business as a marketplace unless it has implemented adequate oversight procedures to ensure that the safeguards and procedures established under subsection (2) are followed.

Management of conflicts of interest

5.11 A marketplace must establish, maintain and ensure compliance with policies and procedures that identify and manage any conflicts of interest arising from the operation of the marketplace or the services it provides.

Outsourcing

5.12 If a marketplace outsources any of its key services or systems to a service provider, which includes affiliates or associates of the marketplace, the marketplace must

(a) establish and maintain policies and procedures for the selection of service providers to which key services and systems may be outsourced and for the evaluation and approval of such outsourcing arrangements,

(b) identify any conflicts of interest between the marketplace and the service provider to which key services or systems are outsourced, and establish and maintain policies and procedures to mitigate and manage such conflicts of interest,

(c) enter into a contract with the service provider to which key services or systems are outsourced that is appropriate for the materiality and nature of the outsourced activities and that provides for adequate termination procedures,

(d) maintain access to the books and records of the service providers relating to the outsourced activities,

(e) ensure that the securities regulatory authorities have access to all data, information and systems maintained by the service provider on behalf of the marketplace for the purposes of determining the marketplace's compliance with securities legislation,

(f) take appropriate measures to determine that service providers to which key services or systems are outsourced establish, maintain and periodically test an appropriate business continuity plan, including a disaster recovery plan,

(g) take appropriate measures to ensure that the service providers protect the marketplace participants' proprietary, order, trade or any other confidential information, and

(h) establish processes and procedures to regularly review the performance of the service provider under any such outsourcing arrangement.

Access arrangements with a service provider

5.13 If a third party service provider provides a means of access to a marketplace, the marketplace must ensure the third party service provider complies with the written standards for access that the marketplace has established pursuant to paragraph 5.1(2)(a) when providing the access services.

PART 6 – REQUIREMENTS APPLICABLE ONLY TO ATSs

Registration

6.1 An ATS must not carry on business as an ATS unless

- (a) it is registered as a dealer;
- (b) it is a member of a self-regulatory entity; and
- (c) it complies with the provisions of this Instrument and NI 23-101.

Registration exemption not available

6.2 Except as provided in this Instrument, the registration exemptions applicable to dealers under securities legislation are not available to an ATS.

Securities permitted to be traded on an ATS

6.3 An ATS must not execute trades in securities other than

- (a) exchange-traded securities;
- (b) corporate debt securities;
- (c) government debt securities; or
- (d) foreign exchange-traded securities.

6.4 [repealed]

6.5 [repealed]

6.6 [repealed]

Notification of threshold

6.7(1) An ATS must notify the securities regulatory authority in writing if,

- (a) during at least two of the preceding three months of operation, the total dollar value of the trading volume on the ATS for a month in any type of security is equal to or greater than 10 percent of the total dollar value of the trading volume for the month in that type of security on all marketplaces in Canada,
- (b) during at least two of the preceding three months of operation, the total trading volume on the ATS for a month in any type of security is equal to or greater than 10 percent of the total trading volume for the month in that type of security on all marketplaces in Canada, or
- (c) during at least two of the preceding three months of operation, the number of trades on the ATS for a month in any type of security is equal to or greater than 10 percent of the number of trades for the month in that type of security on all marketplaces in Canada.

6.7(2) An ATS must provide the notice referred to in subsection (1) within 30 days after the threshold referred to in subsection (1) is met or exceeded.

6.8 [repealed]

Name

6.9 An ATS must not use in its name the word "exchange", the words "stock market", the word "bourse" or any derivations of those terms.

6.10 [repealed]

Risk disclosure to non-registered subscribers

6.11(1) When opening an account for a subscriber that is not registered as a dealer under securities legislation, an ATS must provide that subscriber with disclosure in substantially the following words:

Although the ATS is registered as a dealer under securities legislation, it is a marketplace and therefore does not ensure best execution for its subscribers.

