

MSC Notice 2001-28

**NOTICE OF NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION, COMPANION POLICY 21-101CP AND
FORMS 21-101F1, 21-101F2, 21-101F3, 21-101F4, 21-101F5 AND 21-101F6**

AND

**NOTICE OF NATIONAL INSTRUMENT 23-101
TRADING RULES AND COMPANION POLICY 23-101CP**

AND

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MARKETPLACE OPERATION, COMPANION POLICY 21-101CP AND
FORMS 21-101F1, 21-101F2, 21-101F3, 21-101F4, 21-101F5 AND 21-101F6**

AND

**NOTICE OF NATIONAL INSTRUMENT 23-101
TRADING RULES AND COMPANION POLICY 23-101CP**

1. BACKGROUND

The Commission and the other members of the Canadian Securities Administrators (the “CSA” or “We”), have made

- National Instrument 21-101 *Marketplace Operation* (“National Instrument 21-101”), Companion Policy 21-101CP and Forms 21-101F1, 21-101F2, 21-101F3, 21-101F4, 21-101F5 and 21-101F6 (together the “Marketplace Operation Rule”), and
- National Instrument 23-101 *Trading Rules* (“National Instrument 23-101”) and Companion Policy 23-101CP (together the “Trading Rules”).

The term “ATS Rules” refers to both the Marketplace Operation Rule and the Trading Rules. The full text of the ATS Rules is attached to this notice.

The National Instrument will come into force on December 1, 2001.

The Commission last published the ATS Rules for comment on August 11, 2000 (the “2000 Proposal”) During the comment period 22 submissions were received. The names of the commenters, a summary of their comments and our responses are contained in Appendix A to this Notice. We thank all commenters for providing their comments.

Some changes were made to the 2000 Proposal in response to the comments received and further consultation done. However, in the view of the Commission, the changes are not material and the republication of the ATS Rules for comment is not required.

2. THE REGULATORY FRAMEWORK FOR ALTERNATIVE TRADING SYSTEMS

The ATS Rules are part of a CSA initiative to create a framework that permits competitive operation of traditional exchanges and other marketplaces, while ensuring that trading is fair and transparent. The ATS Rules set out a scheme for regulating ATSs by giving them a choice about how they will be regulated. The ATS Rules attempt to minimize fragmentation by setting out order and trade reporting requirements, information consolidation requirements and market integration requirements.

In addition, the ATS Rules are designed to maintain and improve market integrity through National Instrument 23-101.

The regulatory objectives of the ATS Rules are as follows: to provide investor choice, improve price discovery and decrease execution costs. We have attached as Appendix B a chart that summarizes the transparency requirements and the market regulation obligations under the ATS Rules. The chart is being provided to assist readers; however, in the event of any inconsistency between the chart and the ATS Rules, the ATS Rules govern.

A. Regulatory Choice for Marketplaces

National Instrument 21-101 regulates all marketplaces operating in Canada. Marketplaces include exchanges, quotation and trade reporting systems and ATSS.¹ All marketplaces are subject to certain requirements, including information consolidation², market integration³, reporting and record keeping requirements⁴ and systems capacity requirements.⁵

A marketplace can choose one of three regulatory models under which to operate.

1. A marketplace can choose to be a member of an exchange, and thus be subject to the rules and policies of that exchange. If the marketplace chooses to be a member of an exchange, the marketplace is not subject to National Instrument 21-101.⁶
2. A marketplace can choose to be regulated as an exchange. A marketplace that decides to be regulated as an exchange must apply for recognition under securities legislation, file Form 21-101F1 and is subject to the requirements of securities legislation and the additional provisions of the ATS Rules that apply to exchanges.⁷ The Marketplace Operation Rule provides guidelines for determining whether we would consider a marketplace to be an exchange. If a marketplace performs certain functions, we would consider the marketplace to be an exchange under securities legislation and would require it to be recognized as an exchange in order to carry on business, unless it obtains an exemption from securities regulatory authorities.⁸ These functions include providing a listing function, guaranteeing liquidity, setting requirements governing the conduct of marketplace participants, other than those necessary to govern the method of trading or algorithm used by those marketplace participants, and disciplining subscribers.

1 “Marketplace” is defined in section 1.1 of National Instrument 21-101.

2 Parts 7 and 8 of National Instrument 21-101.

3 Part 9 of National Instrument 21-101.

4 Part 11 of National Instrument 21-101.

5 Part 12 of National Instrument 21-101.

6 Section 2.1 of National Instrument 21-101.

7 Part 5 of National Instrument 21-101 imposes requirements on recognized exchanges and recognized quotation and trade reporting systems.

8 Subsection 3.3(1) of Companion Policy 21-101CP.

3. A marketplace can choose to be regulated as an ATS. A marketplace that decides to be regulated as an ATS must register as a dealer under securities legislation, become a member of a self-regulatory entity, file Form 21-101F2 and is subject to the additional provisions of the ATS Rules that apply to ATSs.⁹

Those marketplaces that fit within the statutory definition of a quotation and trade reporting system existing in certain provinces, cannot carry on business as a quotation and trade reporting system unless they are either recognized by the appropriate local jurisdiction or regulated as an ATS under the ATS Rules.

Inter-dealer bond brokers are excluded from the definition of a marketplace. They have a choice about how they will be regulated under the ATS Rules. An inter-dealer bond broker can choose to be subject to By-law No. 36 Inter-Dealer Bond Brokerage Systems (“By-law No. 36”) and Regulation 2100 Inter-Dealer Bond Brokerage Systems (“Regulation 2100”) of the Investment Dealers Association of Canada (the “IDA”). An inter-dealer bond broker that makes this choice is excluded from the definition of a marketplace under National Instrument 21-101 and is subject to the transparency requirements of Part 8 of National Instrument 21-101. We have requested that the IDA amend Regulation 2100 to remove the restriction on clients of inter-dealer bond brokers. The IDA will consider providing an exemption from this restriction until an amendment is finalized. Alternatively, an inter-dealer bond broker can choose to be an ATS and comply with the provisions of the ATS Rules that apply to marketplaces and ATSs.¹⁰

B. Securities to be Traded on an ATS

We have had extensive discussions with commenters on what securities should appropriately be traded on an ATS. Based on these discussions, we have determined at this time to restrict the securities that can be traded on an ATS.

Under National Instrument 21-101, an ATS shall not execute trades in securities other than exchange-traded securities, corporate debt securities, government debt securities and foreign exchange-traded securities.¹¹ Exchange-traded securities include equity securities, preferred securities, options and listed debt securities. An inter-listed security is an exchange-traded security. A security that is traded on a facility of an exchange, but is not listed on that exchange, or that is posted on an over-the-counter bulletin board, for example, Nasdaq’s OTCBB, is not considered to be a foreign exchange-traded security and cannot be traded on an ATS.

An ATS that wants to trade over-the-counter equity securities may apply to the CSA. The CSA will consider such application and may allow an ATS to trade these securities if it is not contrary to the public interest to do so. To determine whether it is not contrary to the public interest, we will look at a number of factors including whether there are appropriate arrangements for issuer regulation.

⁹ Parts 6 and 13 of National Instrument 21-101 contain requirements applicable only to ATSs that are not members of an exchange or have not chosen to be recognized as an exchange.

¹⁰ Subsection 2.1(8) of Companion Policy 21-101CP.

¹¹ Section 6.3 of National Instrument 21-101.

C. National Instrument 23-101 Trading Rules

The Trading Rules set forth common trading rules that will apply to all trading, whether on a marketplace or not. They do not prohibit marketplaces from implementing additional rules. The requirements in the Trading Rules include a prohibition against manipulation and fraud¹² and a best execution obligation.¹³ The Trading Rules also impose an obligation on ATSS to enter a contract with a regulation services provider to conduct monitoring of the trading activities of the ATS and its subscribers and enforcement of the requirements of the regulation services provider. A regulation services provider is defined as a person or company that provides regulation services and is a recognized exchange, recognized quotation and trade reporting system or a recognized self-regulatory entity.¹⁴

Under the Trading Rules, a recognized exchange or recognized quotation and trade reporting system is required to set its own requirements and either enforce them directly or enter into an agreement with a regulation services provider that will monitor and enforce compliance with those requirements.¹⁵ In contrast, a regulation services provider for an ATS will adopt requirements that will apply to the ATS and the ATS will agree to comply with those requirements. Subscribers of the ATS will have to enter into an agreement with the ATS that indicates that the subscriber will comply with the requirements set by the regulation services provider of the ATS.¹⁶

Additional background and details about market regulation and the regulation services provider and its role are provided in Part 5 below.

3. TRANSPARENCY REQUIREMENTS UNDER THE ATS RULES

In order to minimize any negative impact of having different marketplaces trade the same security, the ATS Rules impose information transparency requirements on market participants trading exchange-traded securities, foreign exchange-traded securities and unlisted debt securities (corporate debt securities and government debt securities) and impose market integration requirements on all marketplaces. The market integration requirements are discussed in Part 4 below. As a part of the information transparency requirements, marketplaces trading exchange-traded securities or foreign exchange-traded securities must provide information to an information processor. A marketplace, inter-dealer bond broker and dealer trading unlisted debt securities must provide information to an information processor. The information processor will collect and disseminate the information received in the form of a consolidated feed. There may be more than one information processor, one for exchange-traded securities and foreign exchange-traded securities and one for unlisted debt securities.

12 Part 3 of National Instrument 23-101.

13 Part 4 of National Instrument 23-101.

14 Section 1.1 of National Instrument 21-101.

15 Part 7 of National Instrument 23-101.

16 Part 8 of National Instrument 23-101.

A. Data Consolidation

(i) Exchange-Traded Securities and Foreign Exchange-Traded Securities

In the 2000 Proposal, the term “data consolidator” was defined as a person or company that has entered into an agreement with a securities regulatory authority to receive and provide information in accordance with Part 7 of National Instrument 21-101.¹⁷ In National Instrument 21-101, the term has been replaced with the term “information processor”. An information processor is defined as a person or company that receives and provides information in accordance with National Instrument 21-101 and files Form 21-101F5.¹⁸

We issued a Request for Proposal (“RFP”) on July 28, 2000 to select a developer and operator of the data consolidator. During the course of the negotiations with the entity selected to develop and operate the data consolidator, we decided to postpone the implementation of data consolidation for exchange-traded securities and foreign exchange-traded securities for a period of about two years. We will instead request that marketplaces and other industry participants develop and implement a solution to consolidate order and trade information for exchange-traded securities and foreign exchange-traded securities by December 31, 2003. In the meantime, National Instrument 21-101 provides an exemption from the requirement for marketplaces to provide order and trade information to an information processor on the condition that the marketplace provides the information to an information vendor. The exemption does not apply after December 31, 2003.¹⁹

(ii) Unlisted Debt Securities

An information processor will also collect and disseminate order and trade information for government debt securities and corporate debt securities. The information processor will collect the order and trade information for these securities provided by marketplaces, inter-dealer bond brokers and dealers and will create a consolidated feed and distribute it to information vendors, news services and other customers.²⁰

CanPX intends to become an information processor for unlisted debt securities in anticipation of the adoption of the ATS Rules. CanPX currently provides information transparency for the wholesale debt market. CanPX links together feeds from participating inter-dealer bond brokers and disseminates the best bid, best offer and last trade information for certain benchmarks and other designated government debt securities.

(iii) Requirements Applicable to an Information Processor

The ATS Rules impose a number of requirements on an entity that becomes an information processor. A person or company that intends to carry on business as an information processor is

17 Section 1.1 of National Instrument 21-101 of 2000 Proposal.

18 Section 1.1 of National Instrument 21-101.

19 Section 7.5 of National Instrument 21-101.

20 Part 8 of National Instrument 21-101.

required to file Form 21-101F5 at least 90 days before beginning to carry on business as an information processor.²¹ Upon receipt, we will review the form to determine if it is not contrary to the public interest to have that person or company perform the consolidation function for a particular type of security (e.g, exchange-traded securities or unlisted debt securities). An information processor must enter into an agreement with each marketplace, inter-dealer bond broker and dealer providing information to the information processor. An information processor must

- provide timely, accurate, reliable and fair collection, processing, distribution and publication of information,
- keep the books, records and other documents that are necessary for the proper recording of its business transactions and financial affairs, and
- comply with specific systems requirements.²²

The purpose of filing the form and establishing requirements that apply to an information processor is to ensure the availability of prompt and accurate order and trade information and to assess the ongoing viability of the entity performing the consolidation function.

B. Transparency Requirements for Exchange-Traded Securities

(i) Order and Trade Information Transparency

The ATS Rules require that all marketplaces (exchanges, quotation and trade reporting systems, dealers executing exchange-traded securities outside of a marketplace and ATSS) that display orders of exchange-traded securities or foreign exchange-traded securities provide information on these orders to an information processor.²³ For exchange-traded securities or foreign exchange-traded securities, other than options, marketplaces are required to at least provide information on the type, the issuer, the class, the symbol and the series of the security, the five best bid prices and five best ask prices for each exchange-traded security and foreign exchange-traded security displayed and the total disclosed volume at each of those prices. For options, marketplaces must at least provide information on the underlying interest, the expiry month, the strike price, the best bid price and the best ask price for each option displayed and the total disclosed volume at each of those price levels. It is up to the individual marketplace to determine whether to show broker identification numbers and provide them to the information processor.²⁴ Individual marketplaces have to record broker identification numbers for audit trail purposes.

In addition, all marketplaces must provide details of all trades of exchange-traded securities and foreign exchange-traded securities to an information processor as required by the information

21 Section 14.1 of National Instrument 21-101.

22 Part 14 of National Instrument 21-101.

23 Subsection 7.1(1) of National Instrument 21-101.

24 Subsection 9.2 of Companion Policy 21-101CP.

processor.²⁵ For exchange-traded securities or foreign exchange-traded securities other than options, this information includes the type, issuer, class, symbol and series of the security, the volume, the price and time of the trade and any other information required by the information processor. For options, this information includes details of the underlying interest, the expiry month, the strike price, the volume, the price and time of the trade and any other information required by the information processor.²⁶

Marketplaces must provide the order and trade information to an information processor in real-time or as close to real-time as possible.²⁷

As discussed, we have provided an exemption from the transparency requirements for marketplaces trading exchange-traded securities or foreign exchange-traded securities if they provide the information to an information vendor. This exemption does not apply after December 31, 2003.²⁸

C. Transparency Requirements for Unlisted Debt Securities

(i) Order and Trade Transparency

We believe that it is important to improve transparency in the domestic debt markets. To that end, we have engaged in extensive discussions with debt market participants, the Bank of Canada, the provinces and the Department of Finance, Canada in order to determine the appropriate level of transparency for the debt markets. Based on these discussions and with the support of debt market participants, we have refined the transparency requirements applicable to marketplaces, inter-dealer bond brokers and dealers that trade corporate debt securities and government debt securities (together, “unlisted debt securities”). In the 2000 Proposal, marketplaces, inter-dealer bond brokers and market makers were required to provide all order and trade information to the information processor. The requirements for inter-dealer bond brokers have been amended and the market maker requirements have been replaced by dealer transparency requirements.

(1) Marketplaces

All marketplaces that display orders of unlisted debt securities must provide information regarding orders for unlisted debt securities to the information processor as required by the information processor.²⁹ This information includes information on the type, issuer, coupon and maturity of the security, the best bid price, the best ask price and the total disclosed volume at those prices.³⁰ In addition, all marketplaces are required to provide information to the information processor on all trades of unlisted debt securities executed on the marketplace as required by the information

25 Section 7.2 of National Instrument 21-101.

26 Subsection 9.1(4) of Companion Policy 21-101CP.

27 Section 9.1(3) of Companion Policy 21-101CP.

28 Section 7.5 of National Instrument 21-101.

29 Section 8.1 of National Instrument 21-101.

30 Subsection 10.1(2) of Companion Policy 21-101CP.

processor.³¹ This information includes details as to the type, issuer, class and series of the security, the volume, the price and time of the trade and any additional information required by the information processor.³²

All marketplaces must provide order and trade information about unlisted debt securities to the information processor in real-time or as close to real-time as possible.³³

(2) *Inter-dealer Bond Brokers and Dealers*

An inter-dealer bond broker is required to provide information regarding orders of government debt securities traded through the inter-dealer bond broker to the information processor.³⁴ The information includes information on the type, the issuer, the coupon, and the maturity of the security, the best bid price, the best ask price and the total disclosed volume at those prices for benchmark and designated government debt securities.³⁵ The inter-dealer bond broker must provide this information in real-time or as close to real-time as possible.³⁶

In addition, inter-dealer bond brokers are required to provide information on trades of benchmarks and designated government debt securities and designated corporate debt securities that they trade within one hour of executing the trade.³⁷ Dealers are required to provide trade information on designated corporate debt securities traded by or through the dealer.³⁸ For each of these securities, an inter-dealer bond broker and a dealer must include information on the type, the issuer, the series, the coupon and the maturity of the security, the price and time of the trade and any additional information required by the information processor.³⁹ For government debt securities, inter-dealer bond brokers must also provide the volume traded.

For corporate debt securities, the volume information will depend on the total par value of the securities traded. For investment-grade corporate debt securities, inter-dealer bond brokers and dealers are required to provide the actual quantity of bonds traded if the total par value of the securities traded is \$2 million or less. For trades above \$2 million, inter-dealer bond brokers and dealers will show the volume information as \$2 million+. For non-investment grade corporate debt securities, inter-dealer bond brokers and dealers are required to provide the actual quantity of bonds traded if the total par value of the securities traded is \$200,000 or less. For trades above \$200,000, inter-dealer bond brokers and dealers will show the volume information as \$200,000+.⁴⁰

(ii) *Selection of Unlisted Debt Securities*

31 Section 8.2 of National Instrument 21-101.

32 Subsection 10.1(3) of Companion Policy 21-101CP.

33 Subsection 10.1(4) of Companion Policy 21-101CP.

34 Section 8.3 of National Instrument 21-101.

35 Subsection 10.2(2) of Companion Policy 21-101CP.

36 Subsection 10.2(10) of Companion Policy 21-101CP.

37 Section 8.4 of National Instrument 21-101, subsection 10.2(10) of Companion Policy 21-101CP.

38 Section 8.5 of National Instrument 21-101.

39 Subsections 10.2(5) and (6) of Companion Policy 21-101CP.

40 Subsections 10.2(7) and (8) of Companion Policy 21-101CP.

As stated above, transparency requirements for government debt securities traded through inter-dealer bond brokers apply only to benchmark and other designated government debt securities. The transparency requirements for corporate debt securities traded through an inter-dealer bond broker or traded by or through a dealer will apply initially to at least 20 corporate debt securities. The information processor will establish a list of government debt securities and corporate debt securities that it will display. The process for selecting the benchmark and designated government debt securities and the designated corporate debt securities and the list of designated unlisted debt securities will be posted on the websites of CanPX and the securities regulatory authorities. The information processor will review the benchmarks and designated government debt securities and designated corporate debt securities on a quarterly basis and update the list as necessary. If the list is amended, the information processor and the securities regulatory authorities will post the new list.

We have established the Bond Market Transparency Committee (the “Bond Committee”), which is made up of debt market participants, including issuers, investors, dealers and inter-dealer bond brokers. The Bond Committee will meet with us to discuss issues regarding the development and implementation of the ATS Rules. We will ask the Bond Committee to provide input to the CSA on issues including, but not limited to, fairness, integrity, efficiency, market competitiveness and usefulness of information gathered and disseminated, and technology issues relating to the collection and dissemination of data. It is intended that the Bond Committee will meet regularly to discuss issues relating to the fixed income market.

4. MARKET INTEGRATION

As stated, we are imposing market integration requirements onto marketplaces in order to minimize any negative impact of having different marketplaces trading the same security. The market integration requirements are located in Part 9 of National Instrument 21-101.

Because market integration is a complex task that raises significant technology challenges, we have developed a two-phased approach. The requirements for the first phase are contained in subsection 9.2(1) and section 9.3 of National Instrument 21-101. The first phase will continue until January 1, 2004 and will require that a marketplace establish an electronic connection to the principal market for each security traded on that marketplace before executing a trade in that security.⁴¹ An information processor will determine the principal market for each security by ascertaining which marketplace had the largest trading volume for that security in the previous calendar year, will provide written notice to the marketplaces trading that security and will make the determination of the principal market publicly available.⁴² If there is no information processor, the securities regulatory authorities will determine the principal market.

The second phase of market integration will begin on January 1, 2004. The second phase requires all marketplaces to establish an electronic connection to a market integrator or, if there is no market

⁴¹ Subsection 9.2(1) of National Instrument 21-101.

⁴² Section 9.3 of National Instrument 21-101.

integrator, to establish an electronic connection to each other.⁴³ At this time, we will not mandate a specific method of achieving complete market integration. Instead, we plan to monitor the number of marketplaces that operate in Canada and whether they create electronic connections to each other. If the industry achieves complete market integration voluntarily, it may not be necessary to create a market integrator.

5. TRADING RULES AND MARKET REGULATION

A. National Instrument 23-101 Trading Rules

In the past, each of the recognized exchanges implemented trading rules designed to establish fair and equitable trading practices and to prevent abusive and manipulative trade practices. If ATSS are to be allowed to operate independently of recognized exchanges, they and their marketplace participants must also follow similar practices. To ensure that ATSS are not used to avoid rules regarding the integrity of the capital markets, we developed the Trading Rules. The Trading Rules include a prohibition against manipulation and fraud⁴⁴, a best execution obligation¹, audit trail requirements⁴⁵ and an obligation for ATSS, inter-dealer bond brokers and dealers trading unlisted debt securities to enter a contract with a regulation services provider.

The Trading Rules set out requirements that we consider the minimum requirements applicable to all marketplaces and participants in the market. These rules may not be sufficient to ensure the integrity of a marketplace. Consequently, we will evaluate any rules proposed, or lack of rules proposed, by a marketplace or regulation services provider to determine whether they are sufficient and appropriate.

(i) Application of the Trading Rules

We have provided for an exemption from the application of subsection 3.1(1) and Parts 4 and 5 of National Instrument 23-101. The exemption applies to those persons or companies that comply with the rules, policies and other similar instruments established by

- a recognized exchange or recognized quotation and trade reporting system, if that exchange or quotation and trade reporting system conducts its own market regulation, or
- a regulation services provider for an ATS, inter-dealer bond broker, dealer trading unlisted debt securities outside of a marketplace or a recognized exchange or recognized quotation and trade reporting system that contracts with a regulation services provider.

