

CSA Staff Notice 23-330

Order Protection Rule: Market Share Threshold

Effective as of April 1, 2023

February 23, 2023

Introduction

On June 20, 2016, the Canadian Securities Administrators (the **CSA** or **we**) published a notice¹ (the **2016 Notice**) regarding the implementation of the market share threshold. This notice updates the list of protected and unprotected marketplaces published on February 25, 2021. The updated list will be in effect as of April 1, 2023, until a future notice is published. We note that the only change relative to the last notice published² is the addition of Canadian Securities Exchange (**CSE**) second book, CSE2. There are no other notable changes.

The text of this notice is available on the websites of the CSA jurisdictions, including:

www.lautorite.qc.ca
www.asc.ca
www.bcsc.bc.ca
www.fcnb.ca
nssc.novascotia.ca
www.osc.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Purpose

The purpose of this notice is to provide the list of marketplaces that display protected orders (**protected marketplaces**) and marketplaces whose orders will not be protected (**unprotected marketplaces**) for the purposes of National Instrument 23-101 *Trading Rules* (**NI 23-101**) and the order protection rule (**OPR**) as of April 1, 2023 because they do not:

- (i) provide automated trading functionality as they have an intentional order processing delay, or
- (ii) meet the market share threshold.

The market share threshold has been set at 2.5%.³

¹ CSA Staff Notice 23-316 Order Protection Rule: Implementation of the Market Share Threshold and Amendments to Companion Policy 23-101 *Trading Rules*.

² CSA Staff Notice 23-328 Order Protection Rule: Market Share Threshold for the Period April 1, 2021 to March 31, 2022.

³ The 2016 Notice includes a description of the calculation of the market share threshold.

OPR Requirements

Section 6.1 of NI 23-101 requires marketplaces to establish, maintain and ensure compliance with policies and procedures that are reasonably designed to prevent trade-throughs of better priced protected bids and offers. Section 6.4 of NI 23-101 imposes the same requirement on marketplace participants that assume responsibility for compliance with OPR by entering directed-action orders.

Section 1.1 of NI 23-101 defines protected bids and offers as bids and offers displayed on a marketplace offering automated trading functionality, and about which information is provided to an information processor.

Section 1.1.2.1 of Companion Policy 23-101 *Trading Rules* outlines the circumstances in which a marketplace that introduced an intentional order processing delay would not be considered to be providing automated trading functionality. In those circumstances, the orders on that marketplace would not be protected.

Orders on “dark” marketplaces are not protected as they are not displayed. Therefore, orders on ICX, LiquidNet, MATCHNow, NEO Exchange dark book (NEO-D) and Nasdaq CXD are unprotected for the purposes of OPR.

List of Protected and Unprotected Marketplaces

Below we have listed the protected and unprotected marketplaces.

The orders displayed on the marketplaces listed in Table 1 below will be protected because either the marketplace meets the market share threshold and/or the orders are for securities that are listed by and traded on that marketplace:

Table 1 – Marketplaces that Display Protected Orders

| Marketplace | Market Share | Status | Reason Protected |
|-------------|--------------|-----------|------------------------------|
| CSE | 5.79% | Protected | Meets market share threshold |
| Nasdaq CXC | 11.26% | Protected | Meets market share threshold |
| Nasdaq CX2 | 5.18% | Protected | Meets market share threshold |
| NEO-L | 6.55% | Protected | Meets market share threshold |
| Omega | 5.61% | Protected | Meets market share threshold |
| TSX | 44.96% | Protected | Meets market share threshold |
| TSX Venture | 7.85% | Protected | Meets market share threshold |

Orders displayed on the marketplaces listed on Table 2 below will be unprotected because either the marketplace does not provide automated trading functionality, does not meet the market share threshold or does not display orders:

Table 2 – Marketplaces whose Orders Are Unprotected

| Marketplace | Market Share | Status | Reason Unprotected |
|-------------|--------------|-------------|--|
| Alpha | 8.31% | Unprotected | Does not provide automated trading functionality |
| Lynx | 0.22% | Unprotected | Does not meet the market share threshold |
| CSE2 | 0.01% | Unprotected | Does not meet the market share threshold |

| | | | |
|------------|-------|-------------|--|
| NEO-N | 4.26% | Unprotected | Does not provide automated trading functionality |
| ICX | | Unprotected | Does not display orders |
| LiquidNet | | Unprotected | Does not display orders |
| MATCHNow | | Unprotected | Does not display orders |
| Nasdaq CXD | | Unprotected | Does not display orders |
| NEO-D | | Unprotected | Does not display orders |

PUBLIC NOTIFICATION

Please note that a notice providing a list of protected and unprotected marketplaces is not necessarily published annually but rather only when there are changes to the list of protected and/or unprotected markets.

QUESTIONS

Please refer your questions to any of the following:

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