6.11(2) Before the first order submitted by a subscriber that is not registered as a dealer under securities legislation is entered onto the ATS by the subscriber, the ATS must obtain an acknowledgement from that subscriber that the subscriber has received the disclosure required in subsection (1).

6.12 [repealed]

6.13 [repealed]

PART 7 – INFORMATION TRANSPARENCY REQUIREMENTS FOR MARKETPLACES DEALING IN EXCHANGE-TRADED SECURITIES AND FOREIGN EXCHANGE-TRADED SECURITIES

Pre-trade information transparency - exchange-traded securities

7.1(1) A marketplace that displays orders of exchange-traded securities to a person or company must provide accurate and timely information regarding orders for the exchange-traded securities displayed by the marketplace to an information processor as required by the information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider.

7.1(2) Subsection (1) does not apply if the marketplace only displays orders to its employees or to persons or companies retained by the marketplace to assist in the operation of the marketplace and if the orders posted on the marketplace meet the size threshold set by a regulation services provider.

7.1(3) A marketplace that is subject to subsection (1) must not make the information referred to in that subsection available to any person or company before it makes that information available to an information processor or, if there is no information processor, to an information vendor.

Post-trade information transparency - exchange-traded securities

7.2(1) A marketplace must provide accurate and timely information regarding trades for exchange-traded securities executed on the marketplace to an information processor as required by the information processor or, if there is no information processor, to an information vendor that meets the standards set by a regulation services provider.

7.2(2) A marketplace that is subject to subsection (1) must not make the information referred to in that subsection available to any person or company before it makes that information available to an information processor or, if there is no information processor, to an information vendor.

Pre-trade information transparency - foreign exchange-traded securities

7.3(1) A marketplace that displays orders of foreign exchange-traded securities to a person or company must provide accurate and timely information regarding orders for the foreign exchange-traded securities displayed by the marketplace to an information vendor.

7.3(2) Subsection (1) does not apply if the marketplace only displays orders to its employees or to persons or companies retained by the marketplace to assist in the operation of the marketplace and if the orders posted on the marketplace meet the size threshold set by a regulation services provider.

Post-trade information transparency - foreign exchange-traded securities

7.4 A marketplace must provide accurate and timely information regarding trades for foreign exchange-traded securities executed on the marketplace to an information vendor.

Consolidated feed - exchange-traded securities

7.5 An information processor must produce an accurate consolidated feed in real-time showing the information provided to the information processor under sections 7.1 and 7.2.

Compliance with requirements of an information processor

7.6 A marketplace that is subject to this Part must comply with the reasonable requirements of the information processor to which it is required to provide information under this Part.

**PART 8 – INFORMATION TRANSPARENCY REQUIREMENTS FOR PERSONS
AND COMPANIES DEALING IN UNLISTED DEBT SECURITIES**

Pre-trade and post-trade information transparency requirements - government debt securities

8.1(1) A marketplace that displays orders of government debt securities to a person or company must provide to an information processor accurate and timely information regarding orders for government debt securities displayed by the marketplace, as required by the information processor.

8.1(2) Subsection (1) does not apply if the marketplace only displays orders to its employees or to persons or companies retained by the marketplace to assist in the operation of the marketplace.

8.1(3) [repealed]

8.1(4) An inter-dealer bond broker must provide to an information processor accurate and timely information regarding orders for government debt securities executed through the inter-dealer bond broker, as required by the information processor.

8.1(5) A person or company must provide to an information processor accurate and timely information regarding trades in government debt securities executed by or through the person or company, as required by the information processor.

Pre-trade and post-trade information transparency requirements - corporate debt securities

8.2(1) A marketplace that displays orders of corporate debt securities to a person or company must provide to an information processor accurate and timely information regarding orders for corporate debt securities displayed by the marketplace, as required by the information processor.

8.2(2) Subsection (1) does not apply if the marketplace only displays orders to its employees or to persons or companies retained by the marketplace to assist in the operation of the marketplace.

8.2(3) A person or company must provide to an information processor accurate and timely information regarding trades in corporate debt securities executed by or through the person or company, as required by the information processor.