This exemption ensures that recognized exchanges and their members, recognized quotation and trade reporting systems and their users and marketplaces that have entered into an agreement with a regulation services provider and their marketplace participants are not subject to duplicative requirements. However, if a person or company does not comply with the requirements of the

43 Subsection 9.2(2) of National Instrument 21-101.

44 Part 3 of National Instrument 23-101.

45 Part 11 of National Instrument 23-101.

recognized exchange, recognized quotation and trade reporting system or regulation services provider, then the person or company is not exempt from the Trading Rules. Subsection 3.1(1) of National Instrument 23-101 does not apply in Alberta, British Columbia and Saskatchewan because these jurisdictions have provisions in their legislation that deal with manipulation and fraud. Therefore, the exemption from subsection 3.1(1) does not apply in those jurisdictions and the relevant provisions of the legislation apply.

(ii) Short Selling, Frontrunning, Insider Trading of Securities of Foreign Non-Reporting Issuers, Order Exposure Rule and Principal Trading

We have removed these provisions from National Instrument 23-101. We believe that restrictions relating to short selling, frontrunning, insider trading of securities of foreign non-reporting issuers, principal trading and order exposure obligations are important and suitable for all markets. However, we are of the view that identical provisions are not necessarily appropriate for each type of market, marketplace or each type of security. Consequently, when a regulation services provider, exchange or quotation and trade reporting system applies for recognition, we will review its proposed rules to determine if these provisions are included and whether the specific provisions are appropriate in the context of that market, marketplace or security.

(iii) Requirements of the ATS Rules for the Regulation Services Provider, Marketplaces, Inter-Dealer Bond Brokers and Dealers Executing Unlisted Debt Securities Outside of a Marketplace

The ATS Rules contemplate that a regulation services provider will provide monitoring and enforcement services to marketplaces. The concept of a “regulation services provider” replaces the reference to “approved agent” in the 2000 Proposal. A regulation services provider is defined as a person or company that provides regulation services and is a recognized exchange, recognized quotation or trade reporting system or a recognized self-regulatory entity.⁴⁶ At this time, Market Regulation Services Inc. has filed a draft application for recognition as a self-regulatory organization. Please refer to Paragraph 5B(i) of this Notice for a discussion of the filing. In addition, the IDA has filed a proposal for debt market regulation. Please see Part 5B(ii) for a discussion of the IDA’s proposal.

⁴⁶ Section 1.1 of National Instrument 21-101.

(1) *Requirements for a Recognized Exchange and a Recognized Quotation and Trade Reporting System*

Part 7 of National Instrument 23-101 provides that a recognized exchange or recognized quotation and trade reporting system must set requirements governing the conduct of its members or users. The requirements set by the recognized exchange or recognized quotation and trade reporting system will be reviewed and approved by the securities regulatory authorities. The recognized exchange or recognized quotation and trade reporting system has the option to monitor and enforce those requirements directly or it may contract with a regulation services provider to do this on its behalf. The requirements of a recognized exchange or recognized quotation and trade reporting system that monitors and enforces its own requirements directly may be different than those set by the regulation services provider for other marketplaces. A recognized exchange or recognized quotation and trade reporting system that does not monitor and enforce its own requirements must contract with a regulation services provider and use the services provided by the regulation services provider. Those services include using the rules of the regulation services provider.

(2) *Requirements for an ATS*

Part 8 contains the market regulation requirements that apply to an ATS. A regulation services provider must set requirements for an ATS. An ATS cannot execute a subscriber's order unless the ATS has executed, and is subject to, certain written agreements. The first agreement is an agreement between the ATS and a regulation services provider. The agreement must provide that:

- the ATS will conduct its trading activities in compliance with the requirements of its regulation services provider,
- the regulation services provider will monitor the conduct of the ATS and its subscribers,
- the regulation services provider will enforce its requirements against the ATS and its subscribers,
- the ATS will comply with the record keeping requirements in National Instrument 21-101, and
- the ATS will comply with all orders or directions made by the regulation services provider.⁴⁷

Second, the ATS must enter into an agreement with each subscriber that provides that:

- the subscriber will conduct its trading activities in compliance with the requirements of the regulation services provider,
- the subscriber acknowledges that the regulation services provider will monitor the conduct of the subscriber and enforce its requirements against the subscribers, and
- the subscriber will comply with all orders or directions made by the regulation services provider, including orders that exclude the subscriber from trading on any marketplace.⁴⁸

(3) *Requirements for an Inter-Dealer Bond Broker*

⁴⁷ Section 8.3 of National Instrument 23-101.

⁴⁸ Section 8.4 of National Instrument 23-101.

Part 9 of National Instrument 23-101 contains the market regulation requirements that apply to an inter-dealer bond broker. The regulation services provider must set requirements for the inter-dealer bond broker. The inter-dealer bond broker must enter into a written agreement with the regulation services provider that provides that:

- the inter-dealer bond broker will conduct its trading activities in compliance with the requirements of the regulation services provider,
- the regulation services provider will monitor the conduct of the inter-dealer bond broker,
- the regulation services provider will enforce its requirements against the inter-dealer bond broker, and
- the inter-dealer bond broker will comply with all orders or directions made by the regulation services provider.⁴⁹

(4) *Requirements for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace*

Part 10 of National Instrument 23-101 contains the market regulation requirements for a dealer trading unlisted debt securities outside of a marketplace. These requirements mirror the requirements that apply to an inter-dealer bond brokers in Part 9.

(iv) *Regulation of the Debt Market - Exemption*

National Instrument 23-101 provides ATSS trading unlisted debt securities, inter-dealer bond brokers and dealers trading unlisted debt securities outside of a marketplace an exemption from the requirement to enter into an agreement with a regulation services provider if the ATS, inter-dealer bond broker or dealer complies with IDA Policy No. 5. This exemption does not apply after December 31, 2003. We have provided this transitional exemption to ensure that dealers are subject to market regulation during the period between the effective date of the ATS Rules and the recognition of a regulation services provider for unlisted debt securities market. For more details, please see section B(ii) below.

B. Market Regulation by a Regulation Services Provider

In 2000, the CSA published the ATS proposal without taking a position on how market regulation should be performed for the equity market. The request for comment invited industry participants to consider possible solutions. The CSA made it clear that it was willing to participate in discussions but was looking to the industry to propose alternatives for market regulation in the equity market. Eight commenters argued in favour of either direct regulation by the CSA or regulation by an independent self-regulatory organization (“SRO”).

In choosing a market regulator model, we will look at the following factors:

49 Section 9.2 of National Instrument 23-101.

- Regulation should clearly and effectively address legitimate concerns without unnecessarily restricting competition.
- The primary objective of the regulatory framework should be to promote open and effectively competitive markets.
- The regulatory environment should neither favour nor constrain the ability of particular market participants to compete in the market.
- The regulatory process should be impartial and not self-serving i.e. the governing body should broadly represent all aspects of the industry being regulated.
- Governance of an SRO should ensure the transparency of self-regulatory activities i.e. independent public membership should balance industry representation on the SRO's board of directors.
- An SRO should institute a formal complaint handling process.
- A regulatory scheme should allow for periodic assessment of its effectiveness and be subject to regular reviews, such as audits and the filing of annual reports.

(i) Exchange-Traded Securities and Foreign Exchange-Traded Securities

In response to the request for comment on the market regulation issue, the Toronto Stock Exchange (the "TSE") and the IDA outlined a proposal to regulate marketplaces trading exchange-traded securities and foreign exchange-traded securities. At the same time, TSE Regulation Services and the Canadian Venture Exchange Inc. developed the Universal Market Integrity Rules (the "UMI rules"). Those rules were published for comment by the Ontario Securities Commission on April 20, 2001. It is expected that the proposed regulation services provider will adopt and administer the UMI rules.

Market Regulation Services Inc. ("RS Inc."), a corporation to be jointly owned by the TSE and the IDA, has filed a draft application for recognition as a self-regulatory organization and as a regulation services provider with the Ontario Securities Commission. The application has not yet been published for comment. Once finalized, we will publish it for comment.

Initially, it is expected that RS Inc. will provide regulation services to the TSE, CDNX and other marketplaces that retain its services.

(ii) Unlisted Debt Securities

Currently, all IDA member dealers trading domestic debt are subject to IDA Policy No. 5. We have received a proposal from the IDA to provide regulation services to ATSS, inter-dealer bond brokers and dealers trading unlisted debt securities. This proposal is based on the requirements in IDA Policy No. 5. Until the proposal is finalized, we have provided an exemption to ATSS trading unlisted debt securities, inter-dealer bond brokers and dealers trading unlisted debt securities outside of a marketplace from the requirement to enter into an agreement with a regulation services provider if the ATS, inter-dealer bond broker or dealer complies with IDA Policy No. 5. IDA Policy No. 5 provides a regulatory regime that is tailored to the domestic debt market. It requires that dealers have

standards and procedures relating to the trading of unlisted debt securities, that dealers ensure that their personnel are properly trained and qualified and that internal controls are in place to ensure that customer dealings are carried out on a confidential basis. As well, the policy sets out specific requirements for dealing with customers and counterparties, standards relating to market conduct, enforcement provisions and specific reporting requirements.

We have provided an exemption for ATSs trading unlisted debt securities, inter-dealer bond brokers and dealers executing trades of unlisted debt securities outside of a marketplace from having to enter into an agreement with a regulation services provider pursuant to National Instrument 23-101. This exemption does not affect the requirement for an ATS to become a member of the IDA or the requirement for ATSs and dealers that are members of the IDA to comply with the IDA's requirements. The exemption does not apply after December 31, 2003. Until that date, we will work with the IDA and debt market participants to develop and implement an appropriate structure for the regulation of the unlisted debt market. To that end, the CSA and the IDA will engage in a fact-finding exercise to identify and address any market integrity issues. Once the exercise is complete, we will determine if additional steps need to be taken to regulate the unlisted debt market.

C. Audit Trail Requirements

Part 11 of National Instrument 21-101 imposes recordkeeping requirements on marketplaces. These requirements require a marketplace to keep electronic records of certain information about orders and trades, among other things. An ATS is required to transmit information in electronic form to a regulation services provider when required by the regulation services provider.

Part 12 of National Instrument 23-101 sets record keeping requirements about orders and trades that are applicable to dealers. Dealers must transmit information to a regulation services provider when requested by the regulation services provider. We recognize that many dealers do not currently keep their records in electronic form. Consequently, we have given dealers two years to develop electronic recordkeeping capabilities. Between the implementation of the ATS Rules and December 31, 2003, we will facilitate discussions with the industry to determine the steps and the technology necessary to have all dealers move to electronic recordkeeping.

6. TRANSITIONAL PROVISIONS

We have included a number of transitional provisions into the ATS Rules. This section summarizes those provisions and cross-references the sections of this Notice where detailed discussions of the provisions can be found.

A. *Transition for Transparency Requirements for Exchange-Traded Securities*

Section 7.5 of National Instrument 21-101 provides an exemption for ATSS that trade exchange-traded securities from providing order and trade information to an information processor, if the information is provided to an information vendor at a reasonable cost. This exemption does not apply after December 31, 2003. Please see Part 3A of this Notice for a discussion of data consolidation requirements and the exemption.

B. *Disclosure of Transaction Fees*

Section 10.2 of National Instrument 21-101 provides an exemption for a marketplace that executes trades of exchange-traded securities and foreign exchange-traded securities from disclosing a schedule of transaction fees to the information processor provided that the marketplace makes the schedule of transaction fees publicly available. This exemption is not available after December 31, 2003.

C. *Phase 1 and Phase 2 Integration*

We have provided for two phases of market integration. The first phase will require marketplaces to connect to the principal market for the securities traded on the marketplace. This phase continues until January 1, 2004. On and after January 1, 2004, the second phase will require either all marketplaces to enter into an agreement with the market integrator, or if there is no market integrator, to establish an electronic connection to all other marketplaces. Please see Part 4 of this Notice for a detailed discussion of market integration.

D. *Market Regulation*

National Instrument 23-101 provides that an ATS trading unlisted debt securities, an inter-dealer bond broker and a dealer trading unlisted debt securities outside of a marketplace do not have to enter into an agreement with a regulation services provider if the ATS, inter-dealer bond broker or dealer complies with IDA Policy No. 5. This exemption does not apply after December 31, 2003. Please see Part 5A(v) and Part 5B(ii) of this Notice.

E. *Audit Trail in Electronic Form*

We are only requiring dealers to record and transmit information to a regulation services provider in electronic form after December 31, 2003. Please see Part 5C of this Notice for a detailed discussion of this deferred requirement.

7. IMPLEMENTATION OF THE ATS RULES

The effective date of the ATS Rules is December 1, 2001.

On that date, all ATSS currently operating in Canada, must comply with the provisions of the ATS rules, including the requirement to be registered as a dealer in the appropriate jurisdictions.

If an ATS registered as a dealer in one jurisdiction in Canada provides access in another jurisdiction in Canada to subscribers who are not registered dealers under securities legislation, the ATS must be registered in that other jurisdiction. However, if all of the ATS's subscribers in the other jurisdiction are registered as dealers in that other jurisdiction, the securities regulatory authority in the other jurisdiction may consider granting the ATS an exemption from the requirement to register as a dealer under subsection 6.1(a) of National Instrument 21-101 and from the registration requirements of securities legislation.

We encourage those persons or companies currently operating or contemplating operating an ATS under the ATS Rules to contact the IDA and the appropriate securities regulatory authorities.

8. AUTHORITY FOR THE ATS RULES

The ATS Rules are being enacted in Manitoba as rules. In Manitoba, section 149.1(1) defines the authority of the Commission to enact rules. In particular, all or a portion of subsections 149(a)(j)(r)(w) and (dd) apply to the implementation of the ATS Rules.

9. ALTERNATIVES CONSIDERED

The Instrument provides an appropriate framework for the regulation of ATSS. Accordingly, no alternatives were considered to the adoption of the Instrument. Similarly, once ATSS begin operating in Canada, National Instrument 23-101 is necessary as ATSS are not allowed to set requirements governing member conduct. Consequently, no alternatives were considered to the adoption of National Instrument 23-101.

10. ANTICIPATED COSTS AND BENEFITS

National Instrument 21-101 allows ATSS to compete with traditional markets, like exchanges. Creating an environment that allows for competition among markets will give investors choices. We believe that allowing such competition will stimulate innovation and encourage markets to offer better features and services to their members and subscribers at lower costs.

National Instrument 21-101 also provides improved market transparency for all marketplaces as well as interlinkages of those marketplaces so that all buyers and sellers of a security have access to the best price for execution.

The requirements regarding systems capacity, integrity and security of systems provide several benefits to the marketplace and to investors. Marketplaces are increasingly reliant on technology and most of their functions are becoming highly automated. The ability of marketplaces to provide more reliable and consistent service in the market benefits investors and the markets.

National Instrument 21-101 imposes costs on ATs, exchanges and quotation and trade reporting systems as a result of the requirements imposed by the rules, including application procedures, access requirements, the requirement to adopt certain by-laws and rules, the requirements relating to pre-trade and post-trade transparency and market integration, and the requirements relating to capacity, integrity and security of systems. In particular, the notice, reporting and recordkeeping requirements will require marketplaces to file certain additional information. The requirements relating to capacity, integrity and security will also impose costs. However, smaller ATs will not be subject to certain requirements relating to capacity, integrity and security of systems.

In our view, the benefits of National Instrument 21-101 outweigh the costs.

National Instrument 23-101 benefits purchasers and sellers of securities in that they are designed to prohibit certain practices and to require other practices, all of which are necessary for the operation of fair and efficient capital markets. National Instrument 23-101 imposes compliance costs on persons or companies subject to National Instrument 23-101 in that it prohibits certain activities. It also imposes costs on marketplace participants in terms of the best execution rules. It also requires marketplaces to monitor and enforce compliance with certain of the provisions of National Instrument 23-101. In the view of the CSA, the benefits of the National Instrument 23-101 outweigh the costs.

11. QUESTIONS

Questions may be referred to any of:

Louyse Gauvin
Special Advisor to the Chair
British Columbia Securities Commission
(604) 899-6538 or (800) 373-6393 (in B.C.)

Robert Hudson
Manager, Capital Markets Regulation
British Columbia Securities Commission
(604) 899-6691 or (800) 373-6393 (in B.C.)

Glenda Campbell
Vice-Chair
Alberta Securities Commission
(403) 297-4230

Randee Pavalow
Director, Capital Markets
Ontario Securities Commission
(416) 593-8257

Tracey Stern
Legal Counsel, Market Regulation
Ontario Securities Commission
(416) 593-8167

Dave McCurdy
Technical Advisor
Ontario Securities Commission
(416) 593-3669

Diane Joly
Director, Research and Market Development
Commission des valeurs mobilières du Québec
(514) 940-2199, ext. 4551

Pierre Godin
Special Advisor to the Chair
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(514) 940-2199, ext. 4541

Nancy Martin
Assistant Counsel
The Manitoba Securities Commission
(204) 945-5070

The Manitoba Securities Commission
August 30, 2001

¹ Part 4 of National Instrument 23-101.

APPENDIX A

List of Commenters

The following submitted comment letters in response to the Request for Comments published at (2000), 23 OSCB 297 (Supp):

1. Toronto Dominion Securities Inc. (“TD Securities”)
2. Commissioner of Competition, Competition Bureau (“Competition Bureau”)
3. RBC Dominion Securities (“RBCDS”)
4. Ontario Municipal Employees Retirement Service (“OMERS”)
5. Ontario Teachers’ Pension Plan Board (“OTPPB”)
6. Bank of Canada
7. Barclays Global Investors Canada (“Barclays”)
8. Investment Dealers Association of Canada Capital Markets Committee and IDA Primary Dealer Money Market Committee (“IDA Committees”)
9. Swift Trade Securities Inc. (“Swift Trade”)
10. Canadian Securities Traders Association (“CSTA”)
11. ITG Canada Corp. (“ITG Canada”)
12. Canadian Pacific Investment Management Limited (“CPIM”)
13. Shorcan Brokers Limited (“Shorcan”)
14. Instinet Canada Limited (“Instinet Canada”)
15. Investors Group
16. The Canadian Depository for Securities Limited (“CDS”)
17. Bloomberg L.P. (“Bloomberg”)
18. Canadian Venture Exchange (“CDNX”)
19. Investment Dealers Association of Canada Equity Trading Committee (“ETC of IDA”)

20. Toronto Stock Exchange Inc. (“TSE”)
21. Instinet Fixed Income Inc. (“IFI”)
22. Ministry of Finance and Corporate Relations, British Columbia

SUMMARY OF COMMENTS RECEIVED AND CSA RESPONSE

DATA CONSOLIDATION	
<p>Definition of “data consolidator” and “information processor”</p>	<p>CDS - CDS requests that the definitions of “data consolidator” and “information processor” be clarified so as to reflect the distinction between the equities market and the fixed income market. They ask that the definitions be revised so that it is clear that the “information processor” role only pertains to fixed income securities.</p> <p><i>CSA Response: The CSA have decided to use one term “information processor” to describe the person or company that receives and distributes information. An information processor will collect and disseminate information for both exchange-traded securities and unlisted debt securities.</i></p>
<p>Five levels of information</p>	<p>ETC of IDA - The ETC is concerned that the requirement to display five levels of independent bid and offered prices in a decimal pricing systems may not be what the marketplace requires and may require a technology infrastructure more sophisticated and more costly than systems currently operational in equity markets. It may suffice to state the ultimate objective but simply require the publication of a national best bid/offer by the consolidator in Phase 1 and provide data vendors with the ability to create more complex market data displays.</p> <p><i>CSA Response: The specific requirements in NI 21-101 have been modified to state that the information to be displayed by the information processor will be in accordance with requirements set by the information processor. Through the use of an advisory committee, the CSA and information processor will determine the appropriate level of information that will be displayed. However, the CSA are of the view that at least five levels of information must be shown, if it is available.</i></p>
<p>Leave data consolidation to the industry</p>	<p>TSE - The TSE believe that the basic objectives of data consolidation can be achieved by using a phased approach employing existing infrastructure at a lower costs, provided that the CSA is flexible on the manner in which the data consolidator is organized and distributes the consolidated feed. The TSE recommends that the CSA mandate objectives of data consolidation but leave it to the markets and industry to best determine how to implement them.</p> <p><i>CSA Response: In order to see how the market develops, the CSA are requesting that the industry propose the appropriate model for data consolidation. The CSA have provided an exemption from the requirement to provide information to the information processor to those marketplaces that execute trades of exchange-traded securities. The exemption is not available</i></p>

	<p><i>after December 31, 2003. The industry has until that date to develop and implement a system that consolidates data.</i></p>
<p>Question 1:</p> <p>Should broker ID numbers be collected and disseminated by the data consolidator? If yes, should the customer decide whether the broker ID is disseminated?</p>	<p>TD Securities - TD Securities believes that any omission of broker designations on trades could lead to misinformation, decreased information transparency and reduced competition among market participants. TD Securities believes that broker numbers promote competition in the marketplace and play an important marketing and business enhancing role in the Canadian brokerage community.</p> <p>OTPPB - For <i>equity securities</i>, broker numbers should be collected by the data consolidator. The broker numbers should be disseminated by the data consolidator. When an institution wants to transact a large block of stock, it will determine which broker has been active in that stock. Without this information, institutions are forced to search for that broker, thus providing information to a number of market participants. This may lead to the movement of the price of the stock and may lead to guess-estimates of the size of the order which may lead to more volatility. The customer should not be able to decide whether the broker ID is disseminated.</p> <p>For <i>fixed income securities</i>, the question assumes brokers will facilitate all trades. This is not necessarily the case. A marketplace may be established that allows direct client to client transactions. These client to client transactions may or may not be on a name give-up basis. Commitment to traditional industry structures is not required. Activity levels of identified participants should not be disseminated, other than perhaps activities in Government of Canada bonds by primary dealers.</p> <p>Barclays - Broker ID numbers should be collected and disseminated by the data consolidator. Without this information, investors have to approach many dealers, leading to less favourable market conditions for large trades. In addition, settlement quality and credit quality of the broker can be important factors in deciding when to execute trades. It is also important to collect broker ID numbers to aid in compliance and investigations. Customers should not be able to decide whether broker ID numbers are disseminated.</p> <p>CSTA - Yes. It is imperative that the data consolidator provide as much relevant information as possible including broker ID numbers. Broker ID numbers are an important source of information, without which there will be decreased information transparency and competition for all market participants. Broker ID numbers play an important marketing and business enhancing role for the brokerage community, provide early and effective indications of unfair trading activity and are used extensively to monitor trades and traders by both the buy side and the sell side compliance officers. Customers should not have the ability to decide whether the broker ID number is disseminated.</p>

	<p>ITG Canada - As a general rule, broker ID numbers should be collected and disseminated, as it will improve information transparency and lead to increased competition among market participants. ITG Canada has some concern that the broker ID number could be used to piece together the identity of a client and as a result, believes that the client should be able to suppress the broker ID number.</p> <p>CPIM - The collection and dissemination of broker ID numbers should be continued by a data consolidator. The transparency and integrity of the Canadian equity auction market is reinforced by the exposure of broker numbers on all trades. Clients should not have the ability to remove broker numbers.</p> <p>Instinet Canada - Yes, as the collection and dissemination of broker ID numbers contributes to marketplace competition.</p> <p>Investors Group - Broker identification should be collected and disseminated by the data consolidator. The customer should not be the one that decides whether it is disseminated.</p> <p>CDNX - Broker ID numbers should be collected and disseminated by the data consolidator. In the junior market, this increases the possibility of the investor being able to identify and track the particular order in the marketplace. The information is also useful in helping to find liquidity quickly and efficiently.</p> <p>CSA Response: <i>The CSA has determined that it is up to the marketplace to decide whether broker identification numbers will be provided to the information processor.</i></p>
<p>MARKET REGULATION</p>	
<p>Market Regulation - Equity</p> <p>Question 2: Who should provide market regulation for ATSS? Please provide reasons for your answer.</p>	<p>TD Securities - Stock exchanges have conflicts of interest precluding them from carrying out market regulation of competing trading systems. Attempting to address conflicts through “process-driven” solutions such as a separate board of directors is not a substitute for true independence. TD Securities believes that the solution is to transfer the regulatory functions to an independent SRO, like the IDA. Pending such a solution, TD Securities is prepared to support the TSE’s independent regulation services unit provided measures are put in place to address conflicts of interest and prevent the TSE from influencing the market regulator. The CSA has an important role in dealing with disagreements if the ATSS perceive that market regulation is not sufficiently neutral.</p> <p>OTPPB - There are two avenues of market regulation. First, a separate market regulator should be established, independent of the exchanges and ATSS. The cost of funding the regulator could be covered by an imposition of a small tariff on trading. Second, the exchanges are in a conflict of interest with ATSS.</p>

Therefore, if they continue to have a regulatory role, it should be moved to a separate division or subsidiary.