8.2(4) [repealed]

8.2(5) [repealed]

Consolidated feed - unlisted debt securities

8.3 An information processor must produce accurate consolidated information on a timely basis showing the information provided to the information processor under sections 8.1 and 8.2.

Compliance with requirements of an information processor

8.4 A person or company that is subject to this Part must comply with the reasonable requirements of the information processor to which it is required to provide information under this Part.

8.5 [repealed]

Exemption for government debt securities

8.6 Section 8.1 does not apply until January 1, 2018.

PART 9 – [repealed]

PART 10 – TRANSPARENCY OF MARKETPLACE OPERATIONS

Disclosure by marketplaces

10.1 A marketplace must publicly disclose, on its website, information reasonably necessary to enable a person or company to understand the marketplace’s operations or services it provides, including, but not limited to, information related to

- (a) all fees, including any listing, trading, data, co-location and routing fees charged by the marketplace, an affiliate or by a party to which services have directly or indirectly been outsourced or which directly or indirectly provides those services,
- (b) how orders are entered, interact and execute,
- (c) all order types,
- (d) access requirements,
- (e) the policies and procedures that identify and manage any conflicts of interest arising from the operation of the marketplace or the services it provides,
- (f) any referral arrangements between the marketplace and service providers,

(g) where routing is offered, how routing decisions are made,

(h) when indications of interest are disseminated, the information disseminated and the types of recipients of such indications of interest,

(i) any access arrangements with a third party service provider, including the name of the third party service provider and the standards for access to be complied with by the third party service provider, and

(j) the hours of operation of any testing environments provided by the marketplace, a description of any differences between the testing environment and production environment of the marketplace and the potential impact of these differences on the effectiveness of testing, and any policies and procedures relating to a marketplace's use of uniform test symbols for purposes of testing in its production environment.

10.2 [repealed]

10.3 [repealed]

PART 11 – RECORDKEEPING REQUIREMENTS FOR MARKETPLACES

Business records

11.1 A marketplace must keep such books, records and other documents as are reasonably necessary for the proper recording of its business in electronic form.

Other records

11.2(1) As part of the records required to be maintained under section 11.1, a marketplace must include the following information in electronic form:

(a) a record of all marketplace participants who have been granted access to trading in the marketplace;

(b) daily trading summaries for the marketplace including

(i) a list of securities traded,

(ii) transaction volumes

(A) for securities other than debt securities, expressed as the number of issues traded, number of trades, total unit volume and total dollar value of trades and, if the price of the securities traded is quoted in a currency other than Canadian dollars, the total value in that other currency, and

(B) for debt securities, expressed as the number of trades and total dollar value traded and, if the price of the securities traded is quoted in a currency other than Canadian dollars, the total value in that other currency,

(c) a record of each order which must include

(i) the order identifier assigned to the order by the marketplace,

(ii) the marketplace participant identifier assigned to the marketplace participant transmitting the order,

(iii) the identifier assigned to the marketplace where the order is received or originated,

- (iv) each unique client identifier assigned to a client accessing the marketplace using direct electronic access,
 - (v) the type, issuer, class, series and symbol of the security,
 - (vi) the number of securities to which the order applies,
 - (vii) the strike date and strike price, if applicable,
 - (viii) whether the order is a buy or sell order,
 - (ix) whether the order is a short sale order, if applicable,
 - (x) 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,
 - (xi) the date and time the order is first originated or received by the marketplace,
 - (xii) whether the account is a retail, wholesale, employee, proprietary or any other type of account,
 - (xiii) the date and time the order expires,
 - (xiv) whether the order is an intentional cross,
 - (xv) whether the order is a jitney and if so, the identifier of the underlying broker,
 - (xvi) the currency of the order,
 - (xvii) whether the order is routed to another marketplace for execution, and the date, time and name of the marketplace to which the order was routed, and
 - (xviii) whether the order is a directed-action order, and whether the marketplace marked the order as a directed-action order or received the order marked as a directed-action order, and
- (d) in addition to the record maintained in accordance with paragraph (c), all execution report details of orders, including
- (i) the identifier assigned to the marketplace where the order was executed,
 - (ii) whether the order was fully or partially executed,
 - (iii) the number of securities bought or sold,
 - (iv) the date and time of the execution of the order,
 - (v) the price at which the order was executed,
 - (vi) the identifier assigned to the marketplace participant on each side of the trade,
 - (vii) whether the transaction was a cross,

(viii) time-sequenced records of all messages sent to or received from an information processor, an information vendor or a marketplace,

(ix) the marketplace trading fee for each trade, and

(x) each unique client identifier assigned to a client accessing the marketplace using direct electronic access.

Transmission in electronic form

11.2.1 A marketplace must transmit

(a) to a regulation services provider, if it has entered into an agreement with a regulation services provider in accordance with NI 23-101, the information required by the regulation services provider within ten business days, in electronic form and in the manner requested by the regulation services provider, 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 and in the manner requested by the securities regulatory authority.

Record preservation requirements

11.3(1) For a period of not less than seven years from the creation of a record referred to in this section, and for the first two years in a readily accessible location, a marketplace must keep

(a) all records required to be made under sections 11.1 and 11.2;

(b) at least one copy of its standards for granting access to trading, if any, all records relevant to its decision to grant, deny or limit access to a person or company and, if applicable, all other records made or received by the marketplace in the course of complying with section 5.1;

(c) at least one copy of all records made or received by the marketplace in the course of complying with sections 12.1 and 12.4, including all correspondence, memoranda, papers, books, notices, accounts, reports, test scripts, test results, and other similar records;

(d) all written notices provided by the marketplace to marketplace participants generally, including notices addressing hours of system operations, system malfunctions, changes to system procedures, maintenance of hardware and software, instructions pertaining to access to the marketplace and denials of, or limitation to, access to the marketplace;

(e) the acknowledgement obtained under subsection 5.9(2) or 6.11(2);

(f) a copy of any agreement referred to in section 8.4 of NI23-101;

(g) a copy of any agreement referred to in subsections 13.1(2) and 13.1(3);

(h) a copy of any agreement referred to in section 5.10; and

(i) a copy of any agreement referred to in paragraph 5.12(c).

11.3(2) During the period in which a marketplace is in existence, the marketplace must keep

(a) all organizational documents, minute books and stock certificate books;

(b) copies of all forms filed under Part 3; and

(c) in the case of an ATS, copies of all notices given under section 6.7.

11.4 [repealed]

Synchronization of clocks

11.5(1) A marketplace trading exchange-traded securities or foreign exchange-traded securities, an information processor receiving information about those securities, and a dealer trading those securities must synchronize the clocks used for recording or monitoring the time and date of any event that must be recorded under this Part and under NI 23-101 with the clock used by a regulation services provider monitoring the activities of marketplaces and marketplace participants trading those securities.

11.5(2) A marketplace trading corporate debt securities or government debt securities, an information processor receiving information about those securities, a dealer trading those securities, and an inter-dealer bond broker trading those securities must synchronize the clocks used for recording or monitoring the time and date of any event that must be recorded under this Part and under NI 23-101.

PART 12 – MARKETPLACE SYSTEMS AND BUSINESS CONTINUITY PLANNING

System requirements

12.1 For each system, operated by or on behalf of the marketplace, that supports order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing, a marketplace must

(a) develop and maintain

(i) an adequate system of internal control over those systems, and

(ii) adequate information technology general controls, including without limitation, controls relating to information systems operations, information security, change management, problem management, network support and system software support,

(b) in accordance with prudent business practice, on a reasonably frequent basis and, in any event, at least annually,

(i) make reasonable current and future capacity estimates,

(ii) conduct capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner, and

(c) promptly notify the regulator or, in Québec, the securities regulatory authority and, if applicable, its regulation services provider, of any material systems failure, malfunction, delay or security breach and provide timely updates on the status of the failure, malfunction, delay or security breach, the resumption of service and the results of the marketplace's internal review of the failure, malfunction, delay or security breach.