Barclays - There are two preferences for the regulation of the equity markets. First, is for the CSA to provide direct regulation for exchanges and ATSS, with industry participation. The second preference is for a self-regulatory organization which will provide a level-playing field and will be overseen by the CSA. In either case, the cost can be financed by modest trading fees.

CSTA - Market regulation should be by the jurisdiction in which the ATS operates and resides. However, the regulation of ATSS by existing exchanges would raise a serious conflict of interest. One solution is for the ATS to be regulated by an SRO, like the IDA. Another solution is to see the exchanges move market regulation into separate divisions or subsidiaries.

ITG Canada - It is not clear that ATS could, at least initially, support the cost of establishing and operating a separate market regulator. Although ITG Canada shares the concerns that the regulation of competing trading systems by the exchanges may give rise to conflicts of interest, ITG Canada believes that these conflicts can be sufficiently mitigated where market regulation is performed by and by independent divisions or subsidiaries of the existing Canadian stock exchanges, provided that the surveillance functions are kept separate and apart from the “for-profit” activities of the exchange. As well, appropriate measures, such as corporate governance protections, should be established and agreed to by industry participants.

CPIM - An independent market regulator should oversee all markets and should report to the CSA.

Instinet Canada - Stock exchanges have widely recognized conflicts of interest which they must confront before they can be considered. The equities market regulator must be publically committed to a position of neutrality, must have a corporate governance structure that is consistent with that public commitment and must agree to a form of oversight by CSA members that affords prompt resolution of any perceived conflict.

Investors Group - The regulation of ATSS should not be placed in the hands of an organization that is in competition with them. Therefore, exchanges should not regulate ATSS. It is far from clear that conflicts of interest concerns can be addressed by having the exchange set up a separate division to handle market regulation. The authority should be vested in an SRO that has expertise and independence to provide the regulation.

CDNX - The minimal trading rules set out in the ATS Proposal will become the Canadian standard. There is no reason to believe that any exchange or ATS will pay the cost of exceeding minimum standards unless there is a commercial reason to do so. CDNX believes that the most appropriate solution would be the establishment of a single market regulation SRO representing trading systems and the users of the systems. Alternatively, there could be more than one SRO that would develop common trading rules and practices on core issues. Ideally, a new national regulator or a few regulators formed by Canadian SROs with appropriate organizational structures to avoid the perception of and risk of conflicts of interest would provide market regulation for ATSS.

Bloomberg - Bloomberg thinks that there is no self-evident answer to the question of market regulation in the Canadian securities market.

ETC of IDA - Representatives of the ETC and TSE have proposed a possible solution to the market regulation issue. They propose to create an affiliated corporate structure with management reporting to an independent Board of Directors. In the opinion of the ETC and TSE, the proposed structure addresses conflict of interest concerns via the governance model, provides a formal linkage to the member regulation SRO (the IDA), maintains a significant linkage to the principal marketplace (the TSE) and provides an avenue for bringing in other exchanges into the structure. The ETC suggests that it will be important that the CSA assign one principal securities commission with lead responsibility for senior equities, one for derivatives and one for the growth market.

TSE - The TSE believes that it is imperative that all market centres be covered by the SRO system to ensure high standards of conduct and market integrity across all markets in Canada and to provide a fair basis for competition without providing incentives to compete based on lower standards of market regulation. The TSE believes that the model proposed by the TSE and IDA will ensure investor protection and vigorous competition for trading services and promote an efficient, responsive equities market in Canada. The TSE argues that U.S. ECNs are regulated by NASD-R, which is considered to be a competitor. The TSE states that it does not carry out a member regulation function, but rather focusses on the regulation of equity markets. Notwithstanding this, the TSE has proposed to house Regulatory Services in a separate company. The TSE's proposed solution is akin to Nasdaq's except that, in the view of the TSE, the scope of potential conflicts is narrower in the TSE's case. The TSE submits that ATSS must be required to join an SRO that will have full powers to regulate all marketplaces and market participants or register as an exchange.

TSE Regulation Services Inc. is not intended to regulate the business operations of marketplaces, but to set standards of market integrity. The rules proposed will apply to all marketplaces. If created, Regulatory Services should adopt rules that

address the substance of the framework rules at a self-regulatory level. The CSA would not need to establish the trading rules. These rules will be harmonized with other SROs, like CDNX. The current model is designed to accommodate participation of other exchanges but it is initially designed to oversee trading in TSE securities. The CSA framework rules should be limited to those needed to cover activities of those outside SRO jurisdictions. Since ATSs would be members of the SRO, they would not have to contract with an approved agent., although that option should be available to an ATS that registers as an exchange.

Competition Bureau - Competition between stock exchanges and ATSs is in the best interest of consumers, the securities industry and the Canadian economy. A regulatory environment will stimulate innovation and encourage markets to be more responsive to the needs of participants. Industry self-regulation can also provide benefits in the public interest. Therefore, the Bureau does not oppose, in principle, industry regulation which can complement the *Competition Act* in establishing appropriate rules of conduct. However, self-regulation involves risks for the competitive process and therefore, the Bureau asks that a number of factors be considered. Regulation should clearly and effectively address legitimate concerns without unnecessarily restricting competition. The primary objective of the regulatory framework should be to promote open and effectively competitive markets. The regulatory environment should neither favour nor constrain the ability of particular market participants to compete in the market. The regulatory process must be impartial and not self-serving i.e. the governing body must broadly represent all aspects of the industry being regulated. Governance of the SRO should ensure transparency of self-regulatory activities i.e. independent public membership should balance industry representation on the SRO's board of directors. The SRO should institute a formal complaint handling process. A regulatory scheme should allow for periodic assessment of its effectiveness and be subject to regular reviews, such as audits, the filing of annual reports. Care must be taken when delegating enforcement powers to SROs.

CSA Response: The CSA are considering the TSE/IDA proposal. Factors to be considered in determining if the proposed entity should conduct market regulation will include the corporate governance structure and the scope of its activities. The CSA will closely monitor any entity performing a market regulation function to ensure conflicts of interest are appropriately addressed.

<p>Market Regulation - Fixed Income</p> <p>Question 3: Is it appropriate for the IDA to assume the role of market regulator for all participants in the debt market?</p>	<p>TD Securities - TD Securities submits that it is premature to give excess consideration to the selection of a market regulator for all participants in the debt market until the full implications of the ATS Proposal have been determined.</p> <p>OTPPB - Market regulation for ATSS should not be provided by the IDA. Members of this group act as principals and would not be expected to act in an objective manner. Concerns for fair treatment for all sides would be better answered by an independent body, such as the OSC. Further, the fixed income market is a market of sophisticated investors, many of which do not feel well represented by the IDA. In general, institutional money managers should not be regulated or represented by investment dealers, their agents or organizations associated with them who are direct market competitors.</p> <p>Barclays - No. There are many participants in the debt market and an SRO based on broker interests is not appropriate as the regulator of the entire marketplace.</p> <p>Bank of Canada - The Bank of Canada is not aware of the compelling reasons for market regulation to be introduced in the fixed income markets. They suggest a thorough examination of the costs and benefits. While the IDA may be a possible entity to be the market regulator, the Bank of Canada has some concerns. The IDA has regulatory jurisdiction over its members, which are only a sub-set of fixed income market participants. It would be necessary for the IDA to gain jurisdiction over all participants in the market. It is not clear how this would be accomplished. As well, the ATS Proposal implies a type of market surveillance that the IDA does not currently provide and may not be able to provide given its current structure and the level of resources that it applies to the task of surveillance.</p> <p>CPIM - The IDA should not be the market regulator for fixed income. There are many participants in the debt market whose interests conflict with the interests of the members of the IDA.</p> <p>Shorcan - Shorcan believes that the IDA has a natural and long-standing interest in the Canadian debt markets. If the IDA is to assume the role of market regulator, the IDA must publically confront and address the potential for conflicts of interest presented by the fact that the IDA members are intimately involved in the debt market, are likely to be sponsors of ATSS in the fixed market, competing with IDBs and may take part in IDA committees that directly regulate or propose rules for the regulation of the fixed income market. The use of independent directors, independent staff or some other means must be introduced to ensure fairness to all stakeholders. Members of the IDA must suggest solutions to reconcile conflicts that may arise from simultaneously participating in the formulation of regulation, the establishment of transparency</p>
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	<p>vehicles such as CanPX and acting as customers and owners of IDBs.</p> <p>Investors Group - The IDA has a role to play in the regulation of participants in the debt market, although, perhaps others like the Federal Office of the Superintendent of Financial Institutions should also be involved. Given that the IDA is controlled by its members, many of whom are active in the debt market, conflict of interest concerns could be addressed by having the IDA spin off its regulatory aspects, like NASD-R.</p> <p><i>CSA Response: The CSA recognize the potential existence of conflicts of interest that exist in any self-regulatory organization. The role of the regulator, through its oversight, is to ensure that these conflicts do not result in decision-making that is contrary to the public interest and that the corporate governance structure is appropriate.</i></p>
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SECURITIES TRADED ON AN ATS

<p>Restrict trading on ATSS</p>	<p>CDNX - It is CDNX’s position that by not requiring issuers to be listed on an exchange or registered with a securities regulator, the potential for reputational damage to the Canadian capital markets is significant. CDNX is concerned that there may be an assumption that all Canadian companies will be listed on a Canadian exchange or foreign stocks will be listed in a jurisdiction with comparable standards. The ATS Proposal allows those companies that want to avoid scrutiny to go public outside of the closed system and make a Canadian ATS their principal or sole marketplace, while avoiding the reporting issuer obligations in securities legislation. CDNX proposes that the solution to this problem is to amend the ATS Proposal to restrict trading to issuers listed in an enumerated list of recognized jurisdictions. To do so will mean that in order to be competitive, an exchange will have to adjust its standards to world norms. In the opinion of CDNX, this would mean a significant change for CDNX, which has the most significant regulation of any exchange.</p> <p>ETC of IDA - While the ETC is generally supportive of the deletion of the definition of “ATS security”, it suggests that ATS trading be limited to listed and unlisted securities of Canadian reporting issuers and foreign securities listed on a bona fide foreign stock exchange.</p> <p>TSE - The TSE recommends that ATSS should not be permitted to trade securities of issuers which are not listed on an exchange (Canadian or foreign) recognized as having acceptable listing requirements and sound regulatory oversight of its listed issuers. This would prevent ATSS from becoming a new home for trading in unlisted penny stocks.</p> <p><i>CSA Response: The CSA have amended the rule so that ATSS are only</i></p>
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	<p><i>permitted to trade exchange-traded securities (as defined in the Instrument), government and corporate debt securities and foreign exchange-traded securities.</i></p>
<p>INFORMATION TRANSPARENCY REQUIREMENTS</p>	
<p>Equity vs. Fixed Income</p>	<p>TD Securities - The fixed income markets in Canada are multiple-dealer, debt markets with sophisticated participants. These markets are inherently decentralized and there does not exist a primary or central marketplace for fixed income trading. The model proposed in the ATS Proposal is designed based on equity markets and not fixed income markets.</p> <p>RBCDS - RBCDS states that much of the terminology used in the ATS Proposal is not applicable to the bond market and the model of a centralized market with customer limit orders improving the bid-ask is equity specific.</p> <p>OTPPB - Fixed income markets are different from equity markets. Major differences come from the characteristics of each market and position risks.</p> <p>IDA Committees - The structure of the debt and equity markets in Canada are fundamentally different and demand different trading rules and organizational framework. These differences also have different implications. By moving beyond the wholesale marketplace to include requirements applying to market makers and other marketplaces, CSA staff have failed to take fully into account certain characteristics of debt markets, notably that dealing prices on many debt securities are made on demand and not part of a continuous and regular market-making process, prices vary significantly by individual transaction size, that prices are often discontinuous and that debt prices signal underlying inventory positions in dealing books.</p> <p>Shorcan - The underlying nature of the equity and fixed income markets are different. The equity market is better suited to the concept of an integrated limit order book than the fixed income market.</p> <p>IFI - It is IFI's belief that the ATS Proposal is heavily influenced by the needs of the equity market. Some aspects of the proposal would be detrimental to the fixed income markets and the ATSs participating in them.</p> <p><i>CSA Response: The CSA acknowledge in the ATS Rules that the fixed income market is different than the equity market. The debt market is mostly an over-the-counter dealer market and the CSA recognize that different treatment is necessary. Therefore, different information transparency and market regulation requirements have been imposed on the fixed income market.</i></p>
<p>Information</p>	<p>TD Securities - While the ATS Proposal will increase transparency, the</p>

<p>Transparency Requirements for Debt Securities and Liquidity</p>	<p>resulting environment may significantly reduce the willingness of dealers to play the market-making role by lowering bid-ask spreads to the point where the risk for a market maker associated with supplying continuity to a market is simply not adequately rewarded.</p> <p>RBCDS - RBCDS believes that increasing transparency to the level of real-time full disclosure of all trades will seriously reduce the liquidity of the market. Market liquidity is reduced if the identity of the seller and buyer are revealed to the market and price discovery does not depend on this knowledge.</p> <p>OMERS - OMERS is concerned that broker/dealers may be reluctant to commit capital currently employed in an entirely transparent system. OMERS is generally in favour of better disclosure and reporting practices for the Canadian securities markets. However, they have concerns that the ATS Proposal mandates a higher level of transparency of the debt markets than anywhere else in the world and will have a negative impact on liquidity.</p> <p>OTPPB - Publishing names and transactions could seriously damage liquidity in the fixed income markets because the potential counterparty to a hedging strategy will be reticent to take on a position if the position is to be revealed to the market. The premise that transparency is of primary importance is wrong. Liquidity and the ability to derive a relative value analysis is of primary importance. Transparency is only important in auction processes and dealing practices.</p> <p>IDA Committees - Since quoted bid and offered prices relate to underlying inventory positions of dealers, display of this information would expose dealing positions and make market makers reluctant to quote prices on a continuous basis, thus damaging liquidity and the price discovery process. Exposure risks would be more pronounced in less liquid markets suggesting that mandated display of market data on corporate securities would have serious repercussions for liquidity. Further, the display of this dealing information could signal trading intentions of institutional investors that could discourage their participation in secondary markets. Reduced trading activity by dealers and investors will widen bid-offered spreads and raise borrowing costs.</p> <p>Bank of Canada - The CSA's transparency requirements for fixed income markets are extremely far-reaching compared to the requirements in other countries. It is predominantly the proposed increase in <i>post-trade</i> levels of transparency that poses a potentially detrimental impact on the liquidity of the fixed income market. The real-time display of customer-dealer trades has two interrelated detrimental effects on the dealer's willingness to provide liquidity. First, it reduces the dealer's desire to compete for customer order flow since they can no longer profit from their proprietary order flow information. Second, is</p>
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that the market becomes instantaneously informed about the potentially large customer orders hitting the market. This causes the dealers, who conduct principal trading and not agency trading, to incur greater inventory management risks as other dealers who observe this order flow will pre-emptively move their quotes in the inter-dealer market, which raises the dealer's inventory risk management costs. These costs will be passed onto institutional investors in the form of wider bid-ask spreads and smaller depth, thus reducing market liquidity. The reduction in market liquidity can be mitigated by allowing some degree of delayed trade reporting, which allows dealers time to lay off their inventory risk at lower cost and by reducing the precision of the information on the size of the order transacted, which helps keep the incentive for dealers to compete for customer order flow intact.

Pre-trade transparency - The ATS Proposal requires IDBs to provide information on all securities traded to the information processor. This amounts to an institutionalization of CanPX and is unlikely to be contentious. The requirement for market makers to provide information is difficult to interpret. While customers do place limit orders with dealers, one does not usually think of market makers placing orders in that sense (except with IDBs). The Bank of Canada is of the view that the CSA must clarify some ambiguities in the ATS Proposal. In the customer sphere, "market maker order" would most likely be the quotes on securities that dealers offer in response to customer requests or firm quotes on smaller trade sizes posted by dealers on some securities. The problem is that dealers in the fixed income market do not continuously offer quotes. If market makers are required to submit quotes that they make, the entire market will know that someone is looking to buy or sell a certain amount of a certain security. Under this scenario, post-trade information is redundant. The Bank of Canada has long advocated increased transparency in fixed income markets from a base of near-zero transparency. However, there is evidence that some positive amount of quote and trade disclosure improves market efficiency and liquidity but that too much will negatively impact markets.

BC Ministry of Finance and Corporate Relations - As an issuer of debt securities, the Province of British Columbia is concerned that some of the proposed changes may result in a fundamental change in the operation of the Canadian fixed-income market, which we believe will have a negative impact. The proposed changes of most concern are those that are aimed at enhancing transparency and liquidity in the Canadian fixed-income market. It is our belief that some of the transparency requirements being put forth will actually reduce liquidity in the Canadian fixed-income market. In particular, we believe that the requirement of complete and immediate pre- and post-trade transparency will make dealers less likely to make markets in fixed-income securities. This will obviously affect liquidity in the fixed income market and that ultimately will negatively impact costs for market participants in this market. We are concerned

	<p>that the effect on market liquidity will be felt to a greater degree in less liquid markets, such as the provincial markets.</p> <p>As the issuance of government debt has grown less frequent in the last few years, liquidity in these securities has continually become more of an important factor in the determinant of a security's value and also our cost to issue these securities. In recent years, the Province of British Columbia has been working towards creating liquid benchmark bonds in the market, and for which dealers are willing to actively make markets. The changes outlined in the ATS proposal would undermine this effort and inevitably increase issuance costs for the province.</p> <p><i>CSA Response: It is the intent of the CSA to move forward on the ATS and IDB requirements for transparency. CanPX has filed an application to become the information processor for unlisted debt securities. The CSA have refined the transparency requirements for the fixed income market to reflect discussions with market participants, issuers, the Bank of Canada, the IDA and the Department of Finance. These adjustments reflect the unique nature of the debt market and the fact that it is an over-the-counter dealer market.</i></p>
<p>Lack of initial data consolidation and market integration</p>	<p>CDNX - CDNX is concerned that the ATS Proposal does not require that data consolidation and market integration be operational when the National Instruments are implemented.</p> <p><i>CSA Response: Without any certainty as to which and how many marketplaces will be operating in Canada, the CSA are of the view that a transitional period for both data consolidation and market integration is appropriate.</i></p>
<p>Display Requirements for Marketplaces</p> <p>(National Instrument 21-101, Parts 7 and 8)</p>	<p>Bank of Canada - The trading of certain innovative trading systems are predicated on the assumption of zero pre-trade transparency, for example, periodic call auction systems. This type of system would presumably be prevented from operating in Canada under the ATS Proposal's pre-trade transparency requirements.</p> <p><i>CSA Response: The requirements for pre-trade transparency only require that marketplaces provide information to the information processor if the marketplace displays the pre-trade information to other participants in the marketplace. Those systems that run an anonymous call auction do not display orders and therefore are not subject to the transparency requirements.</i></p>
<p>Exemption from Display Requirements for Debt Securities</p>	<p>TD Securities - TD Securities is of the opinion that the CanPX approach should be used. Accordingly, TD Securities does not recommend an exemption from the display requirement based on the value of the order. Rather, in keeping with the CanPX model, the display requirement should be left to the discretion of the</p>