Auxiliary systems

12.1.1 For each system that shares network resources with one or more of the systems, operated by or on behalf of the marketplace, that supports order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing, that, if breached, would pose a security threat to one or more of the previously mentioned systems, a marketplace must

(a) develop and maintain an adequate system of information security controls that relate to the security threats posed to any system that supports order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing, and

(b) promptly notify the regulator, or in Québec, the securities regulatory authority and, if applicable, its regulation services provider, of any material security breach and provide timely updates on the status of the breach, the resumption of service, where applicable, and the results of the marketplace's internal review of the security breach.

System reviews

12.2(1) A marketplace must annually engage a qualified party to conduct an independent systems review and prepare a report in accordance with established audit standards to ensure that the marketplace is in compliance with

(a) paragraph 12.1(a),

(b) section 12.1.1, and

(c) section 12.4.

12.2(2) A marketplace must provide the report resulting from the review conducted under subsection (1) to

(a) its board of directors, or audit committee, promptly upon the report's completion, and

(b) the regulator or, in Québec, the securities regulatory authority, by the earlier of the 30th day after providing the report to its board of directors or the audit committee or the 60th day after the calendar year end.

Marketplace technology requirements and testing facilities

12.3(1) A marketplace must make publicly available all technology requirements regarding interfacing with or accessing the marketplace in their final form,

(a) if operations have not begun, for at least three months immediately before operations begin; and

(b) if operations have begun, for at least three months before implementing a material change to its technology requirements.

12.3(2) After complying with subsection (1), a marketplace must make available testing facilities for interfacing with or accessing the marketplace,

(a) if operations have not begun, for at least two months immediately before operations begin; and

(b) if operations have begun, for at least two months before implementing a material change to its technology requirements.

12.3(3) A marketplace must not begin operations before

(a) it has complied with paragraphs (1)(a) and (2)(a),

(b) its regulation services provider, if applicable, has confirmed to the marketplace that trading may commence on the marketplace, and

(c) the chief information officer of the marketplace, or an individual performing a similar function, has certified in writing to the regulator, or in Québec, the securities regulatory authority, that all information technology systems used by the marketplace have been tested according to prudent business practices and are operating as designed.

12.3(3.1) A marketplace must not implement a material change to the systems referred to in section 12.1 before

(a) it has complied with paragraphs (1)(b) and (2)(a), and

(b) the chief information officer of the marketplace, or an individual performing a similar function, has certified in writing to the regulator, or in Québec, the securities regulatory authority, that the change has been tested according to prudent business practices and is operating as designed.

12.3(4) Subsection (3.1) does not apply to a marketplace if the change must be made immediately to address a failure, malfunction or material delay of its systems or equipment if

(a) the marketplace immediately notifies the regulator, or in Québec, the securities regulatory authority, and, if applicable, its regulation services provider of its intention to make the change; and

(b) the marketplace publishes the changed technology requirements as soon as practicable.

Uniform test symbols

12.3.1 A marketplace must use uniform test symbols, as set by a regulator, or in Québec, the securities regulatory authority, for the purpose of performing testing in its production environment.

Business continuity planning

12.4(1) A marketplace must

(a) develop and maintain reasonable business continuity plans, including disaster recovery plans, and

(b) test its business continuity plans, including disaster recovery plans, according to prudent business practices on a reasonably frequent basis and, in any event, at least annually.

12.4(2) A marketplace with a total trading volume in any type of security equal to or greater than 10% of the total dollar value of the trading volume in that type of security on all marketplaces in Canada during at least two of the preceding three months of operation must establish, implement, and maintain policies and procedures reasonably designed to ensure that each system, operated by or on behalf of the marketplace, that supports order entry, order routing, execution, trade reporting, trade comparison, data feeds, and trade clearing, can resume operations within two hours following the declaration of a disaster by the marketplace.

12.4(3) A recognized exchange or quotation and trade reporting system, that directly monitors the conduct of its members or users and enforces requirements set under section 7.1(1) or 7.3(1) of NI 23-101, must establish, implement, and maintain policies and procedures reasonably designed to ensure that each system, operated by or on behalf of the marketplace, that is critical and supports real-time market surveillance, can resume operations within two hours following the declaration of a disaster at the primary site by the exchange or quotation and trade reporting system.

12.4(4) A regulation services provider, that has entered into a written agreement with a marketplace to conduct market surveillance for the marketplace, must establish, implement, and maintain policies and procedures reasonably designed to ensure that each system, operated by or on behalf of the regulation services provider, that is critical and supports real-time market surveillance can resume operations within two hours following the declaration of a disaster at the primary site by the regulation services provider.

Industry-wide business continuity tests

12.4.1 A marketplace, recognized clearing agency, information processor, and participant dealer must participate in all industry-wide business continuity tests, as determined by a regulation services provider, regulator, or in Québec, the securities regulatory authority.

PART 13 – CLEARING AND SETTLEMENT

Clearing and settlement

13.1(1) All trades executed on a marketplace must be reported to and settled through a clearing agency.

13.1(2) For a trade executed through an ATS by a subscriber that is registered as a dealer under securities legislation, the ATS and its subscriber must enter into an agreement that specifies whether the trade must be reported to a clearing agency by

- (a) the ATS;
- (b) the subscriber; or
- (c) an agent for the subscriber that is a clearing member of a clearing agency.

13.1(3) For a trade executed through an ATS by a subscriber that is not registered as a dealer under securities legislation, an ATS and its subscriber must enter into an agreement that specifies whether the trade must be reported to a clearing agency by

- (a) the ATS; or
- (b) an agent for the subscriber that is a clearing member of a clearing agency.

Access to clearing agency of choice

13.2(1) A marketplace must report a trade in a security to a clearing agency designated by a marketplace participant.

13.2(2) Subsection (1) does not apply to a trade in a security that is a standardized derivative or an exchange-traded security that is an option.

PART 14 – REQUIREMENTS FOR AN INFORMATION PROCESSOR

Filing requirements for an information processor

14.1(1) A person or company that intends to carry on business as an information processor must file Form 21-101F5 at least 90 days before the information processor begins to carry on business as an information processor.

14.1(2) [repealed]

Change in information

14.2(1) At least 45 days before implementing a significant change involving a matter set out in Form 21-101F5, an information processor must file an amendment to the information provided in Form 21-101F5 in the manner set out in Form 21-101F5.

14.2(2) If an information processor implements a change involving a matter set out in Form 21-101F5, other than a change referred to in subsection (1), the information processor must, within 30 days after the end of the calendar quarter in which the change takes place, file an amendment to the information provided in Form 21-101F5 in the manner set out in Form 21-101F5.

Ceasing to carry on business as an information processor

14.3(1) If an information processor intends to cease carrying on business as an information processor, the information processor must file a report on Form 21-101F6 at least 30 days before ceasing to carry on that business.

14.3(2) If an information processor involuntarily ceases to carry on business as an information processor, the information processor must file a report on Form 21-101F6 as soon as practicable after it ceases to carry on that business.

Requirements applicable to an information processor

14.4(1) An information processor for exchange-traded securities must enter into an agreement with each marketplace that is required to provide information to the information processor that states that the marketplace will

- (a) provide information to the information processor in accordance with Part 7 of this Instrument; and
- (b) comply with any other reasonable requirements set by the information processor.

14.4(2) An information processor must provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities.

14.4(3) An information processor must keep such books, records and other documents as are reasonably necessary for the proper recording of its business.

14.4(4) An information processor must establish in a timely manner an electronic connection or changes to an electronic connection to a person or company that is required to provide information to the information processor.

14.5(5) An information processor must provide prompt and accurate order and trade information and must not unreasonably restrict fair access to such information.