<p>Question 4: Should there be an exemption from the display requirement for debt securities based on the value of the order or some other criteria? If so what should the criteria be?</p> <p>(National Instrument 23-101, Part 6)</p>	<p>dealer because the dealer is the “customer” and the dealer’s display preferences should be respected. The CanPX model makes transparent on a real-time basis all orders in relation to “designated issues” that are either displayed or completed through inter-dealer bond broker screens. Historically, however, bilateral trading activity between dealers away from the IDB obligation has not been the subject of display requirements and should remain that way because it achieves the right balance between the customer’s need to access the inside market’s bid/ask spread and the dealer’s need to manage its own position.</p> <p>OTPPB - Presentation of transactional information from an electronic marketplace in standardized and relatively liquid securities such as benchmark GOC bonds is sufficient. A requirement of full disclosure on all activities is not necessary and could substantially reduce the efficiency of the market. Where information is available on blocks of illiquid securities, its presentation should be limited to transactions of a minimum size, i.e blocks of \$5 million+ traded. The display of large block orders is not advisable in the debt market.</p> <p>Barclays - Yes. The criteria should be based on the dollar value of the order. This threshold may need to differ between government and corporate bonds.</p> <p>CPIM - CPIM does not believe that there should be a display requirement for debt securities. Transparency is useful to an investor only to the extent that it improves liquidity and/or efficiency. It is their opinion that their ability to execute in the debt market is high and so transparency in the debt market is likely close to optimal.</p> <p>Investors Group - Clients should not be able to determine how much of their order is displayed. They should not have to display “intention”. All actual orders should be displayed and there should be no exemption based on value or other criteria.</p> <p>CSA Response: <i>The CSA have amended the transparency requirements for unlisted debt securities for IDBs. Although there will be no exemption from the display requirements for unlisted debt securities based on the value of the order, the trade volume to be displayed for corporate debt securities will depend on the value of the transaction.</i></p>
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<p>Definition of Market Maker</p> <p>Question 5: Is the definition of market maker appropriate?</p> <p>(National Instrument 23-101, section 1.1)</p>	<p>OTPPB - The definition is appropriate. However, few players today will commit to providing a bid and offer at all times. There are a wide variety of practices followed by dealers and different spectrums of risk are assumed.</p> <p>Barclays - Yes.</p> <p>IDA Committees - For many government securities, particularly securities issued by smaller provinces, municipalities and crown corporations, and virtually all corporate securities, including investment grade bonds, dealers quote selectively on demand from clients. For these securities, dealing activity would fall outside the definition of “market maker” and pre-trade and post-trade information would not be provided.</p> <p>CPIM - CPIM agrees with the definition.</p> <p>Investors Group - The definition would appear to be appropriate.</p> <p><i>CSA Response: The CSA have removed the requirements applicable to market makers and have therefore deleted the definition of “market maker”. These requirements have been replaced with requirements applicable to dealers.</i></p>
<p>Timing of Providing Pre-Trade Information for Debt Securities</p> <p>Question 6: Should requirements imposed on market makers to provide pre-trade information for the debt market be implemented on a gradual basis? What information should be provided? When should this information be provided initially? If information is provided on an end of day basis, what time is appropriate?</p>	<p>TD Securities - TD Securities believes that the CanPX model should be followed with the result that real-time rather than delayed data should be used. The only circumstance in which departures from real-time dissemination should be allowed is where there are compelling technological reasons.</p> <p>OTPPB - The proposed obligation will work for orders that IDBs and ATSS have but not for others. The obligation to present all trade interest is difficult to fulfil and not always applicable. The dealers already have a vehicle for the presentation of market interests in IDB screens. These, along with information available on ATSS, is enough.</p> <p>RBCDS -The definition of an order implies that a market maker who, upon request, verbally shows a customer a bid within the quoted market for securities must disclose the bid to the marketplace whether the transaction occurs or not. In fact, any time a market maker quotes a bid or offer which is inside the quoted market (posted on IDB screen), it must be reported. This will discourage all dealers from bidding or offering competitively and from accepting customer orders that are within the quoted market due to increased reporting requirements.</p> <p>Barclays - The requirements imposed on market makers should not be imposed on a gradual basis. If the rationale for providing the information is to create more transparency and to draw out hidden liquidity, then providing it once per day does not serve that purpose. The information should include bid/offer, size, price</p>

<p>Is it appropriate to require this information be provided in real time in one year?</p>	<p>and yield to maturity. Information should be provided in real-time or as close to real-time as possible. End-of-day timing precludes it from being pre-trade information. The information should be provided as soon as technically possible (sooner than one year).</p> <p>CPIM - CPIM believes that market makers should not be required to provide pre-trade information. As customers, their ability to efficiently execute the most elementary transactions would be compromised if market makers had to provide pre-trade information.</p> <p>Investors Group - Market makers should be required to provide pre-trade information on a real-time basis as soon as possible.</p> <p>IDA Committees - If pre-trade and post-trade information is mandated, it would not be helpful to investors because most pre-trade prices would not be immediately executed and that intermittent dealing activity in these securities would result in a discontinuous pattern of pricing as market conditions change. As well, pre-trade and post-trade prices on debt securities depend on the transaction size, reflecting the inclusion of dealer mark-ups and settlement costs. Consequently, prices on similar debt securities can vary significantly. The information would be confusing to investors.</p> <p><i>CSA Response: IDBs and marketplaces will have to provide pre-trade information on government debt securities in real-time. At this time, there will be no dealer obligation to display pre-trade information regarding government debt securities or corporate debt securities.</i></p>
<p>Pre-trade Information on only Most Liquid Debt Securities?</p> <p>Question 7: Should information only be required on a pre-trade basis for the most liquid debt securities or based on some other criteria? How should “most liquid” debt securities be defined? What information should</p>	<p>TD Securities - The information should be supplied in relation to all debt securities thought to be of importance. This result is achieved in the CanPX model by using the concept of “designated issues” i.e. preselected securities including benchmark issues for information display and dissemination.</p> <p>OTPPB - It will be impossible to enforce capturing even a small portion of pre-trade information in the fixed income markets. Pre-trade information from clients to dealers should be presented only at the request of those who would wish to post their interests.</p> <p>Barclays - Information should be required only for the most liquid debt securities. However, this does not preclude participants from providing information for other less liquid securities. The most liquid securities could be defined as GOC bonds, federal agencies and large provincial and corporate issues. Large issues would be those over \$250 million in size outstanding. This information should include bid/offer, size, price and yield to maturity.</p>

<p>be provided?</p>	<p>Investors Group - As much pre-trade information should be provided as possible. Restricting this to “the most liquid” debt security goes against this principle. Any definition of “most liquid” is problematic.</p> <p><i>CSA Response: IDBs and marketplaces will have to provide pre-trade information on government debt securities in real-time. At this time, there will be no dealer obligation to display pre-trade information regarding government debt securities or corporate debt securities.</i></p>
<p>Timing of Providing Post-Trade Information for Debt Securities</p> <p>Question 8: Should requirements imposed on market makers to provide post-trade information for the debt market be implemented on a gradual basis? If so, when should this information be provided in initially? If information is provided on an end of day basis, what time is appropriate? Is it appropriate to require this information be provided in real time in one year?</p>	<p>TD Securities - TD Securities believes that the CanPX model should be followed with the result that real-time rather than delayed data should be used. The only circumstance in which departures from real-time dissemination should be allowed is where there are compelling technological reasons.</p> <p>OTPPB - Post-trade information should consist of only summaries of transactions on IDBs or ATSS. Disclosure of all transactions is unfair since such information could easily be used to the investor or dealer’s disadvantage in illiquid securities without material benefit to the market.</p> <p>Barclays - Information about post-trade information should be imposed on a gradual basis. It is less critical to draw out hidden liquidity than for pre-trade information. The information should be provided each trading day by 4:00 PM. It is appropriate to require this information within one year.</p> <p>CPIM - A requirement to provide post-trade information, while useful for customers will almost certainly inhibit the willingness of market makers to enter into transactions in debt securities. It should be noted that there is no effective “end of day” in trading debt securities since they are traded globally. There is a gap of 2-3 hours after 5 pm New York time. Currently, a market maker who takes on a large position late in the day in Toronto, passes the book to Tokyo who then passes it to London. If required to display the trade information at the end of the day in Toronto, they would be forced to disclose their position before they had time to work it off.</p> <p>Investor Group - As with pre-trade information, market makers should be required to provide post-trade information on a real-time basis as soon as possible.</p> <p><i>CSA Response: IDBs and marketplaces will have to provide post-trade information on government debt securities in real-time. At this time, there will be no dealer obligation to display post-information regarding government debt securities. With respect to corporate debt securities, IDBs and dealers will initially have to provide trade reports for a list of at least 20 corporate securities. The trade reports must be reported within one hour of the trade. The list of corporate bonds may be expanded, depending on the effect of</i></p>

	<p><i>transparency on the market and the recommendations of the information processor. All information must be provided as required by the information processor.</i></p>
<p>Post-trade Information on only Most Liquid Debt Securities?</p> <p>Question 9: Should information only be required on a post-trade basis for the most liquid debt securities? How would “most liquid” debt securities be defined?</p>	<p>TD Securities - The information should be supplied in relation to all debt securities thought to be of importance. This result is achieved in the CanPX model by using the concept of “designated issues” i.e. preselected securities including benchmark issues for information display and dissemination.</p> <p>OTPPB - With respect to post-trade information, information should be available on only the most liquid debt securities - i.e. on GOC bonds.</p> <p>Barclays - The more information the market has the better it will be served. The preference is to see this information provided for all securities, not just the most liquid ones.</p> <p>Investors Group - Restricting any information to the most liquid securities is inconsistent with the principles of transparency. Again, defining “ most liquid” would not be simple.</p> <p><i>CSA Response: For government securities, trade reports will be required for benchmark and designated government securities and an initial list of at least 20 corporate securities traded by IDBs and dealers. These securities will be determined by the information processor and all information must be provided as required by the information processor.</i></p>
<p>Specific Display Requirements for Debt Securities</p> <p>Question 10: Should the CSA follow a similar approach [as the U.S.]?</p>	<p>TD Securities - The market for corporate bonds has traditionally represented a relatively insignificant portion of fixed income trading in Canada and the economic argument for providing a special reporting and transaction dissemination facility would have to be made to justify such a facility. TD Securities has no objection in principle to this innovation, provided that it is economically viable.</p> <p>OTPPB - A similar approach is advisable.</p> <p>Barclays - No. It is appropriate to see full information for all trades.</p> <p>Investors Group - Trade report information should contain as much information as possible.</p> <p><i>CSA Response: The CSA will implement a volume dissemination cap with respect to corporate debt securities traded by IDBS and dealers. Post-trade volume amounts of up to \$2million and \$2million+ for investment grade debt securities and up to \$200,000 and \$200,000+ for non-investment grade debt securities will be displayed. This approach is similar to the U.S. approach</i></p>

	<p><i>which requires display of trading volumes for investment-grade corporate debt securities up to \$5 million and above that amount, 5MM+ and for non-investment grade corporate debt securities up to \$2 million and above that amount, 2MM+.</i></p>
Costs	<p>RBCDS - RBCDS is of the view that real-time full disclosure will increase the costs for all participants. The ATS Proposal may improve price discovery for the small investor, but will do little for his execution costs while dramatically increasing the execution costs of institutional investors.</p> <p>IDA Committees - Transparency efforts will lead to increased borrowing costs and significant costs that will be borne by the industry and investors. The CanPX project has cost IDA member firms \$500,000 since the early 1990's. Requirements to expand the systems to incorporate market information from dealing desks and ATSs will require expanded infrastructure and related expenditure. The significant costs of a modified CanPX system will not be recouped from the sale of information, causing costs to be absorbed by dealers or passed through to investors.</p> <p>Bank of Canada - The transparency requirements will increase the market impact costs faced by both customers and dealers in the course of their trades. As liquidity in secondary markets falls, borrowing costs for issuers rise.</p> <p>CSA Response: <i>Commenters have provided no evidence supporting the contention that transparency will actually increase costs to investors, especially if bid-ask spreads narrow. It is not the intention of the CSA to impose a level of transparency that would significantly affect market impact costs. The CSA recognize that dealers may have costs to comply with the ATS Rules, but this is true whenever new requirements are imposed.</i></p>

<p>Current Market Information Available</p>	<p>RBCDS - RBCDS and many other dealers provide data intraday to Reuters, Telerate, Bloomberg or other information vendors, as well as end of day pricing to the Globe and Mail. The data includes data on all Government of Canada benchmark bonds and selected Provincial Government and corporate bonds. While not all-inclusive, the list of bonds quoted represents the majority of bonds traded by volume on most days. RBCDS believes that general market pricing is reasonably available to most market participants and that efforts should be focussed on consolidating this information before increasing the burden and cost of providing more detailed trade data.</p> <p>IDA Committees - Market information for actively traded benchmark and “off-the-run” government securities from the liquid wholesale market, as provided by CanPX, provide an unambiguous reference or benchmark for institutional and retail investors to assess security value in the marketplace. The information is supplemented by indicative price information on actively traded bond and money market securities available through an array of internet websites and information service providers.</p> <p>Bank of Canada - One source of price information available to customers in the inter-dealer sphere is CanPX. CanPX was designed to display the best bid and ask orders and transactions on Canada’s inter-dealer bond brokers (dealers have access to the information on any of the IDBs for which they have screens). While availability has been unpredictable, and the range of bonds on the system is limited, CanPX represents a significant step forward.</p> <p><i>CSA Response: The CSA recognizes that CanPX information provides valuable information for government debt securities from inter-dealer bond brokers. It is the intention of the CSA to work with the information processor for unlisted debt securities to expand the securities shown on its screens to include corporate debt securities traded by dealers and IDBs and the unlisted debt securities traded by ATs.</i></p>
<p>INTER-DEALER BOND BROKERS</p>	
<p>Effect of Debt Market Transparency on IDBs</p>	<p>Shorcan - Shorcan and other IDBs are affected by the transparency introduced by CanPX to the brokered segment of the market. Over the years, 40% of the trades in Canadian government debt securities occur through IDB systems. The balance occur in the non-broker market, that is dealer/account trades plus dealer/dealer direct trading. If the impact of the CanPX system is to drain away trading volume from the brokered/visible segments of the market to the non-brokered segment, there will be implications. The disparity in transparency requirements between brokered and non-brokered segments of the market will have to be addressed and the regulatory approach should be revisited on the basis of fairness and the fact that the objective of transparency will be</p>

	<p>undermined by the drain off in liquidity in favour of the less transparent market. If electronic trading vehicles emerge which choose not to regulate themselves as IDBs, and therefore escape from having to contribute to CanPX, the burden of providing transparency would have been shared inequitably among market participants, with IDBs shouldering a large burden.</p> <p>CSA Response: <i>The CSA agree that to the extent it is appropriate, similar levels of transparency should be imposed on all marketplace participants. The ATS Rules provide that all marketplaces and IDBs provide information relating to government debt securities. In addition, IDBs and dealers will provide the same amount of transparency for corporate debt securities.</i></p>
<p>Question 12: Is Regulation 2100 of the IDA still appropriate?</p>	<p>TD Securities - Though current IDBs will not be regulated as marketplaces under the ATS Proposal, it will still be possible for new ATSs to operate in the fixed income market. If the ATSs are configured so that the current customers of dealers can interact with other customers of dealers, the structure of the current market will be so radically changed that Regulation 2100 may be too narrow and IDB specific to be of continuing utility. It seems possible that parties not currently eligible to participate in IDB systems would have an incentive to form ATSs which would put IDA members subject to Regulation 2100 at a disadvantage.</p> <p>OTPPB - This prohibition is no longer appropriate. Activity on IDB screens is largely public in today's debt markets anyway.</p> <p>Barclays - The portion of Regulation 2100 that prohibits inter-dealer bond brokers from dealing with anyone other than IDA members and Canadian chartered banks is no longer appropriate. It would prevent such brokers from becoming ATSs.</p> <p>Investors Group - The rules should not prevent inter-dealer bond brokers from becoming ATSs, as long as concerns about credit worthiness are effectively addressed.</p> <p>Shorcan - Regulation 2100 is specific to the market as it exists today. If ATSs emerge which give institutional purchasers of fixed income instruments greater participation in the wholesale market than they currently enjoy, it is likely that Regulation 2100 will have to be significantly overhauled or abandoned in favour of the ATS Proposal.</p> <p>CSA Response: <i>The CSA have requested that the IDA amend Regulation 2100.4(a). An IDB is now provided with the choice of maintaining its status as an IDB under the rules of the IDA or becoming an ATS and being governed by all of the requirements imposed onto marketplaces under the ATS Rules. If the IDB chooses to become a marketplace, the IDB will be exempt from</i></p>

Regulation 2100 and IDA by-law 36.

INFORMATION PROCESSOR

(National Instrument 21-101, Part 15)

Requirements for the Information Processor

Question 11:

Are there any other requirements that should apply to the information processor?

TD Securities - TD Securities notes that the decision was made to proceed with the appointment of an information processor without resorting to a request for proposals. They suggests that the CSA review (i) a business plan with pro forma financial statements and estimates of revenue, (ii) a statement of whether the information processor will employ its own people or rely on third parties for outsourcing and (iii) provisions for the communication to the CSA of material changes to operations including commencement of new businesses, the completion of, or proposal to effect, a change of control transaction and the like. Exhibit K in Form 21-101F5 should deal explicitly with procedures for safeguarding the confidentiality of information received.

Shorcan - Shorcan submits that the role of the information processor should be strictly enough circumscribed that it does not emerge as a competitor of the very participants who are supplying the data that makes it transparent. The information processor should not have a means or an incentive to use its role to enjoy an advantage over other market contributors with whom the processor may directly or indirectly be in competition.

Investors Group - It is unclear whether any additional requirements other than those proposed in the notice should apply to the information processor.

CSA Response: *The CSA adopt the recommendation to review a business plan, statement of whether the information processor will employ its own people and provisions for the communication of material changes to the CSA. The role of the information processor is not intended to be a competitor of the participants who are supplying data. The CSA will conduct oversight on the information processor to ensure that all potential conflicts of interest are appropriately addressed.*

MARKET INTEGRATION

Systems Solution

IFI - The ATS Proposal, as it relates to market integration, does not directly address certain technological implications. The connection between marketplaces must be acceptable to marketplaces and must not degrade the participating ATSs' systems by lowering their speed or making them less reliable. As well, interconnecting would be difficult, time consuming and expensive. ATSs each have their own technology platforms. The market integrator needs to work out a plan to ensure that the cost and time necessary to achieve connectivity is minimized. In addition, developing a suitable interface to other ATSs or to a market integrator should be a cooperative effort undertaken

	<p>by the market integrator in consultation with ATSS so that there is minimal time lost in arriving at the correct interface solution.</p> <p><i>CSA Response: The CSA imposed a staged approach in order to meet the needs of the market and its participants. The CSA are flexible as to the appropriate technological solution.</i></p>
<p>“Double Jeopardy” in Order Execution</p>	<p>IFI - One of the obstacles of posting bids and offers from other ATSS on an ATSS is the “double jeopardy problem” which occurs if the bids and offers of competitors appears on its screens and on IFI’s at the same time. It is possible that clients may respond to the same bid or offer at the same time, resulting in a purchase or sale of twice the amount actually available. Technical solutions are available to avoid such an outcome but such solutions can contribute to latency problems (time between posting of an order and its display to all participants) and create client frustration when they cannot immediately execute what they see on the screen while the system checks for double jeopardy events.</p> <p><i>CSA Response: Each marketplace system must establish systems to avoid double jeopardy and to inform participants how to enter orders. When any marketplace sends an order to another system for execution, it should have a reasonable expectation that orders will be filled immediately.</i></p>
<p>Costs and Pricing</p>	<p>IFI - How will ATSS make a profit from transactions which cross their systems? Currently, ATSS use transaction pricing as a competitive tool. The market integration plan omits information necessary for ATSS to assess the financial viability of participating in the new system. Any protocol selected for achieving market integration must be articulated for and accepted by the ATSS community to ensure that there is a reasonable assurance of acceptable revenue when orders are executed across marketplaces.</p> <p><i>CSA Response: Market integration should not have a negative impact on an ATSS’s ability to charge prices and collect revenue in that the ATSS will be able to charge a transaction fee for all trades executed in its system. The ATSS should develop a business model that is not based on receiving orders from other markets but rather from receiving and executing orders on its own system.</i></p>
<p>Trade Integration</p>	<p>TSE - The TSE submits that there are three potential solutions for integrating trading in order to transmit marketable orders to the market centre with the best available price: (a) a central integrator which routes all orders across all marketplaces; (b) a distributed model which allows for multiple providers of best market order routing capabilities; and (c) a market centre approach, with each marketplace being capable of routing orders to another marketplace. All have advantages and disadvantages. A central solution, suggests the TSE, would provide all participants with the same routing facilities and will involve network</p>

	<p>transmission delays that impact the handling of orders.</p> <p><i>CSA Response: The CSA have provided a model for Phase I Market Integration and will consider what model is the appropriate model for Phase II.</i></p>
<p>COMMENTS ON SPECIFIC SECTIONS OF NATIONAL INSTRUMENT 21-101</p>	
<p>Definition of Marketplace</p> <p>(National Instrument 21-101, Part 1)</p>	<p>Bloomberg - Bloomberg suggests that the definition of “marketplace” specifically include exclusions for single-dealer quotation systems, order-routing systems, systems that automate the activities of registered market makers and electronic bulletin boards, as done in Rule ATS in the United States. In addition, the CSA should provide guidance as to when order-routing systems would need to be registered as a dealer. Bloomberg is of the view that communication between dealers and their customers should not be regulated.</p> <p><i>CSA Response: In Companion Policy 21-101CP, the CSA have specifically excluded single-dealer quotation systems, order routing systems and bulletin boards from the definition of marketplace.</i></p>
<p>Risk Disclosure</p> <p>(National Instrument 21-101, section 6.8)</p>	<p>Swift Trade - The requirement for risk disclosure on foreign securities seems peculiar in the case of U.S. given the quality of the U.S. markets. It would slow down transactions because of the necessity to get an acknowledgment, unless they apply solely to the dealer.</p> <p>Bloomberg - While the risk disclosure statement may be appropriate if the ATS were open to retail investors, subscribers to Tradebook are broker-dealers or institutional investors that do not require repeated reminders regarding the risks associated with trading on an ATS. If necessary with respect to non-retail investors, Bloomberg believes that this disclosure should be provided at the time that the customer becomes a subscriber of an ATS. In addition, requiring the disclosure before every order would impose a heavy burden on the ATS.</p> <p><i>CSA Response: The risk disclosure does not reflect risk in any specific company, but is an attempt to identify the risk associated with trading in securities of issuers that are listed on exchanges outside Canada. The CSA will clarify that the disclosure is to be provided at the time the customer becomes a subscriber of the ATS and before the customer places the first order for foreign securities.</i></p>
<p>Cross Trades</p> <p>(National Instrument 21-101, section 7.1 and section 7.3 and</p>	<p>Barclays - Barclays is of the opinion that in certain instances, the wording of the ATS Proposal is unclear as to how some trades would be treated. It is expected that some ATS trades will be in the nature of anonymous cross trades, whereby investors indicate volumes at which they would be prepared to buy and sell at a price which is referenced elsewhere and yet to be determined. Barclays asks that</p>

<p>Companion Policy 21-101CP)</p>	<p>National Instrument 21-101 section 7.1 be clarified to indicate that an ATS that is a pure crossing network has no orders to display.</p> <p>CSA Response: <i>It is not possible to provide clarification for new technology that may be developed. Any questions regarding the application of the ATS Rules should be addressed to staff directly. However, the CSA are of the opinion that for anonymous crossing networks, pre-trade information does not have to be provided.</i></p>
<p>Disclosure of Transaction Fees for Marketplaces</p> <p>(National Instrument 21-101, Part 10)</p>	<p>Barclays - Transaction or access fees of an ATS are frequently the only transaction fee involved in trading on that ATS with no further commissions. Comparison of an ATS price with the ATS transaction fee included to an exchange price without commission may lead to misleading interpretations of best bid and offer, with consequent impact on trading rules. The current ATS Proposal does not call for anything more than the publishing of transaction fee schedule with the data consolidator, and does not call for a combined price calculation. This is appropriate and the companion policy should be amended to clarify that this combined price is not intended to be calculated.</p> <p>CSA Response: <i>The CSA agree with the comments and will change the Policy to clarify what is intended.</i></p>
<p>ATS Trade Report Transmittal</p> <p>(National Instrument 21-101, section 11.5)</p>	<p>TSE - The TSE does not agree with section 11.5 that allows an ATS to submit order and trade information to its approved agent with a delay of 90 seconds. The rule should be amended to state that the ATS must provide its information in real-time.</p> <p>CDNX - The CSA should require that ATSs provide order and trade data feeds in real-time, and not in 90 seconds following execution.</p> <p>CSA Response: <i>The Instrument has been amended to require that information be provided when required by the regulation services provider as required by the regulation services provider.</i></p>
<p>Foreign Jurisdiction</p> <p>(National Instrument 21-101, Part 14)</p>	<p>Swift Trade - The requirement that foreign ATSs register in at least one jurisdiction is an unreasonable trade barrier, does not benefit the capital markets or investor choice and would harm Swift Trade's business. In their opinion, it would create an unlevel playing field because there is no suggestion that foreign exchanges that deal directly or indirectly with dealers require registration. In their view, it would be impossible to satisfy the OSC and IDA requirements that require a Canadian incorporated entity and a local presence. If registration was required, it would force Canadian dealers to access U.S. ATSs through U.S. dealers, imposing unnecessary delays and administrative burdens.</p> <p>Foreign ATS, if registered, would be subject to information consolidation,</p>