14.5(6) An information processor must file annual audited financial statements within 90 days after the end of its financial year that

- (a) are prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises, Canadian GAAP applicable to private enterprises or IFRS,
- (b) include notes to the financial statements that identify the accounting principles used to prepare the financial statements, and

(c) are audited in accordance with Canadian GAAS or International Standards on Auditing and are accompanied by an auditor's report.

14.5(6.1) If an information processor is operated as a division or unit of a person or company, the person or company must file the income statement and the statement of cash flow of the information processor and any other information necessary to demonstrate the financial condition of the information processor within 90 days after the end of the financial year of the person or company.

14.5(7) An information processor must file its financial budget within 30 days after the start of a financial year.

14.5(7.1) If an information processor is operated as a division or unit of a person or company, the person or company must file the financial budget relating to the information processor within 30 days of the start of the financial year of the person or company.

14.5(8) [repealed]

14.5(9) [repealed]

System requirements

14.5 An information processor must,

(a) develop and maintain

(i) an adequate system of internal controls over its critical systems, and

(ii) adequate information technology general controls, including, without limitation, controls relating to information systems operations, information security, change management, problem management, network support, and system software support,

(b) in accordance with prudent business practice, on a reasonably frequent basis and in any event, at least annually,

(i) make reasonable current and future capacity estimates for each of its systems, and

(ii) conduct capacity stress tests of its critical systems to determine the ability of those systems to process information in an accurate, timely and efficient manner,

(c) annually engage a qualified party to conduct an independent systems review and prepare a report in accordance with established audit standards to ensure that it is in compliance with paragraph (a) and section 14.6,

(d) provide the report resulting from the review conducted under paragraph (c) to

(i) its board of directors or the audit committee promptly upon the report's completion, and

(ii) the regulator or, in Québec, the securities regulatory authority, by the earlier of the 30th day after providing the report to its board of directors or the audit committee or the 60th day after the information processor's financial year end, and

(e) promptly notify the following of any failure, malfunction or material delay of its systems or equipment

(i) the regulator or, in Québec, the securities regulatory authority, and

(ii) any regulation services provider, recognized exchange or recognized quotation and trade reporting system monitoring trading of the securities about which information is provided to the information processor.

Business continuity planning

14.6 An information processor must

- (a) develop and maintain reasonable business continuity plans, including disaster recovery plans,
- (b) test its business continuity plans, including disaster recovery plans, according to prudent business practices and on a reasonably frequent basis and, in any event, at least annually, and
- (c) establish, implement, and maintain policies and procedures reasonably designed to ensure that its critical systems can resume operations within one hour following the declaration of a disaster by the information processor.

Confidential treatment of trading information

14.7 An information processor must not release order and trade information to a person or company other than the person or company that provided this information in accordance with this Instrument or a securities regulatory authority, unless

- (a) the release of that information is required by this Instrument or under applicable law, or
- (b) the information processor received prior approval from the securities regulatory authority.

Transparency of operations of an information processor

14.8 An information processor must publicly disclose on its website information reasonably necessary to enable a person or company to understand the information processor's operations or services it provides including, but not limited to

- (a) all fees charged by the information processor for the consolidated data,
- (b) in the case of an information processor for government debt securities or corporate debt securities,
 - (i) the marketplaces that report orders for corporate debt securities or government debt securities to the information processor, as applicable,
 - (ii) the inter-dealer bond brokers that report orders for government debt securities to the information processor,
 - (iii) the persons and companies that report trades in corporate debt securities or government debt securities to the information processor, as applicable,
 - (iv) when trades in each corporate debt security or government debt security, as applicable, must be provided to the information processor by a person or company,
 - (v) when the information provided to the information processor will be publicly disseminated by the information processor, and
 - (vi) the cap on the displayed volume of trades for each corporate debt security or government debt security, as applicable,
- (c) access requirements,

(d) the policies and procedures to manage conflicts of interest that may arise in the operation of the information processor, and

(e) a list of the types of data elements relating to the order and trade information required to be provided under Part 7 or Part 8 of this Instrument.

PART 15 – EXEMPTION

Exemption

15.1(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.

15.1(2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.