	<p>market regulation, market integration, clearing and settlement, audit trail requirements and other requirements that make no sense. Securities traded in foreign markets should not be subject to those requirements, including inter-listed securities. In Swift Trade’s opinion, foreign ATSS or securities being traded in foreign markets should be carved out of the ATS proposal or current arrangements with foreign ATSS should be grandfathered.</p> <p>Bloomberg - Bloomberg believes that an ATS should not have to register as a dealer in a local jurisdiction if it were providing access to dealers and prescribed institutions.</p> <p><i>CSA Response: If these entities are carrying on business in a jurisdiction, they must be registered and regulated by the securities regulatory authority in that jurisdiction. However, if the ATS registered in a jurisdiction is dealing only with subscribers who are registered as dealers in another jurisdiction, the other jurisdiction will consider granting an exemption from registration to the ATS.</i></p>
<p>Clearing and Settlement</p> <p>(Companion Policy 21-101, Part 16)</p>	<p>CDS - Subsection 16.1(2) states that an ATS or its subscriber may report an executed trade to a clearing agency. This raises two issues. First, there is a risk of both the subscriber and the ATS reporting the trade. This will lead to duplicate trade reporting and confusion. CDS suggests that the ATS and the subscriber agree amongst themselves on who will report the trade. Second, the subscriber may or may not be a clearing agency participant. The ATS Proposal assumes that if the subscriber is not a participant, the ATS will report the trade. However, the subscriber may use a settling broker. CDS suggests that 16.1(2) be revised to enable the subscriber or its agent to report the trade.</p> <p><i>CSA Response: Part 13 of the Instrument has been amended to state that for subscribers registered under securities legislation, the ATS, the subscriber or an agent of the subscriber that is a clearing member of the clearing agency must report the trade. If the subscriber is not registered, the ATS or an agent of the subscriber must report the trade. The CSA have stated in the policy that the ATS will determine whether it or its subscribers will report the trade, will make the appropriate arrangements with the clearing agency and will inform the CSA how the trades will be reported and settled.</i></p>
<p>Clearing and Settlement</p> <p>(National Instrument 21-101, Part 13)</p>	<p>CDS - CDS requests that the word “confirmed” be deleted from section 13.1, as it is a term generally used to indicate an agreement of a trade done outside of an exchange. Trades done on an exchange do not need to be confirmed because they have been pre-matched as part of the operation of the exchange. Thus, CDS expects that the output of an ATS will be pre-matched trades to be reported to the clearing agency and those trades do not need confirmation.</p> <p>IFI - It is unclear how the ATS Proposal will address legal obligations as</p>

	<p>between ATSS or between ATSS and the market consolidator, if a centralized approach is adopted. If the obligation is supposed to flow through an ATS or market consolidator, such that IFI would have to recognize the ultimate client of the other ATS as its counterparty, the issue that arises is how IFI can know in advance that it is dealing with an acceptable counterparty for whom sufficient credit limits have been established. On the other hand, if the obligation runs only to the other ATS or market consolidator, there is potential for risk concentration against one counterparty.</p> <p>CSA Response: <i>The responsibility for ensuring appropriate clearing is on the ATS. The ATS shall ensure that the appropriate clearing arrangements have been made. The only possible counterparties are those that have access to the clearing agency (the ATS or the subscriber) or have retained an agent to act on their behalf. In the case of an agent, the agent would be a member of the clearing agency and meet all of the credit requirements of the clearing agency.</i></p>
<p>FORMS</p>	
<p>Form 21-101F3</p>	<p>Bloomberg - Bloomberg believes that quarterly trading information with respect to all Canadian and foreign securities traded on its system is over-inclusive and that more focussed reporting requirements are necessary. Bloomberg urges the CSA to limit the reporting requirements to securities where either the issuer is organized in Canada and has a trading market for its securities in Canada or the particular trade occurs on a Canadian exchange and the Canadian exchange is the principal market for the security.</p> <p>CSA Response: <i>The purpose of quarterly reporting is to keep track of all trading that occurs on marketplaces operating in Canada, no matter where the issuer is located.</i></p>
<p>CROSS-INTERFERENCE RULE - DISPLAY REQUIREMENTS</p>	
<p>Exceptions Based on Number of Equity Securities or Preferred Securities</p> <p>Question 13: Should there also be an exception based on number of shares traded (in addition to value of shares traded)? Are there</p>	<p>TD Securities - The decision to abandon the cross-interference rule and substitute display requirements need not carry with it an exception from the display requirements based on the number of shares traded. Order display requirements linked to order size tend to be specific to each particular market and it is hard to develop rules of general application that are fair and appropriate.</p> <p>OTPPB - In the <i>equity market</i>, the sole exception to the cross interference rule should be based on the block of stock being handled - \$100,000 for equities and 100 contracts for options.</p> <p>Barclays - There is a need for further exceptions based on number of shares traded. Sometimes, participants may need to trade a block of low-priced shares where the total value of the shares may not sum up to \$100,000, but where the</p>

<p>any other exceptions to the display requirements that should be included?</p>	<p>trade involves a large portion of the available float of the company. This exception is likely to have no impact on large-capitalization equities.</p> <p>CSTA - Any order that is given to the marketplace should be displayed to all, regardless of size and/or dollar value.</p> <p>ITG Canada - ITG Canada believes that in addition to an exception based on value of shares traded, separate exceptions are needed based on (i) number of shares traded (for low-priced securities for which the threshold is too high) and (ii) the liquidity of shares traded (for highly liquid shares for which the threshold is too low). ITG Canada proposes that orders for equity and preferred shares in excess of 100,000 shares but which do not meet the \$100,000 threshold, should be exempted from display. Conversely, ITG Canada proposes that orders for equity and preferred securities that are highly liquid, should be subject to a higher threshold of \$200,000.</p> <p>Instinet Canada - The decision to abandon the cross-interference rules and substitute broader display requirements is useful. Instinet believes that an exemption based on a number of shares traded is needed. The exemption should be provided on a sliding scale based on the price of the shares.</p> <p>Investors Group - Clients should be entitled to determine how much of their order is displayed since they own it. Requiring that all orders having a value of less than \$100,000 be fully displayed is inconsistent and may hinder getting the best price.</p> <p>CDNX - There should be no exemption to the display requirement. Full display requirements are important for all investors. Retail investors do not have the same opportunities as large investors and the playing field should be balanced to rectify that. It is artificial to set exemptions based on dollar value as \$100,000 in a security trading at \$100 is different than \$100,000 in a security trading at \$1.00. The ATS Proposal has no cross-interference or put-through rule. Junior equity investors need the protection of a cross-interference rule which allows dealers to match orders within the existing bid-ask, but only if they are willing to give up 50% to the existing book if the aggregate value is \$75,000 or less. Retail investors will have confidence in the integrity and fairness of the marketplace if they know that their orders will have a fair opportunity of being filled on a price/time priority.</p> <p>ETC of IDA - The ETC has concerns that the \$100,000 threshold could pose problems with respect to orders in low priced securities. The ETC recommends a rule that uses the lesser of \$100,000 value or 10,000 threshold. It may also be appropriate to enable the client to request that an order be withheld.</p>
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	<p>CSA Response: The CSA have deleted this requirement.</p>
<p>Customer Limit Orders for Fixed Income Securities</p> <p>Question 14: Should the requirement regarding customer limit orders apply to the fixed income market?</p> <p>(National Instrument 23-101, section 6.1)</p>	<p>TD Securities - The fixed income market is a dealer market in which customer limit orders are not displayed with the results that the display requirement should not apply.</p> <p>OTPPB - It is worthwhile displaying inside bids or offers. This requirement should only apply to participants who wish to show the market their interest. If the client does not wish a limit order to be displayed, then the market in the security in which they have interest can trade through their level.</p> <p>Barclays - Yes, the requirement regarding customer limit orders should apply to the fixed income market.</p> <p>CPIM - CPIM does not support the display of customer limit orders. As a customer, CPIM does not want its limit orders posted if they are an improvement on the market maker’s price. Doing so will ensure that they are filled at their limit, whereas they wish to retain the option to do better. In practice, they have a limit in mind when contemplating a transaction, but do not disclose it to the market maker.</p> <p>Investors Group - The requirement regarding customer limit orders should apply to the fixed income market as well.</p> <p>CSA Response: The CSA have amended the transparency requirements for the fixed income market. All dealers are required to provide post-trade information on corporate debt securities as required by the information processor.</p>
<p>Exemption for Fixed Income Securities</p> <p>Question 15: Should there be an exemption based on the value of the order or some other criteria for fixed income securities?</p>	<p>TD Securities - With respect to order display in general, TD Securities recommends adherence to the “CanPX-style” methodology.</p> <p>OTPPB - The display of large block orders is not advisable in the debt market.</p> <p>Barclays - Yes, The exemption should be based solely on the value of the order. That threshold may need to be different for government securities than corporate securities and should be established in consultation with industry participants.Investors Group - Incorporating an exemption based on the value of the order or some other criteria is inconsistent with the goal of transparency in the market.</p> <p>Bloomberg - Bloomberg urges the CSA to permit market participants to comply with their customer limit order obligation through a “Display Alternative” mechanism, as does the SEC. SEC Rule 11Ac1-4 requires market makers to</p>

	<p>make publicly available any superior prices that the dealer quotes through a private system. The market maker may comply with the rule by changing its quotation on the Nasdaq montage to reflect the superior price or may deliver its better priced orders to an ECN, as long as the ECN complies with the “Display Alternative”. Under the “Display Alternative”, a market maker that is displaying a better price need not update its quotation if the ECN disseminates the best bid and offer in the ECN, for display under the ECN’s name in the montage and provides for equal execution access to that quotation for any NASD broker-dealer. Under this mechanism, customer limit orders providing superior prices are integrated into the public quotation stream. At the same time, anonymity is preserved for the subscriber.</p> <p><i>CSA Response: No exemptions from the display requirement will be provided for fixed income securities. However, the trade volume to be displayed for corporate debt securities will depend on the value of the transaction.</i></p>
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AUDIT TRAIL REQUIREMENTS
(National Instrument 23-101, Part 11)

<p>Audit Trail Requirements Question 16: Should special order audit trail requirements be adopted? Under what circumstances should the requirements be imposed? To whom should the requirements apply? What additional information should be collected?</p>	<p>TD Securities - TD Securities is in agreement with the approached proposed in Part 11 of the ATS Proposal. They believe that dealers participating in the marketplace should be required to record details of every order received, the time of receipt and the time the order was conveyed to the market. On the other hand, audit trails of marketplaces should be sufficiently detailed to allow the reconstruction of the trading environment which a particular order faced when it was sent by the market participant.</p> <p>OTPPB - Audit trail requirements should be established. The audit trail should collect information on all trades reported to the data consolidator including the time, nature of a trade (buy/sell), the size of a trade, the broker executing the trade and the bid/ask at the time.</p> <p>Barclays - Audit trail requirements should be established. The audit should collect information on all trades reported to the consolidator including the time, nature of the trade (buy/sell), the size of a trade, the broker executing the trade and the bid/ask at the time.</p> <p>CSTA - All participants should be subject to whatever minimum audit trail requirements are necessary.</p> <p>Instinet Canada - Dealers already record details of every order received, the time of receipt and the time the order was conveyed to the market for execution. Instinet Canada anticipates that the audit trails of marketplaces will be sufficiently detailed to allow for reconstruction of the trading environment. The</p>
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	<p>approved agent could set up the audit trail working to a specification satisfactory to the CSA.</p> <p>Investors Group - All ATSs should be required to meet minimum audit trail requirements.</p> <p>CDNX - Audit trail requirements should be adopted and should apply to all marketplaces. CDNX and the TSE have agreed to work together to develop consistent audit trail requirements for all member firms.</p> <p>TSE - The TSE submits that the Canadian markets are different from the Nasdaq's market, to which the NASD's OATS requirements apply. The TSE is of the view that a more efficient and less costly solution than OATS should be created for the Canadian market. The TSE recommends that the CSA not adopt the proposed framework rule but rather wait for the outcome of the SRO's initiative to develop requirements for an electronic audit trail system (TSE and CDNX). Any concerns of the CSA has about the comprehensiveness of the SROs' proposal may be addressed through consultation and the rule approval process. It is intended that the proposed requirements and implementation plan be released in early 2001.</p> <p>CSA Response: <i>The CSA agree with the comments received that we should set the audit trail requirements.</i></p>
<p>Determination of Audit Trail Requirements</p> <p>Question 17: Should the audit trail requirements be established by the CSA or should the requirements be determined by the exchange, approved agent or the IDA?</p>	<p>TD Securities - The approved agent could set up the audit trail working to a specification satisfactory to the CSA.</p> <p>OTPPB - The minimum audit trail requirements should be established by the CSA. A minimum standard is required. With respect to the debt market, the requirement should be the responsibility of an independent agency, not the IDA.</p> <p>Barclays - The minimum audit trail requirements should be established by the CSA and not delegated. Investors must have confidence regardless of where they trade in Canada that there is a quality standard that is there to protect them.</p> <p>CSTA - The CSA should only establish new audit trail requirements if the requirements in place do not meet the goals of a well-regulated Canadian marketplace.</p> <p>Investors Group - The audit trail requirements should be established by an SRO with the ability and independence to fulfill this role. This should not be the exchange.</p> <p>CDNX - The new national regulator(s) should be responsible for providing market regulation and should establish the audit trail requirements.</p>

	<p><i>CSA Response: While the CSA will determine the appropriate requirements, the process for collecting the information will be determined by the entity performing market regulation.</i></p>
<p>THE REPORTED MARKET</p>	
<p>Expansion of Display to Over-the-Counter Transactions</p> <p>Question 18: Should the display requirements for over-the-counter orders or trades be expanded from market makers to all dealers?</p> <p>Question 19: Should the information be sent to the data consolidator or another party?</p>	<p>TD Securities - The display requirements for over-the-counter orders for equity securities (other than options) should be the same as those for orders executed in organized marketplaces. The information should be sent to the data consolidator.</p> <p>OTPPB - Display requirements for over-the-counter orders for equity securities should be expanded to all dealers. Information should be sent to the data consolidator.</p> <p>Barclays - Yes, display requirements for over-the-counter orders or trades should be expanded from market makers to all dealers. The information should be sent to the data consolidator.</p> <p>CSTA - The CSTA believes that the display requirements for over-the-counter orders should be expanded to provide as much information as possible and should be sent to the data consolidator.</p> <p>ITG Canada - ITG Canada believes that the display requirements for over-the-counter orders should be expanded from market makers to all dealers. The information should be sent to the data consolidator.</p> <p>Instinet Canada - The display requirements for over-the-counter orders should not differ from those applicable to orders executed in organized marketplaces. The information should be sent to the data consolidator.</p> <p>Investors Group - Display requirements for over-the-counter orders and trades should be expanded from market makers to all dealers. The information should be sent to the data consolidator.</p> <p>CDNX - The display requirements should be expanded to all dealers. More transparency leads to a level playing field and more liquidity. The information should be sent to the data consolidator.</p> <p><i>CSA Response: Transparency requirements will initially apply for all listed securities. Over time, the CSA will look at expanding the application of the requirements to dealers and over-the-counter equity securities.</i></p>
<p>TRADING RULES</p>	

Setting minimum standards	<p>CDNX - The imposition of minimal trading rules on ATSS is expected to result in a race for the bottom that will directly and negatively impact junior equity investors. The CSA should rework the ATS Proposal to set only broad goals and minimum standards, without detailing the means by which every marketplace achieves those goals. In the event that more than one SRO regulates ATSS, there should be the highest level of harmonization of market integrity rules among different marketplaces. The TSE and CDNX have committed to developing harmonized trading rules. The ME has been invited to participate</p> <p>ETC of IDA - The ETC of IDA strongly supports the CSA proposals to establish core trading rules that provide a minimum common standard for market integrity across marketplaces. Under the ATS Proposal, competing marketplaces are free to develop additional rules should they deem it beneficial to their market's competitive position.</p> <p>TSE - The framework trading rules are incomplete and inadequate in comparison to the exchanges' existing rules. It will be difficult for an exchange to compete on the basis that it offers higher regulatory standards. Without a regulatory SRO, the regulatory gap will create a race to the bottom, forcing the exchanges to lower their standards to preserve order flow that will migrate to ATSS. If an SRO has authority to regulate trading in all marketplaces, many of the trading rules do not need to be adopted by the CSA. The TSE strongly urges the CSA to fully delegate the monitoring of, administration (including the ability to grant exemptions) and enforcement of framework rules to Regulation Services and other SROs as required. The TSE supports the adoption of anti-manipulation rules and rules in areas such as best execution.</p> <p><i>CSA Response: National Instrument 21-101 and Companion Policy 23-101CP set forth common trading rules which will apply to trading on all marketplaces and do not prohibit marketplaces from implementing additional rules. The CSA have provided for an exemption from the application of subsection 3.1(1) and Parts 4 and 5 of National Instrument 23-101 to those persons or companies that comply with the rules, policies and other similar instruments established by a regulation services provider.</i></p>
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<p>Application of Trading Rules to the Fixed Income market</p>	<p>Bank of Canada - The trading rules in the ATS Proposal do not appear to be aimed specifically at fixed income markets, but rather at equity and exchange-traded markets. The markets are sufficiently different as to justify separate treatment. The Bank of Canada urges the CSA to look closely at Policy No. 5 for guidance.</p> <p>OTPPB - Fixed income market is made up of institutional players. Extensive regulation and trading rules to protect small investors are all ready in place.</p> <p><i>CSA Response: The CSA are of the view that an ATS trading unlisted debt securities, an inter-dealer bond broker and a dealer trading unlisted debt securities outside of a marketplace should be exempt from the Trading Rules if they are in compliance with the requirements of a regulation services provider. These entities are exempt from having to enter into an agreement with a regulation services provider if they comply with IDA Policy No. 5. The exemption is not available after December 31, 2003. During the time between the implementation of the ATS Rules and December 31, 2003, the CSA will be working with debt market participants, the Bank of Canada and the Department of Finance to determine the appropriate model of market regulation for the debt market and evaluate whether any additional requirements are necessary.</i></p>
<p>Additional rules that should be considered</p>	<p>CDNX - The ATS Proposal is silent with regard to Pro Group Reporting. This requirement should also apply to ATSS. In addition, the following rules are not found in the ATS Proposal: (a) a market corner rule prohibiting members, approved persons and their employees from “cornering the market” by agreeing to trade back and forth with each other in a security, so that the price is influenced; (b) requiring all remuneration received by members and their employees for trades to be declared and reported; (c) prohibiting members and approved persons acting as agents for clients from buying and selling for their own account, or engaging in activity that creates the appearance of conflict between their interests and those of investors; (d) prohibiting members from making a practice of taking the opposite of the market to the side taken by clients, whether directly or indirectly.</p> <p><i>CSA Response: In the opinion of the CSA, market cornering is covered by the manipulation and fraud provisions of the Trading Rules. Disclosure of commissions must be provided to clients on trade confirmations provided to the client by the dealer. If this requirement is insufficient, the CSA are of the view that additional remuneration disclosure is more appropriately dealt with in the IDA rules. With respect to activities discussed in (c), the CSA are of the view that there are a variety of requirements relating to conflicts of interest between registrants and clients. With respect to taking the opposite side of the</i></p>

	<p><i>market, there is no consensus that principal trading should be prohibited under any circumstances.</i></p>
<p>Short Selling (National Instrument 23-101, Part 3)</p>	<p>Bloomberg - The SEC has questioned the utility of its own short sale rule in the context of the move toward decimal pricing. As Canadian markets are also likely to introduce decimal pricing, Bloomberg suggest that the CSA defer in imposing a short sale rule at this time.</p> <p>Barclays - The relaxation of the short selling rules to permit a zero-tick rule is appropriate. However, there still remains inconsistency with one type of instrument. Futures contracts on stock indexes face no such rule and can be sold on a down-tick. It seems appropriate to allow down-tick short sales on those exchange traded funds that are direct equivalents of exchange-traded futures contracts on stock indexes. An institutional investor that wishes to sell the Canadian equity market as part of an overall investment strategy would now be forced to use futures contracts, depending on the most recent tick. This requirement may not be cost effective at times, introducing a distortion into the marketplace and increasing the reliance on derivatives instruments unnecessarily.</p> <p>CDNX - The CSA adopted a less stringent “zero-tick” rule as a result of comment received that the market share would be lost. The result is an inflexible approach that the TSE believes will hurt the liquidity and efficiency of its market and that CDNX believes will put investors in the venture market at risk. An SRO is best able to evaluate these concerns and develop, monitor and adjust rules that would address the concerns.</p> <p>ETC of IDA - The ETC commends staff for changing the “zero plus tick” to a “zero tick” (last trade prices).</p> <p>TSE - The TSE is of the view that this rule should be delegated to SROs or at a minimum a blanket exemption should be provided for trades done on a recognized exchange, in accordance with its rules.</p> <p>CSA Response: <i>The CSA have deleted the short sale provision from the Trading Rules and expect marketplaces and marketplace participants to comply with the rules of the regulation services provider. The CSA will examine the appropriateness of adopting a short sale rule at a later date.</i></p>
<p>Short Selling Question 20: Should the short selling provision be limited to trades facilitated on a</p>	<p>TD Securities - There does not appear to be a basis for distinguishing between short selling in over-the-counter equity securities and marketplace-traded securities.</p> <p>OTPPB - Short selling does not apply in the debt market.</p>

<p>marketplace or should they apply to dealers trading outside of a marketplace?</p>	<p>Barclays - The provisions should apply to a dealer trading outside of a marketplace.</p> <p>CSTA - In order to be effective, the short selling rule must be applied equally to all market participants. The rule should be based on the last sale of a board lot displayed by the data consolidator.</p> <p>ITG Canada - The short selling provision should apply uniformly. There does not appear to be any justification for distinguishing between short selling in over-the-counter equity securities and marketplace-traded securities.</p> <p>Instinet Canada - A distinction between short selling in over-the-counter equity securities and marketplace-traded securities does not seem to be justifiable.</p> <p>Investors Group -The short selling rules, to ensure consistency and fairness, should apply to all participants inside and outside the marketplace.</p> <p>CDNX - Short selling provisions should be applied to dealers trading outside a marketplace. Short selling has the potential to drive the price of a security down, creating volatility and harming investors. Junior equity investors are particularly vulnerable to this volatility.<i>CSA Response: The CSA have deleted the short sale provision from the Trading Rules and expect marketplaces and marketplace participants to comply with the rules of the regulation services provider. The CSA will examine the appropriateness of adopting a short sale rule at a later date.</i></p>
<p>Frontrunning (National Instrument 23-101, Part 4)</p>	<p>Bank of Canada - It is our understanding that it was not the CSA's intention that subsection 4.1(1) not apply to trading in fixed income markets (i.e. it refers to only trading on a marketplace and no entities in Canadian debt markets currently fall under that definition). Applied to fixed income markets, this provision would prevent some of the legitimate activity that currently takes place. Dealers in the fixed income market service their customers by buying and selling for and from their own inventories and not on an agency basis. Customers often give advance warning of an impending order to the dealer to give the dealer time to adjust the risk profile of its book (by hedging with futures). Without time to adjust the profile, the prices quoted by market makers would adjust to compensate for the magnitude of risk, therefore increasing the costs for their clients. Other common situations involve the lead underwriter of a debt issuance making trades in anticipation of their client's needs on the issuance date. Since this improves the ability of market makers to provide liquidity, the interests of investors would not be served by the elimination of these practices. This is not to say that front running is acceptable in the fixed income market. The Bank of Canada applauds the</p>

	<p>CSA's goal in seeking to eliminate this and other forms of market manipulation. At the same time, it seems clear that more work needs to be done in formulating rules that will be effective in achieving this goal with respect to fixed income markets.</p> <p>CSA Response: The CSA have deleted the frontrunning provision from the Trading Rules.</p>
<p>Market Maker Orders</p>	<p>Bank of Canada - Does market maker order include bids at auction? Primary market activities are not specifically excluded from the requirement.</p> <p>CSA Response: The ATS Rules do not include primary market activities and will be clarified to reflect this point.</p>
<p>Best Execution (National Instrument 23-101, Part 5)</p>	<p>Bloomberg - ATSs are passive vehicles that do not undertake a duty to "find" the best market by routing orders to other liquidity pools. ATSs do not assume traditional agency roles in secondary markets. The responsibility for best execution should rest with the user of the ATS who effects or performs a customer order, not the ATS itself. Consequently, Bloomberg suggests that the ATS Rules should acknowledge the fact that a duty of best execution should not attach to ATSs and similar electronic trading systems or their operators.</p> <p>CSA Response: The CSA agree that ATSs should not have the duty of best execution. The requirement has been amended to exclude those dealers who are carrying on business as an ATS.</p>
<p>Principal Trading (National Instrument 23-101, section 7.1)</p>	<p>ITG Canada - Under this section, a marketplace participant can no longer effect a principal trade at a price equal to the best price then available on an exchange. ITG Canada has some concern that the section can be circumvented by the introduction of a separate legal entity affiliated with the broker, acting in the capacity of a customer, on the other side of all trades. The section does not preclude a broker-dealer from effectively sub-dividing the functions of their trading desk and offsetting customer orders through an unregulated corporate affiliate. As a possible solution, ITG Canada recommends that the definition of "marketplace participant" be expanded to include the beneficial owner of any account where (i) capital is provided by an affiliate of the registered broker-dealer and (ii) the personnel operating the account in question are located in the same premises and under common senior management as the broker-dealer.</p> <p>CSA Response: The CSA have deleted the principal trading provision.</p>
<p>Regulatory Halts (National Instrument</p>	<p>Bloomberg - Bloomberg suggests that with respect to inter-listed securities, a market centre that is not the principal market for a security should not impose a worldwide halt on an ATS's trading such security. It would be reasonable for</p>

<p>23-101, Part 8)</p>	<p>Canadian regulators to prohibit Canadian customers from trading a certain stock, if a trading halt were imposed. It may be, however, that a more coordinated approach among regulators of different market centres would provide a long-term solution.</p> <p><i>CSA Response: All entities performing market regulation for marketplaces in Canada will co-ordinate halts for securities traded on multiple marketplaces in Canada.</i></p>
<p>EXTRA-TERRITORIALITY OF THE ATS Rules</p>	
<p>Extra-territoriality</p>	<p>Bloomberg - Bloomberg recommends that the ATS Rules clearly articulate the extent, if any, to which the rules and principles are meant to apply outside Canada or to securities of non-Canadian issuers. For example, are Parts 10 and 11 of National Instrument 21-101 meant to apply to quotations in non-Canadian securities, orders received outside of Canada, transactions in Canadian securities effected outside of Canada or transactions in non-Canadian securities effected on a Canadian market?</p> <p><i>CSA Response: The Policy clarifies that the ATS Rules apply to all marketplaces operating in Canada and all securities traded on those marketplaces. CP 21-101 discusses the circumstances in which the CSA may consider granting an exemption from the requirements of the rules.</i></p>
<p>MISCELLANEOUS</p>	
<p>Central Limit Order Book</p>	<p>CSTA - The CSTA believes that a strong central limit order book must be established in order to prevent further market fragmentation in the Canadian market. This system should be put in place before competition from ATSs is introduced.</p> <p>CPIM - CPIM believes that the most significant oversight of the CSA's proposal is the lack of a central limit order book.</p> <p><i>CSA Response: The CSA are of the view that it is best not to introduce a central limit order book at this time. The information processor and market integrator when introduced, will minimize fragmentation.</i></p>
<p>Payment for order flow</p>	<p>ETC of IDA - The ETC strongly opposes a ban on payment for order flow or preferencing. Doing so would be anti-competitive. Although the ETC acknowledges that payment for order flow on its own could create a conflict of interest potential, the establishment of a best execution rule combined with monitoring and enforcement by the SRO responsible for market regulation should eliminate the problem.</p> <p>TSE - The TSE is concerned that ATSs may pay for order flow, which will</p>

force the exchanges to do the same. The TSE is of the view that payment for order flow creates a clear conflict of interest for firms routing client orders because the order could be routed based on financial benefits to the brokerage firm rather than obtaining best execution of client orders. Therefore, the TSE recommends that the CSA prohibit payment for order flow. Arguably, an ATS that pays for order flow would be considered to be offering a liquidity guarantee, requiring it to register as an exchange. However, this is not the TSE's recommended approach because it does not address the fundamental conflicts of interest. If the CSA does not ban the practice, the TSE submit, at a minimum, that the requirement to register as an exchange should be explicit in the regulations, along with rules that address conflict of interest.

CSA Response: In the view of the CSA, once one party guarantees execution for a price, they have provided a guarantee of liquidity. Consequently, that party must be recognized as an exchange.

APPENDIX B

SUMMARY OF THE ATS RULES

Type of Security	Who will trade?	Transparency Requirements	Market Regulation
Exchange-traded securities · equity · options · debt	Marketplaces · Exchange · ATS · Quotation and trade reporting system (QTRS) · Dealer that executes trades of exchange-traded securities outside of a marketplace	Marketplaces provide · order information · trade information to an information processor in real-time Exemption if the marketplace provides information to an information vendor · exemption does not apply after December 31, 2003	Exchange and QTRS · directly · indirectly by a regulation services provider ATS · by a regulation services provider Audit trail requirements
Over-the-counter equity securities	Dealers	None	In Ontario, trade reporting to CUB (section 154 of Ontario Regulations) In Ontario, surveillance of CUB done by CDNX Audit trail requirements
Foreign exchange-traded securities · equity · options · debt	Marketplace (ATS)	Marketplaces (ATS) provide · order information · trade information to an information processor in real-time Exemption if the marketplace provides information to an information vendor · exemption does not apply after December 31, 2003	ATS · by a regulation services provider Audit trail requirements

Type of Security	Who will trade?	Transparency Requirements	Market Regulation
Government debt securities	Marketplace (ATS) Inter-dealer bond broker Dealer executing trades outside of a marketplace	Dealers – no requirements Marketplace (ATS) provide · order information · trade information to an information processor in real-time Inter-dealer bond brokers provide · order information · trade information on certain benchmarks and designated government debt securities to an information processor in real-time Dealers - no requirements	ATS Inter-dealer bond broker Dealer executing trades of unlisted debt securities outside of a marketplace · by a regulation services provider Exemption if the ATS, IDB or dealer complies with IDA Policy No. 5 · exemption does not apply after December 31, 2003 Audit trail requirements
Corporate debt securities	Marketplace (ATS) Inter-dealer bond broker Dealer executing trades outside of a marketplace	ATSS provide · order information · trade information to an information processor in real-time Inter-dealer bond brokers and Dealers provide · trade information on certain designated corporate debt securities to the information processor within one hour of the trade Volume disseminated · Investment grade - \$2 million /\$2million+	ATS Inter-dealer bond broker Dealer executing trades of unlisted debt securities outside of a marketplace · by a regulation services provider Exemption provided that the ATS, IDB or dealer complies with IDA Policy No. 5 · exemption does not apply after December 31, 2003 Audit trail requirements

Type of Security	Who will trade?	Transparency Requirements	Market Regulation
		· Non-investment grade - \$200,000/\$200,000+	

THE MANITOBA SECURITIES COMMISSION
MSC Rule No. 2001-19
 (Section 149.1, *The Securities Act*)

NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION

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THE MANITOBA SECURITIES COMMISSION
MSC Rule No. 2001-19
(Section 149.1, *The Securities Act*)

NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION

PART 1 – DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this Instrument

“**alternative trading system**” means a marketplace that

- (a) is not a recognized quotation and trade reporting system or a recognized exchange, and
- (b) does not
 - (i) require an issuer to enter into an agreement to have its securities traded on the marketplace,
 - (ii) 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,
 - (iii) set requirements governing the conduct of subscribers, other than conduct in respect of the trading by those subscribers on the marketplace, and
 - (iv) discipline subscribers other than by exclusion from participation in the marketplace;

“**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 only on an exchange, or quoted only on a quotation and trade reporting system, outside of Canada that is regulated by an ordinary member of the International Organization of Securities Commissions;

“government debt security” means

(a) a debt security issued or guaranteed by the government of Canada, or any province or territory of Canada, the government of any foreign country or any political division thereof,

(b) a debt security of any municipal corporation in Canada, or

(c) a debt security of a crown 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;

“IDA” means the Investment Dealers Association of Canada;

“information processor” means any person or company that receives and provides information under this Instrument and has filed Form 21-101F5;

“inter-dealer bond broker” means a person or company that is approved by the IDA under IDA By-Law No. 36 Inter-Dealer Bond Brokerage Systems, as amended, and is subject to IDA By-law No. 36 and IDA Regulation 2100 Inter-Dealer Bond Brokerage Systems, as amended;

“market integrator” means a person or company that facilitates access to orders in accordance with Part 9;

“marketplace” means

(a) an exchange,

(b) a quotation and trade reporting system,

(c) a person or company not included in paragraph (a) or (b) that

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

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

(iii) 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

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

“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) a person or company holding at least one seat on the exchange, or

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

“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;

“recognized exchange” means

(a) in Ontario, an exchange recognized by the securities regulatory authority to carry on business as a stock exchange,

(b) in Quebec, an exchange recognized by the securities regulatory authority as a 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, 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, and

(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;

“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;

“**trading volume**” means the number of securities traded;

“**transaction fee**” means the fee that a marketplace charges for execution of a trade on that marketplace;

“**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.

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 Alberta and 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.

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 – EXCHANGE - RECOGNITION

Application for recognition

3.1(1) An applicant for recognition as an exchange shall file Form 21-101F1.

3.1(2) An applicant for recognition as an exchange shall inform in writing the securities regulatory authority immediately of any change to the information provided in Form 21-101F1, and the applicant shall file an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1 no later than seven days after the change takes place.

Change in information after recognition

3.2(1) At least 45 days before implementing a significant change to a matter set out in Form 21-101F1, a recognized exchange shall file

(a) if the exchange was recognized before this Instrument came into force, the information describing the change in the manner set out in Form 21-101F1; or

(b) if the exchange is recognized after this Instrument comes into force, an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1.

3.2(2) If a recognized exchange implements a change involving a matter set out in Form 21-101F1, other than a change referred to in subsection (1), the recognized exchange shall, within 30 days after the end of the calendar quarter in which the change takes place, file

(a) if the exchange was recognized before this Instrument came into force, the information describing the change in the manner set out in Form 21-101F1; or

(b) if the exchange is recognized after this Instrument comes into force, an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1.

3.2(3) Subsection (2) does not apply to a change to a matter set out in Exhibits F and O of Form 21-101F1.

PART 4 – QUOTATION AND TRADE REPORTING SYSTEM - RECOGNITION

Application for recognition

4.1(1) An applicant for recognition as a quotation and trade reporting system shall file Form 21-101F1.

4.1(2) An applicant for recognition as a quotation and trade reporting system shall inform in writing the securities regulatory authority immediately of any change to the information provided in Form 21-101F1 and the applicant shall file an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1 no later than seven days after the change takes place.

Change in information after recognition

4.2(1) At least 45 days before implementing a significant change to a matter set out in Form 21-101F1, a recognized quotation and trade reporting system shall file an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1.

4.2(2) If a recognized quotation and trade reporting system implements a change involving a matter set out in Form 21-101F1, other than a change referred to in subsection (1), the recognized quotation and trade reporting system shall, 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 21-101F1 in the manner set out in Form 21-101F1.

PART 5 – REQUIREMENTS APPLICABLE ONLY TO RECOGNIZED EXCHANGES AND RECOGNIZED QUOTATION AND TRADE REPORTING SYSTEMS

Access requirements

5.1 A recognized exchange and a recognized quotation and trade reporting system shall

- (a) establish written standards for granting access to trading on it;
- (b) not unreasonably prohibit, condition or limit access by a person or company to services offered by it; and
- (c) keep records of
 - (i) each grant of access including, for each member in the case of an exchange and for each user in the case of a quotation and trade reporting system, 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.

No restrictions on trading on another marketplace

5.2 A recognized exchange or recognized quotation and trade reporting system shall not prohibit, condition, or otherwise limit, directly or indirectly, a member or user 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) shall not be contrary to the public interest; and
- (b) shall 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) A recognized exchange or a recognized quotation and trade reporting system shall not

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

Compliance rules

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

Filing of annual audited financial statements

5.6 A recognized exchange or a recognized quotation and trade reporting system shall file annual audited financial statements within 90 days after the end of its latest financial year.

PART 6 – REQUIREMENTS APPLICABLE ONLY TO ATSs

Registration

6.1 An ATS shall 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 The registration exemptions listed in Appendix A are not available to an ATS.

Securities permitted to be traded on an ATS

6.3 An ATS shall 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.

Reporting requirements

6.4(1) An ATS shall file an initial operation report on Form 21-101F2 at least 30 days before the ATS begins to carry on business as an ATS.

6.4(2) At least 45 days before implementing a significant change to a matter set out in Form 21-101F2, an ATS shall file an amendment to the information provided in Form 21-101F2 in the manner set out in Form 21-101F2.

6.4(3) If an ATS implements a change involving a matter set out in Form 21-101F2, other than a change referred to in subsection (2), the ATS shall, 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 21-101F2 in the manner set out in Form 21-101F2.

6.4(4) An ATS shall file Form 21-101F3 within 30 days after the end of each calendar quarter during any part of which the ATS has carried on business.

Ceasing to carry on business as an ATS

6.5(1) An ATS that intends to cease carrying on business as an ATS shall file a report on Form 21-101F4 at least 30 days before ceasing to carry on that business.

6.5(2) An ATS that involuntarily ceases to carry on business as an ATS shall file a report on Form 21-101F4 as soon as practicable after it ceases to carry on that business.

Notification of intent to carry on exchange activities

6.6 An ATS shall notify the securities regulatory authority in writing at least six months before it first

(a) requires an issuer to enter into an agreement before the issuer's securities can trade on the ATS;

(b) provides, 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) sets requirements governing the conduct of subscribers, other than conduct in respect of the trading by those subscribers on the ATS; or

(d) establishes procedures for disciplining subscribers other than by exclusion from trading.

Notification of threshold

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

(a) during at least three of the preceding four calendar quarters, the average daily dollar value of the trading volume on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the average daily dollar value of the trading volume for the calendar quarter in that type of security on all marketplaces in Canada;

(b) during at least three of the preceding four calendar quarters, the total trading volume on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the total trading volume for the calendar quarter in that type of security on all marketplaces in Canada; or

(c) during at least three of the preceding four calendar quarters, the number of trades on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the number of trades for the calendar quarter in that type of security on all marketplaces in Canada.

6.7(2) An ATS shall provide the notice referred to in subsection (1) within 90 days after the threshold referred to in subsection (1) is met or exceeded.

Confidential treatment of trading information

6.8(1) An ATS shall not release a subscriber's trading information to a person or company, other than the subscriber, unless

- (a) the subscriber 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.

6.8(2) An ATS shall not carry on business as an ATS unless it has implemented reasonable safeguards and procedures to protect a subscriber's trading information, including

- (a) limiting access to the trading information of subscribers to
 - (i) employees of the ATS, or
 - (ii) persons or companies retained by the ATS to operate the system or to be responsible for compliance by the ATS with Canadian securities legislation; and
- (b) implementing standards controlling trading by employees of the ATS for their own accounts.

6.8(3) An ATS shall not carry on business as an ATS unless it has implemented adequate oversight procedures to ensure that the safeguards and procedures established under subsection (2) are followed.

Name

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

Risk disclosure for trades in foreign exchange-traded securities

6.10(1) When opening an account for a subscriber, an ATS that is trading foreign exchange-traded securities shall provide that subscriber with disclosure in substantially the following words:

The securities traded by or through [the ATS] 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.

6.10(2) Before the first order for a foreign exchange-traded security is entered onto the ATS by a subscriber, the ATS shall obtain an acknowledgement from the subscriber that the subscriber has received the disclosure required in subsection (1).

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 shall 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 shall obtain an acknowledgement from that subscriber that the subscriber has received the disclosure required in subsection (1).

No restrictions on trading on another marketplace

6.12 An ATS shall not prohibit, condition, or otherwise limit, directly or indirectly, a subscriber from effecting a transaction on any marketplace.

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

Pre-trade information transparency – exchange-traded securities and foreign exchange-traded securities

7.1(1) A marketplace that displays orders of exchange-traded securities or foreign exchange-traded securities to a person or company shall provide to an information processor accurate and timely information regarding orders for the exchange-traded securities and orders for the foreign exchange-traded securities displayed on the marketplace as required by the information processor.

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.

Post-trade information transparency – exchange-traded securities and foreign exchange-traded securities

7.2 A marketplace shall provide to an information processor accurate and timely information regarding details of all trades of exchange-traded securities and foreign exchange-traded securities executed on the marketplace as required by the information processor.

Consolidated feed – exchange-traded securities and foreign exchange-traded securities

7.3 An information processor shall produce a consolidated feed in real-time showing the information provided to the information processor under subsection 7.1(1) and section 7.2.

Compliance with requirements of an information processor

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

Exemption from information transparency requirements for marketplaces trading exchange-traded securities and foreign exchange-traded securities

7.5(1) Sections 7.1, 7.2 and 7.4 do not apply to a marketplace if the marketplace provides order and trade information to an information vendor.

7.5(2) Subsection (1) does not apply after December 31, 2003.

PART 8 – INFORMATION TRANSPARENCY REQUIREMENTS FOR MARKETPLACES DEALING IN UNLISTED DEBT SECURITIES, INTER-DEALER BOND BROKERS AND DEALERS

Pre-trade information transparency – unlisted debt securities traded on a marketplace

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

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

Post-trade information transparency – unlisted debt securities traded on a marketplace

8.2 A marketplace shall provide to an information processor accurate and timely information regarding details of all trades of unlisted debt securities executed on the marketplace as required by the information processor.

Pre-trade information transparency – government debt securities traded through an inter-dealer bond broker

8.3 An inter-dealer bond broker shall provide to an information processor accurate and timely information regarding orders for government debt securities traded through the inter-dealer bond broker as required by the information processor.

Post-trade information transparency – unlisted debt securities traded through an inter-dealer bond broker

8.4 An inter-dealer bond broker shall provide to an information processor accurate and timely information regarding details of trades of unlisted debt securities executed through the inter-dealer bond broker as required by the information processor.

Post-trade information transparency – corporate debt securities traded by or through a dealer

8.5 A dealer executing trades of corporate debt securities outside of a marketplace shall provide to an information processor accurate and timely information regarding details of trades of corporate debt securities traded by or through the dealer as required by the information processor.

Consolidated feed – unlisted debt securities

8.6 An information processor shall produce a consolidated feed in real-time showing the information provided to the information processor under sections 8.1, 8.2, 8.3, 8.4 and 8.5.

Compliance with requirements of an information processor

8.7 A marketplace, inter-dealer bond broker or dealer that is subject to this Part shall comply with the reasonable requirements of the information processor to which it is required to provide information under this Part.

PART 9 – MARKET INTEGRATION FUNCTION FOR MARKETPLACES

Definitions

9.1 In this Part,

“**previous principal market**” means the marketplace that was the principal market for the preceding calendar year;

“**principal market**” means, for a security, the marketplace most recently identified as the principal market for the security in

(a) a notice of the securities regulatory authority; or

(b) a publication of an information processor made under paragraph 9.3(1)(c).

Market integration

9.2(1) Before January 1, 2004, a marketplace that is subject to subsection 7.1(1) or subsection 8.1(1) shall not execute a trade of a security unless it has an electronic connection to the principal market for that security.

9.2(2) On and after January 1, 2004, before executing a trade on its system, a marketplace that is subject to subsection 7.1(1) or subsection 8.1(1) shall

(a) if a market integrator exists,

(i) enter into an agreement with a market integrator to comply with the requirements of the market integrator to provide access to orders displayed through an information processor, and

(ii) comply with the requirements set by the market integrator; or

(b) if no market integrator exists, establish and maintain an electronic connection to all other marketplaces trading the same securities.

Determination of the principal market

9.3(1) If, during a calendar year, an information processor receives information regarding a security traded on a marketplace, the information processor shall, within 30 days of the end of the calendar year,

(a) identify the marketplace that had the largest trading volume for that security in that calendar year;

(b) notify in writing each marketplace that trades that security of the name of the marketplace determined under paragraph (a); and

(c) make the name of the marketplace determined to be the principal market under paragraph (a) publicly available.

9.3(2) Subsection 9.2(1) does not apply if

(a) the principal market for the security is different from the previous principal market,

(b) the marketplace has an electronic connection to the previous principal market for the security, and

(c) the trade occurs within 30 days of the date the marketplace received written notification of the principal market from the information processor or the securities regulatory authority.

9.3(3) Subsections (1) and (2) do not apply after December 31, 2003.

Requirements for marketplaces

9.4(1) When receiving an order from another marketplace, the marketplace receiving the order shall apply its own rules to the execution of that order.

9.4(2) A marketplace shall provide to marketplace participants of any other marketplace access to the orders about which information is provided to an information processor that is equivalent to the access that the marketplace provides to its own marketplace participants.

PART 10 – DISCLOSURE OF TRANSACTION FEES FOR MARKETPLACES

Disclosure of transaction fees for marketplaces

10.1 If a marketplace charges a transaction fee to participants of another marketplace to execute a trade by accessing an order on the first marketplace that is displayed through an information processor, the marketplace shall disclose a schedule of all transaction fees to the information processor.

Exemption

10.2(1) Section 10.1 does not apply to a marketplace with respect to trades in exchange-traded securities and foreign exchange-traded securities if the marketplace makes its schedule of all transaction fees publicly available.

10.2(2) Subsection (1) does not apply after December 31, 2003.

PART 11 – RECORDKEEPING REQUIREMENTS FOR MARKETPLACES

Business records

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

Other records

11.2(1) In addition to the records required to be maintained under section 11.1, a marketplace shall keep the following information:

- (a) a record of all marketplace participants who have been granted access to trading in the marketplace;
- (b) daily trading summaries for the marketplace, in electronic form, 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 shall 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) the type, issuer, class, series and symbol of the security,

(v) the number of securities to which the order applies,

(vi) the strike date and strike price, if applicable,

(vii) whether the order is a buy or sell order,

(viii) whether the order is a short sale order, if applicable,

(ix) 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,

(x) the date and time the order is first originated or received by the marketplace,

(xi) whether the account is a retail, wholesale, employee, proprietary or any other type of account,

(xii) the client account number or client identifier,

(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) if the order is varied, corrected or cancelled, the date and time the order was varied, corrected or cancelled and whether the order was varied, corrected or cancelled on the instructions of the client or the dealer and if varied or corrected, any of the information required by this subsection that has been varied or corrected,

(xvii) the currency of the order,

(xviii) any client instructions or consents respecting the handling or trading of the 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, the market integrator or any other marketplace,

(ix) the marketplace transaction fee for each trade.

11.2(2) An ATS, a recognized exchange, or a recognized quotation and trade reporting system, that has entered into an agreement with a regulation services provider in accordance with NI 23-101 shall transmit in electronic form to a regulation services provider information required by the regulation services provider in the format and at the time required by the regulation services provider.

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 shall 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 section 12.1, 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 6.10(2) or 6.11(2);

(f) a copy of the agreement referred to in section 8.4 of NI 23-101; and

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

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

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

(b) in the case of a recognized exchange, copies of all forms filed under Part 3;

(c) in the case of a recognized quotation and trade reporting system, copies of all forms filed under Part 4; and

(d) in the case of an ATS, copies of all forms filed under sections 6.4 and 6.5 and notices given under sections 6.6 and 6.7.

Means of record preservation

11.4 A marketplace may keep all records, documents and forms referred to in this Part by means of mechanical, electronic or other devices, if

(a) the method of recordkeeping is not prohibited under other applicable law;

(b) the marketplace takes reasonable precautions, appropriate to the means used, to govern against the risk of falsification of the information recorded; and

(c) the marketplace provides a means for making the information available in an accurate and intelligible form, capable of being printed, within a reasonable time to any person or company lawfully entitled to examine the records.

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, a dealer trading those securities and a regulation services provider monitoring the activities of marketplaces trading those securities shall 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.

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, an inter-dealer bond broker trading those securities and a regulation services provider monitoring the activities of marketplaces, inter-dealer bond brokers or dealers trading those securities shall synchronize 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 – CAPACITY, INTEGRITY AND SECURITY OF MARKETPLACE SYSTEMS

System requirements

12.1 Subject to section 12.2, a marketplace shall, for each of its systems that support order entry, order routing, execution, trade reporting and trade comparison,

- (a) 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 of critical systems to determine the ability of those systems to process transactions in an accurate, timely and efficient manner,
 - (iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems,
 - (iv) review the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters, and
 - (v) establish reasonable contingency and business continuity plans;
- (b) annually, cause to be performed an independent review and prepare a report, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (a), and conduct a review by senior management of the report containing the recommendations and conclusions of the independent review; and
- (c) promptly notify the securities regulatory authority of any material systems failures.

Application

12.2 Paragraphs 12.1(b) and 12.1(c) do not apply to an ATS unless, during at least three of the preceding four calendar quarters, the total trading volume on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the total trading volume for the calendar quarter in that type of security on all marketplaces in Canada.

PART 13 – CLEARING AND SETTLEMENT

Clearing and settlement

13.1(1) All trades executed through an ATS shall be reported 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 shall enter into an agreement that specifies whether the trade shall be reported and settled 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 shall enter into an agreement that specifies whether the trade shall be reported and settled by

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

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 shall file Form 21-101F5 at least 90 days before the information processor begins to carry on business as an information processor.

14.1(2) During the 90 day period referred to in subsection (1), a person or company that files Form 21-101F5 shall inform in writing the securities regulatory authority immediately of any change

to the information provided in Form 21-101F5 and the person or company shall file an amendment to the information provided in Form 21-101F5 in the manner set out in Form 21-101F5 no later than seven days after a change takes place.

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 shall 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 shall, 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 shall 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 shall 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 shall enter into an agreement with each marketplace, inter-dealer bond broker and dealer that is required to provide information to the information processor that the marketplace, inter-dealer bond broker or dealer will

(a) provide information to the information processor in accordance with Part 7 or 8, as applicable; and

(b) comply with any other reasonable requirements set by the information processor.

14.4(2) An information processor shall 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 shall keep such books, records and other documents as are reasonably necessary for the proper recording of its business.

14.4(4) An information processor shall establish in a timely manner an electronic connection to a marketplace, inter-dealer bond broker or dealer that is required to provide information to the information processor .

14.4(5) An information processor shall provide prompt and accurate order and trade information and shall not unreasonably restrict fair access to such information.

System requirements

14.5 An information processor shall

- (a) 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,
 - (ii) conduct capacity stress tests of critical systems to determine the ability of those systems to process information in an accurate, timely and efficient manner,
 - (iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems,
 - (iv) review the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters, and
 - (v) establish reasonable contingency and business continuity plans;
- (b) annually, cause to be performed an independent review and prepare a report, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (a), and conduct a review by senior management of the report containing the recommendations and conclusions of the independent review; and
- (c) promptly notify the securities regulatory authority of any material systems failures.

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.

PART 16 – EFFECTIVE DATE AND CITATION

Effective date

16.1 This Instrument comes into force on December 1, 2001.

Citation

16.2

This National Instrument may be cited as MSC Rule 2001-19.

**APPENDIX A
TO
NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION**

Alberta - section 65(1)(j) of the Securities Act, S.A. 1981, c. S-6.1.

British Columbia - section 45(2)(7) of the Securities Act, R.S.B.C. 1996, c. 418.

Saskatchewan - section 39(1)(j) of the Securities Act, S.S. 1988, c. S-42.2.

Manitoba - section 19(1)(g) of the Securities Act, R.S.M. 1988, c. S50.

Ontario - paragraph 35(1)10 of the Securities Act, R.S.O. 1990, c. S-5.

Quebec - no applicable provision.

Nova Scotia - section 41(1)(j) of the Securities Act, R.S.N.S. 1989, c. 418.

Newfoundland - section 36(1)(j) of the Securities Act, R.S.N. 1990, c. S-13.

New Brunswick - no applicable provision.

Prince Edward Island - section 2(3)(h) of the Securities Act, R.S.P.E.I. 1988, c. S-3.

Yukon Territory - section 2(b) of the Securities Act, R.S.Y. 1986, c. 158.

Northwest Territories - section 2(b) of the Securities Act, R.S.N.W.T. 1988, c. S-5.

Nunavut - section 2(b) of the Securities Act, R.S.N.W.T. 1988, c. S-5.

**COMPANION POLICY 21-101CP
TO NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION**

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**COMPANION POLICY 21-101CP
TO NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION**

PART 1 INTRODUCTION

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

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

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

1.2 Definition of Exchange-Traded Security – Section 1.1 of the Instrument defines an “exchange-traded security” as a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of NI 21-101 and NI 23-101. A security that is inter-listed would be considered to be an exchange-traded security. A security that is listed only on a foreign exchange or quoted only on a foreign quotation and trade reporting system falls within the definition of “foreign exchange-traded security”.

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

PART 2 MARKETPLACE

2.1 Marketplace

- (1) The Instrument uses the term "marketplace" to encompass the different types of trading systems that match trades.
- (2) Two of the characteristics of a "marketplace" are
 - (a) that it brings together orders for securities of multiple buyers and sellers; and
 - (b) that it uses established, non-discretionary methods under which the orders interact with each other.
- (3) The Canadian securities regulatory authorities consider that a person or company brings together orders for securities if it
 - (a) displays, or otherwise represents to marketplace participants, trading interests entered on the system; or
 - (b) receives orders centrally for processing and execution (regardless of the level of automation used).
- (4) The Canadian securities regulatory authorities are of the view that "established, non-discretionary methods" include any methods that dictate the terms of trading among the multiple buyers and sellers entering orders on the system. Such methods include providing a trading facility or setting rules governing trading among marketplace participants. Common examples include a traditional exchange and a computer system, whether comprised of software, hardware, protocols, or any combination thereof, through which orders interact, or any other trading mechanism that provides a means or location for the bringing together and execution of orders. Rules imposing execution priorities, such as time and price priority rules, would be "established, non-discretionary methods."
- (5) The Canadian securities regulatory authorities do not consider the following systems to be marketplaces for purposes of the Instrument:
 1. A system operated by a person or company that only permits one seller to sell its securities, such as a system that permits issuers to sell their own securities to investors. This does not include a dealer referred to in subsection (7) below.
 2. A system that merely routes orders for execution to a facility where the orders are executed.

3. A system that posts information about trading interests, without facilities for execution.

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

- (6) A person or company operating any of the systems described in subsection (5) should consider whether the person or company is trading for the purposes of securities legislation and is required to be registered as a dealer under securities legislation.
- (7) Inter-dealer bond brokers have a choice as to how to be regulated under the Instrument and NI 23-101. Each inter-dealer bond broker can choose to be subject to IDA By-law No. 36 and IDA Regulation 2100, fall within the definition of inter-dealer bond broker in the Instrument and be subject to the transparency requirements of Part 8 of the Instrument. Alternatively, the inter-dealer bond broker can choose to be an ATS and comply with the provisions of the Instrument and NI 23-101 applicable to a marketplace and an ATS. An inter-dealer bond broker that chooses to be an ATS will not be subject to By-law No. 36 or IDA Regulation 2100, but will be subject to all other IDA requirements applicable to a dealer.

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

3.1 Exchange

- (1) Canadian securities legislation of most jurisdictions does not define the term "exchange".
- (2) The Canadian securities regulatory authorities generally consider a marketplace, other than a quotation and trade reporting system, to be an exchange for purposes of securities legislation, if the marketplace
 - (a) requires an issuer to enter into an agreement in order for the issuer's securities to trade on the marketplace, *i.e.*, the marketplace provides a listing function;
 - (b) provides, directly, or through one or more marketplace participants, a guarantee of a two-sided market for a security on a continuous or reasonably continuous basis, *i.e.*, the marketplace has one or more marketplace participants that guarantee that a bid and an ask will be posted for a security on a continuous or reasonably continuous basis. For example, this type of liquidity guarantee can be carried out on exchanges through traders acting as principal such as registered traders, specialists or market makers;

- (c) sets requirements governing the conduct of marketplace participants, in addition to those requirements set by the marketplace in respect of the method of trading or algorithm used by those marketplace participants to execute trades on the system (see subsection (3)); or
 - (d) disciplines marketplace participants, in addition to discipline by exclusion from trading, *i.e.*, the marketplace can levy fines or take enforcement action.
- (3) An ATS that requires a subscriber to agree to comply with the requirements of a regulation services provider as part of its contract with that subscriber is not setting "requirements governing the conduct of subscribers". In addition, marketplaces are not precluded from imposing credit conditions on subscribers or requiring subscribers to submit financial information to the marketplace.
- (4) The criteria in subsection 3.1(2) are not exclusive and there may be other instances in which the Canadian securities regulatory authorities will consider a marketplace to be an exchange.

3.2 Quotation and Trade Reporting System

- (1) Canadian securities legislation in certain jurisdictions contains the concept of a quotation and trade reporting system. A quotation and trade reporting system is defined under Canadian securities legislation in those jurisdictions as a person or company, other than an exchange or registered dealer, that operates facilities that permit the dissemination of price quotations for the purchase and sale of securities and reports of completed transactions in securities for the exclusive use of registered dealers. A person or company that carries on business as a vendor of market data or a bulletin board with no execution facilities would not normally be considered to be a quotation and trade reporting system.
- (2) A quotation and trade reporting system is considered to have "quoted" a security if
- (a) the security has been subject to a listing or quoting process, and
 - (b) the issuer issuing the security or the dealer trading the security has entered into an agreement with the quotation and trade reporting system to list or quote the security.

3.3 Definition of an ATS

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

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

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

- (2) An ATS can establish trading algorithms that provide that a trade takes place if certain events occur. These algorithms are not considered to be “requirements governing the conduct of subscribers”.
- (3) A marketplace that would otherwise meet the definition of an ATS in the Instrument may apply to the Canadian securities regulatory authorities for recognition as an exchange.

3.4 Requirements Applicable to ATSs

- (1) Part 6 of the Instrument applies only to an ATS that is not a recognized exchange or a member of a recognized exchange or an exchange recognized for the purposes of the Instrument and NI 23-101. If an ATS is recognized as an exchange, the provisions of the Instrument relating to marketplaces and recognized exchanges apply.
- (2) If the ATS is a member of an exchange, the rules, policies and other similar instruments of the exchange apply to the ATS.
- (3) Under subsection 6.1(a) of the Instrument, an ATS that is not a member of a recognized exchange or an exchange recognized for the purposes of the Instrument and NI 23-101 must register as a dealer if it wishes to carry on business. Unless otherwise specified, an ATS registered as a dealer is subject to all of the requirements applicable to dealers under Canadian securities legislation including, the requirements imposed by the Instrument and NI 23-101. An ATS will be carrying on business in a local jurisdiction if it provides direct access to subscribers located in that jurisdiction.

- (4) If an ATS registered as a dealer in one jurisdiction in Canada provides access in another jurisdiction in Canada to subscribers who are not registered dealers under securities legislation, the ATS must be registered in that other jurisdiction. However, if all of the ATS's subscribers in the other jurisdiction are registered as dealers in that other jurisdiction, the securities regulatory authority in the other jurisdiction may consider granting the ATS an exemption from the requirement to register as a dealer under subsection 6.1(a) of the Instrument and from the registration requirements of securities legislation. In determining if the exemption is in the public interest, a securities regulatory authority will consider a number of factors, including whether the ATS is registered in another jurisdiction and whether the ATS deals only with registered dealers in that jurisdiction.
- (5) Subsection 6.1(b) of the Instrument prohibits an ATS to which the provisions of the Instrument apply from carrying on business unless it is a member of a self-regulatory entity. Membership in a self-regulatory entity is required for purposes of membership in the Canadian Investor Protection Fund, capital requirements and clearing and settlement procedures. At this time, the IDA is the only entity that would come within the definition.
- (6) Subsection 6.7(1) of the Instrument requires an ATS to notify the securities regulatory authority if one of three thresholds is met or exceeded. Upon being informed that one of the thresholds is met or exceeded, the securities regulatory authority intends to review the ATS, its structure and operations in order to consider whether the person or company operating the ATS should be considered to be an exchange for purposes of securities legislation. The securities regulatory authority intends to conduct this review because each of these thresholds may be indicative of an ATS having market dominance over a type of security, such that it would be more appropriate that the ATS be regulated as an exchange. If more than one Canadian securities regulatory authority is conducting this review, the reviewing jurisdictions intend to coordinate their review. The volume thresholds referred to in subsection 6.7(1) and section 12.2 of the Instrument are based on the type of security. The Canadian securities regulatory authorities consider a type of security to refer to a distinctive category of security such as equity securities, preferred securities, debt securities or options.
- (7) The securities regulatory authorities will calculate and publish the calculation for the average daily dollar value of trading volume, the total trading volume and the total number of trades on all marketplaces for each calendar quarter for each type of security.
- (8) Subsections 6.10(2) and 6.11(2) of the Instrument require an ATS to obtain an acknowledgement from its subscribers. The acknowledgement may be obtained in a number of ways, including requesting the subscriber's signature or requesting that the subscriber initial an initial box or check a check-off box. This may be done electronically. The acknowledgement must be specific to the information required to

be disclosed under the relevant subsection and must confirm that the subscriber has received the required disclosure. The Canadian securities regulatory authorities are of the view that it is the responsibility of the ATS to ensure that an acknowledgement is obtained from the subscriber in a timely manner.

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

4.1 Recognition as an Exchange or Quotation and Trade Reporting System

- (1) In determining whether to recognize an exchange or quotation and trade reporting system, the Canadian securities regulatory authorities must determine whether it is in the public interest to do so.
- (2) In exercising this discretion, the Canadian securities regulatory authorities will look at a number of factors, including
 - (a) the manner in which the exchange or quotation and trade reporting system proposes to comply with the Instrument;
 - (b) whether the exchange or quotation and trade reporting system has fair and meaningful representation on its governing body, in the context of the nature and structure of the exchange or quotation and trade reporting system;
 - (c) whether the exchange or quotation and trade reporting system has sufficient financial resources for the proper performance of its functions; and
 - (d) whether the rules, policies and other similar instruments of the exchange or quotation and trade reporting system ensure that its business is conducted in an orderly manner so as to afford protection to investors.

PART 5 ORDERS

5.1 Orders

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

- (2) The label put on a transaction is not determinative of whether the transaction constitutes an order. Instead, whether or not an indication is "firm" will depend on what actually takes place between the buyer and seller. At a minimum, the Canadian securities regulatory authorities will consider an indication to be firm if it can be executed without further discussion between the person or company entering the indication and the counterparty. Even if the person or company must give its subsequent agreement to an execution, the Canadian securities regulatory authorities will still consider the indication to be firm if this subsequent agreement is always, or almost always, granted so that the agreement is largely a formality. For instance, an indication where there is a clear or prevailing presumption that a trade will take place at the indicated price, based on understandings or past dealings, will be viewed as an order.
- (3) A firm indication of a willingness to buy or sell a security includes bid or offer quotations, market orders, limit orders and any other priced orders. For the purpose of sections 7.1, 8.1 and 8.3 of the Instrument, the Canadian securities regulatory authorities do not consider special term orders such as all or none, minimum fill or cash or delay delivery to be firm indications.
- (4) The determination of whether an order has been placed does not turn on the level of automation used. Orders can be given over the telephone, as well as electronically.

PART 6 FORMS FILED BY MARKETPLACES

6.1 Forms Filed by Marketplaces

- (1) Subsection 3.1(1) of the Instrument requires an applicant for recognition as an exchange to file Form 21-101F1. This subsection does not apply to an exchange that was recognized before the Instrument came into force.
- (2) The forms filed by a marketplace under the Instrument will be open for public inspection unless the person or company filing the form applies to the securities regulatory authority to keep the form confidential and the securities regulatory authority agrees to do so. In determining whether to keep a form confidential, the securities regulatory authority will look at the type of information on the form and determine whether the desirability of avoiding disclosure outweighs the desirability of public disclosure.
- (3) Under subsection 3.2(1) of the Instrument, at least 45 days prior to implementing a significant change to a matter set out in Form 21-101F1, a recognized exchange must file information describing the change or an amendment to the information provided in Form 21-101F1, in each case, in the manner set out in Form 21-101F1. In the view of the Canadian securities regulatory authorities, a significant change includes a

change to the information contained in Exhibits A, B, G, I, J, K, M, N, P and Q of Form 21-101F1. This is also applicable to recognized quotation and trade reporting systems under subsection 4.2(1) of the Instrument.

- (4) A recognized exchange or recognized quotation and trade reporting system that files amendments to the information provided in Form 21-101F1 should number each filing consecutively.
- (5) Securities legislation or the terms and conditions of the recognition of the exchange or quotation and trade reporting system may require that a recognized exchange or recognized quotation and trade reporting system that is voluntarily surrendering its recognition file a notice or application with the securities regulatory authority.
- (6) Under subsection 6.4(2) of the Instrument, at least 45 days prior to implementing a significant change to a matter set out in Form 21-101F2, an ATS is required to file an amendment to the information provided in Form 21-101F2 in the manner set out in Form 21-101F2. The Canadian securities regulatory authorities consider that a significant change includes any change to the operating platform of an ATS, the types of securities traded, or the types of subscribers.
- (7) Subsection 6.4(4) of the Instrument requires an ATS to file Form 21-101F3 by the following dates: April 30 (for the quarter ending March 31), July 30 (for the quarter ending June 30), October 30 (for the quarter ending September 30) and January 30 (for the quarter ending December 31).
- (8) If an ATS files notice of its intention to carry on exchange activities pursuant to section 6.6 of the Instrument, and the ATS intends to begin to carry on business as an exchange, the ATS is required to file Form 21-101F1.

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

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

7.1 Access Requirements - Section 5.1 of the Instrument sets out access requirements that apply to a recognized exchange and a recognized quotation and trade reporting system. The Canadian securities regulatory authorities note that the requirements regarding access for members do not, however, restrict the authority of an exchange or quotation and trade reporting system to maintain reasonable standards for access.

7.2 Compliance Rules - Section 5.4 of the Instrument requires a recognized exchange and

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

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

PART 8 CONFIDENTIAL TREATMENT OF TRADING INFORMATION BY ATSS

8.1 Confidential Treatment of Trading Information by ATSS

- (1) Subsection 6.8(2) of the Instrument provides that an ATS shall not carry on business as an ATS unless it has implemented reasonable safeguards and procedures to protect a subscriber's trading information. These include
 - (a) limiting access to the trading information of subscribers, such as the identity of subscribers and their orders, to those employees of, or persons or companies retained by, the ATS to operate the system or to be responsible for its compliance with Canadian securities legislation; and
 - (b) having in place procedures to ensure that employees of the ATS cannot use such information for trading in their own accounts.
- (2) The procedures referred to in subsection (1) should be clear and unambiguous and presented to all employees and agents of the ATS, whether or not they have direct responsibility for the operation of the ATS.
- (3) Nothing in section 6.8 of the Instrument prohibits an ATS from complying with National Policy 41 Shareholder Communication, or its successor instrument. This statement is necessary because an investment dealer that operates an ATS may be an intermediary for the purposes of National Policy 41, or its successor instrument, and may be required to disclose information under that Instrument.

PART 9 INFORMATION TRANSPARENCY REQUIREMENTS FOR

MARKETPLACES DEALING IN EXCHANGE-TRADED SECURITIES AND FOREIGN EXCHANGE-TRADED SECURITIES

9.1 Information Transparency Requirements for Marketplaces Dealing in Exchange-Traded Securities and Foreign Exchange-Traded Securities

- (1) Subsection 7.1(1) of the Instrument requires a marketplace that displays orders of exchange-traded securities or foreign exchange-traded securities to any person or company to provide to an information processor information regarding such orders as required by the information processor. It is expected that, initially, an information processor will receive information regarding the type, the issuer, the class, the symbol and the series of the security, the five best bid prices and the five best ask prices for each exchange-traded security or foreign exchange-traded security other than an option and the total disclosed volume at each of those prices. In addition, an information processor will receive information regarding the underlying interest, the expiry month, the strike price, the best bid price and the best ask price for each option traded and the total disclosed volume at each of those prices. The “best bid price” refers to the highest price of an order to buy a particular security. The “best ask price” for a security refers to the lowest price of an order to sell a particular security. The term "total disclosed volume" refers to the amount of the orders that is displayed in the marketplace. Volumes that are not disclosed or that are "reserve" or hidden volumes are not required to be displayed. An information processor may determine that additional or different information should be received and displayed.
- (2) The Canadian securities regulatory authorities are of the view that the requirements in sections 7.1 and 7.2 are a means to provide an accurate and timely representation of the Canadian securities market, including order and trade information for foreign exchange-traded securities traded on Canadian marketplaces.
- (3) The Canadian securities regulatory authorities expect that information required to be provided to an information processor under the Instrument will be provided in real-time or as close to real-time as possible.
- (4) Section 7.2 of the Instrument requires the marketplace to provide accurate and timely information regarding details of all trades of exchange-traded securities or foreign exchange-traded securities to an information processor as required by the information processor. For each exchange-traded security or foreign exchange-traded security other than an option, this information includes details as to the type, issuer, class and series of the security, the volume traded, the symbol, the price and time of the trade and any other information required by the information processor. For an option, this information includes details as to the underlying interest, the expiry month, whether the option is a put or a call, the strike price, the volume traded, the price and the time of the trade and any other information required by the information processor.

9.2 Consolidated Feed - Section 7.3 of the Instrument requires an information processor to produce a consolidated feed in real-time showing the information provided to the information processor. The consolidated feed will consist of the best five bid prices and the best five ask prices transmitted to it for each security and all of the trade information provided by marketplaces pursuant to Part 7 of the Instrument. Special terms orders will not be included in the consolidated feed. It is up to the marketplace to determine whether broker identification numbers will be provided to the information processor for inclusion in the consolidated feed.

PART 10 INFORMATION TRANSPARENCY REQUIREMENTS FOR UNLISTED DEBT SECURITIES

10.1 Information Transparency Requirements for Marketplaces Dealing in Unlisted Debt Securities

- (1) Subsection 8.1(1) of the Instrument requires marketplaces that display orders of unlisted debt securities to provide to an information processor information regarding such orders as required by the information processor. It is intended that marketplaces will provide information to the information processor relating to all orders of unlisted debt securities that are displayed on the marketplace.
- (2) Initially, the Canadian securities regulatory authorities expect that the information processor will require a marketplace to provide order information for all unlisted debt securities traded on the marketplace, including details as to the type, the issuer, the coupon, and the maturity of security, the best bid price, the best ask price and the total disclosed volume at those prices. The “best bid price” refers to the highest price of an order to buy a particular security. The “best ask price” for a security refers to the lowest price of an order to sell a particular security. The term "total disclosed volume" refers to the amount of the orders that is displayed in the marketplace. Volumes that are not disclosed or that are "reserve" or hidden volumes are not required to be displayed. The information processor may determine that additional or different information should be received and displayed. It is up to the marketplace to determine whether broker identification numbers will be provided to the information processor for inclusion in the consolidated feed.
- (3) Section 8.2 of the Instrument requires the marketplace to provide to the information processor accurate and timely information regarding details of all trades of unlisted debt securities as required by the information processor. This information includes details as to the type, issuer, class and series of the security, the volume traded, the price and the time of the trade and any additional information required by the information processor.
- (4) The Canadian securities regulatory authorities expect that information required to be provided to an information processor under sections 8.1 and 8.2 of the Instrument

will be provided in real-time or as close to real-time as possible.

10.2 Information Transparency Requirements for Inter-Dealer Bond Brokers and Dealers Trading Unlisted Debt Securities

- (1) Section 8.3 of the Instrument requires an inter-dealer bond broker to provide to an information processor accurate and timely information regarding orders for government debt securities traded through the inter-dealer bond broker as required by the information processor.
- (2) Initially, the information processor will require an inter-dealer bond broker to provide order information for certain benchmark and designated government debt securities traded through the inter-dealer bond broker, including details as to the type, the issuer, the coupon, and the maturity of security, the best bid price, the best ask price and the total disclosed volume at those prices. The discussion of the meaning of these terms is in subsection 10.1(2).
- (3) Section 8.4 of the Instrument requires an inter-dealer bond broker to provide to an information processor accurate and timely information regarding details of trades of unlisted debt securities executed through the inter-dealer bond broker as required by the information processor. This requirement applies to both government debt securities and corporate debt securities.
- (4) Section 8.5 requires a dealer executing trades of corporate debt securities outside of a marketplace to provide to an information processor accurate and timely information regarding details of trades of corporate debt securities executed by or through the dealer as required by the information processor.
- (5) Initially, inter-dealer bond brokers will have to provide information regarding details of trades of certain benchmark and designated government debt securities including details as to the type, the issuer, the series, the coupon and the maturity of the security, the volume traded, the price and time of the trade and any additional information required by the information processor.
- (6) Initially, inter-dealer bond brokers and dealers will have to provide information regarding details of trades of certain designated corporate debt securities. This will include details as to the type, the issuer, the class, the series, the coupon and the maturity, the price and time of the trade and any additional information required by the information processor. The price of the security will include any mark-up or mark-down.
- (7) For investment grade corporate debt securities, inter-dealer bond brokers and dealers will have to provide the actual quantity of bonds traded if the total par value of the trade is \$2 million or less. For a trade with a par value above \$2 million, the volume

will be disseminated as “\$2million+”. An “investment grade corporate debt security” is a corporate debt security that is rated by one of the listed rating organizations at or above one of the following rating categories or a rating category that preceded or replaces a category listed below:

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

- (8) For non-investment grade corporate debt securities, inter-dealer bond brokers and dealers will have to provide the actual quantity of bonds traded if the total par value of the trade is \$200,000 or less. For a trade with a par value above \$200,000, the volume will be disseminated as “\$200,000+”. A “non-investment grade corporate debt security” is a corporate debt security that is not an investment grade corporate debt security.
- (9) The information processor will publish the list of benchmark and designated government debt securities and the list of corporate debt securities.
- (10) Order and trade information regarding government debt securities traded through an inter-dealer bond broker will be provided to the information processor in real-time or as close to real-time as possible. Initially, trade information regarding corporate debt securities traded through an inter-dealer bond broker or by or through a dealer will be provided within one hour of the trade.

10.3 Consolidated Feed - Section 8.6 of the Instrument requires the information processor to produce a consolidated feed in real-time showing the information provided to the information processor.

PART 11 MARKET INTEGRATION

11.1 Phased Implementation

- (1) As market integration is a complex task and raises some significant technology challenges, the Canadian securities regulatory authorities believe that a phased approach to market integration is preferable. Accordingly, subsection 9.2(1) and section 9.3 of the Instrument provide the requirements for the first phase of market integration (“Phase 1 Integration”). The Phase 1 Integration requirements will be in place before January 1, 2004. On and after January 1, 2004, a marketplace must either enter into an agreement with a market integrator or, if there is no market integrator, a marketplace must establish an electronic connection to all other marketplaces (“Phase 2 Integration”).
- (2) Phase 1 Integration will require any marketplace that wishes to operate in Canada to establish an electronic connection to the principal market for each security being traded on its system before executing a trade of that security.
- (3) Following the enactment of the Instrument and each year, an information processor that receives information regarding a security will determine the marketplace that had the largest trading volume for that security in that calendar year, notify in writing each marketplace that trades that security of the marketplace determined to be the principal market and publish the name of that marketplace. If there is no information processor, the Canadian securities regulatory authorities will determine the principal market for each security and will make that determination publicly available.
- (4) Section 9.3(2) of the Instrument provides that a marketplace does not have to be connected to the principal market if the principal market for a security as determined is different from the previous principal market, the marketplace is connected to the previous principal market and the trade occurs within 30 days of the date the marketplace receives written notice of the principal market from the information processor or securities regulatory authorities. This is a transition provision that gives a marketplace thirty days to connect to the principal market.
- (5) Phase 2 Integration will establish more complete market integration and order routing between all marketplaces in order to ensure that there will be price protection for all orders between all competing marketplaces. Market integration may be achieved by establishing a market integrator or extending the requirement to link to the principal market by requiring all marketplaces to link with each other. Each marketplace will send orders to other systems by way of a direct connection or through a market integrator. Each system will maintain control over its own orders and will have responsibility for managing order execution.

11.2 Execution of Orders - Subsection 9.4(1) of the Instrument requires a marketplace, when receiving an order from another marketplace, to apply its own rules to the execution of that order. This requirement applies during both Phase 1 Integration and Phase 2 Integration. This requires a marketplace that displays orders through an information processor to provide access to its passive booked orders. When an active order is routed to the system in which the passive order is booked, then execution will be completed according to the rules of the system in which the passive order is booked. A passive order is an order that has been placed in the order book because it was not executable at time of entry and is now waiting to be executed. An active order is an order that comes into the market seeking a counterparty that is either a market order or an executable limit order (a buy order with a limit at or above the present ask price or a sell order with a limit at or below the present bid price).

11.3 Equivalent Access

- (1) The Canadian securities regulatory authorities believe that a marketplace participant should be able to execute against another marketplace's order that is provided to an information processor to the same extent as if that order had been reflected in the marketplace in which the marketplace participant is a member, a user or a subscriber. Accordingly, subsection 9.4(2) of the Instrument requires a marketplace to be able to receive from or send orders to other marketplaces to which it is linked.
- (2) Examples of where the Canadian securities regulatory authorities would consider a marketplace not to be in compliance with subsection 9.4(2) of the Instrument include
 - (a) the marketplace responding to orders entered by a person or company that is not a marketplace participant in that marketplace more slowly than it responds to orders by a marketplace participant in that marketplace;
 - (b) the marketplace using different technology to execute orders entered by a person or company that is not a marketplace participant in that marketplace, if that technology would not provide an equivalent service to orders entered by a marketplace participant in that marketplace; or
 - (c) the marketplace charging fees that have the effect of creating barriers to access for a person or company that is not a marketplace participant in that marketplace.
- (3) The Canadian securities regulatory authorities will not consider a marketplace to be in breach of subsection 9.4(2) of the Instrument merely because it has a different fee structure for persons or companies that are not marketplace participants in the marketplace. Instead the Canadian securities regulatory authorities will look at whether the different fee structure can be justified or whether it has only been implemented in order to create a barrier to access for those persons or companies.

11.4 Establishing a Market Integrator – When choosing a market integrator, the Canadian securities regulatory authorities will look at a number of factors, including,

- (a) the performance capability, standards and procedures for providing access to orders in various marketplaces;
- (b) whether all marketplaces may obtain access to the market integrator on fair and reasonable terms which are not unreasonably discriminatory;
- (c) personnel qualifications; and
- (d) whether the market integrator has sufficient financial resources for the proper performance of its functions.

PART 12 DISCLOSURE OF TRANSACTION FEES FOR MARKETPLACES

12.1 Disclosure of Transaction Fees for Marketplaces - Section 10.1 of the Instrument requires that each marketplace disclose the schedule of transaction fees to an information processor. It is not the intention of the Canadian securities regulatory authorities that a commission fee charged by a dealer for dealer services be disclosed to an information processor. Each marketplace is required to publicly post with an information processor a schedule of all trading fees that are applicable to outside marketplace participants that are accessing an order and executing a trade displayed through an information processor. The requirement to disclose transaction fees does not require a combined price calculation by each marketplace.

PART 13 RECORDKEEPING REQUIREMENTS FOR MARKETPLACES

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

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

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

PART 14 CAPACITY, INTEGRITY AND SECURITY OF MARKETPLACE SYSTEMS

14.1 Capacity, Integrity and Security of Marketplace Systems

- (1) Subsection (a) of section 12.1 of the Instrument requires a marketplace to meet certain systems, capacity, integrity and security standards. Subsections (b) and (c) of section 12.1 of the Instrument require a recognized exchange, a recognized quotation and trade reporting system and an ATS that exceeds the threshold in section 12.2 of the Instrument to meet certain additional systems, capacity, integrity and security standards.
- (2) The activities in subsection (a) of section 12.1 of the Instrument must be carried out at least once a year. The Canadian securities regulatory authorities would expect these activities to be carried out even more frequently if there is a change to the marketplace that is material either in terms of structure or volume of trading that necessitates that these functions be carried out more frequently in order to ensure that the marketplace can appropriately service its marketplace participants.
- (3) The independent review contemplated by subsection (b) of section 12.1 of the Instrument should be performed by competent, independent audit personnel following established audit procedures and standards.
- (4) An ATS becomes subject to subsections (b) and (c) of section 12.1 of the Instrument after it first satisfies the trading volume test in section 12.2 of the Instrument. It remains subject to subsections (b) and (c) of section 12.1 even if, thereafter, it no longer satisfies the trading volume test, unless it is successful in obtaining relief under section 15.1 of the Instrument.

PART 15 CLEARING AND SETTLEMENT

- 15.1 Clearing and Settlement** - Subsection 13.1(1) of the Instrument requires that all trades executed through an ATS shall be reported and settled through a clearing agency.

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

PART 16 INFORMATION PROCESSOR

16.1 Information Processor

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

16.2 Selection of an Information Processor

- (1) The Canadian securities regulatory authorities will review Form 21-101F5 to determine whether it is contrary to the public interest for the person or company who filed the form to act as an information processor. The Canadian securities regulatory authorities will look at a number of factors when reviewing the form filed, including,
 - (a) the performance capability, standards and procedures for the collection, processing, distribution, and publication of information with respect to orders for, and trades in, securities;
 - (b) whether all marketplaces may obtain access to the information processor on fair and reasonable terms which are not unreasonably discriminatory;
 - (c) personnel qualifications;
 - (d) whether the information processor has sufficient financial resources for the proper performance of its functions;

- (e) the existence of another entity performing the proposed function for the same type of security;
 - (f) the systems report referred to in subsection 14.5(b) of the Instrument.
- (2) The Canadian securities regulatory authorities request that the forms and exhibits be filed in electronic format, where possible.

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

**FORM 21-101F1
INFORMATION STATEMENT
EXCHANGE OR QUOTATION AND TRADE REPORTING SYSTEM**

Filer: **EXCHANGE** **QUOTATION AND TRADE REPORTING SYSTEM**

Type of Filing: **INITIAL** **AMENDMENT**

1. Full name:

2. Main street address (do not use a P.O. box):

3. Mailing address (if different):

4. Address of head office (if different from address in item 2):

5. Business telephone and facsimile number:

(Telephone)

(Facsimile)

6. Website address:

7. Contact employee:

(Name and Title)

(Telephone Number)

(Facsimile)

(E-mail address)

8. Counsel:

(Firm Name)

(Contact Name)

(Telephone Number)

(Facsimile)

(E-mail address)

9. Date of financial year-end:

10. Legal status: Corporation Sole Proprietorship

Partnership Other (specify):

Except where the exchange or quotation and trade reporting system is a sole proprietorship, indicate the date and place where the exchange or quotation and trade reporting system obtained its legal status (e.g., place of incorporation, place where partnership agreement was filed or where exchange or quotation and

trade reporting system entity was formed):

- (a) Date (DD/MM/YYYY): _____ (b) Place of formation:
- (c) Statute under which exchange or quotation and trade reporting system was organized:

11. Market Regulation is being conducted by:

- the exchange
 - the quotation and trade reporting system
 - regulation services provider other than the filer (see exhibit O)
- THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Filing. For each Exhibit, include the name of the exchange or quotation and trade reporting system, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

If the filer, recognized exchange or recognized quotation and trade reporting system files an amendment to the information provided in its Filing and the information relates to an Exhibit filed with the Filing or a subsequent amendment, the filer, recognized exchange or recognized quotation and trade reporting system, must, in order to comply with subsection 3.1(2), section 3.2, subsection 4.1(2) or 4.2 of National Instrument 21-101, provide a description of the change and file a complete and updated Exhibit.

1. CORPORATE GOVERNANCE

Exhibit A A copy of the constating documents, including corporate by-laws and other similar documents, and all subsequent amendments.

Exhibit B For each affiliated entity of the exchange or quotation and trade reporting system, and for any person or company with whom the exchange or quotation and trade reporting system has a contractual or other agreement relating to the operation of an electronic trading system (the "System") to be used to effect transactions on the exchange or quotation and trade reporting system, provide the following information:

1. Name and address of person or company.
2. Form of organization (e.g., association, corporation, partnership, etc.).
3. Location and statute citation under which organized. Date of incorporation in present form.
4. Brief description of nature and extent of affiliation or contractual or other agreement with exchange or quotation and trade reporting system.
5. Brief description of business or functions. Description should include responsibilities with respect to operation of the System and/or execution, reporting, clearance, or

settlement of transactions in connection with operation of the System.

6. If a person or company has ceased to be an affiliated entity of the exchange or quotation and trade reporting system during the previous year or ceased to have a contractual or other agreement relating to the operation of a System during the previous year, provide a brief statement of the reasons for termination of the relationship.

Exhibit C

A list of partners, directors, officers, governors, members of all standing committees, or persons performing similar functions, who presently hold or have held their offices or positions during the previous year, indicating the following for each:

1. Name.
2. Title.
3. Dates of commencement and expiry of present term of office or position and length of time position held.
4. Type of business in which each is primarily engaged (e.g., sales, trading, market making, etc.) and current employer.
5. Type of business in which each was primarily engaged in the preceding five years, if different from that set out in item 4.
6. Whether the person is considered to be an independent director.

Exhibit D

For each affiliated entity of the exchange or quotation and trade reporting system, provide the following information:

1. A copy of the constating documents, including corporate by-laws and other similar documents.
2. A copy of existing by-laws or corresponding rules or instruments.
3. The name and title of the present officers, governors, members of all standing committees or persons performing similar functions.
4. For the latest financial year of the affiliated entity, unconsolidated financial statements, which may be unaudited. Such financial statements shall consist, at a minimum, of a balance sheet and an income statement prepared in accordance with, or if the affiliated entity is organized under the laws of a foreign jurisdiction, reconciled with Canadian GAAP. If the affiliated entity is required by securities legislation to file annual financial statements, a statement to that effect with a reference to the relevant securities legislation may be provided instead of the financial statements required here.

Exhibit E

This Exhibit is applicable only to exchange or quotation and trade reporting systems that have one or more owners, shareholders, or partners that are not also marketplace participants. If the exchange or quotation and trade reporting system is a corporation, please provide a list of each shareholder that directly owns five percent or more of a class of a voting security of the exchange or quotation and trade reporting system. If the exchange or quotation and trade reporting system is a partnership, please provide a list of all general partners and those limited partners that have the right to receive upon dissolution, or have contributed, five percent or more of the partnership's

capital. For each of the persons listed in this Exhibit, please provide the following:

1. Full legal name.
2. Title or status.
3. Date title or status was acquired.
4. Approximate ownership interest.
5. Whether the person has control (as interpreted in subsection 1.3(2) of National Instrument 21-101 Marketplace Operation).

2. RULES

Exhibit F A copy of all by-laws, rules, policies and other similar instruments of the exchange or quotation and trade reporting system that are not included in Exhibit A.

3. SYSTEMS AND OPERATIONS

Exhibit G Describe the manner of operation of the System. This description should include the following:

1. A detailed description of the market, including how orders will be entered and trades executed (e.g., call market, auction market, dealer market). If more than one method of order entry or trade execution is being used, please describe.
2. The means of access to the System.
3. Procedures governing entry and display of quotations and orders in the System.
4. Detailed description of the procedures governing the execution, reporting, clearance and settlement of transactions in connection with the System.
5. The hours of operation of the System, and the date on which the exchange or quotation and trade reporting system intends to commence operation of the System.
6. If the exchange or quotation and trade reporting system proposes to hold funds or securities on a regular basis, a description of the controls that will be implemented to ensure the safety of those funds or securities.
7. Description of training provided to users of the System and any materials provided to the users.
8. Description of current and future capacity estimates, contingency and business continuity plans and the procedures to review and test methodology of the system and to perform stress testing.

Exhibit H Provide a schedule for each of the following:

1. The securities listed on the exchange or quoted on the quotation and trade reporting system, indicating for each the name of the issuer and a description of the security and whether or not the issuer is suspended from trading. After the initial filing of this form, please provide a list of the changes to the securities listed on the exchange or quoted on the quotation and trade reporting system on a quarterly basis.
2. Other securities traded on the marketplace including, for each, the name of the issuer and a description of the security.

4. ACCESS

Exhibit I¹ A complete set of all forms pertaining to:

1. Filing required for participation in the exchange or quotation and trade reporting system.
2. Any other similar materials.

Exhibit J² A complete set of all forms, reports or questionnaires required of marketplace participants relating to financial responsibility or minimum capital requirements or other eligibility requirements for such marketplace participants. Provide a table of contents listing the forms included in this Exhibit and a narrative of the requirements.

Exhibit K Describe the exchange's or quotation and trade reporting system's criteria for participation in the exchange or quotation and trade reporting system. Describe conditions under which marketplace participants may be subject to suspension or termination with regard to access to the exchange or quotation and trade reporting system. Describe any procedures that will be involved in the suspension or termination of a member.

Exhibit L Provide an alphabetical list of all marketplace participants, including the following information:

1. Name.
2. Date of becoming a marketplace participant.
3. Principal business address and telephone number.
4. If a marketplace participant is an individual, the name of the entity with which such individual is associated and the relationship of such individual to the entity (e.g., partner, officer, director, employee, etc.).
5. Describe the type of trading activities primarily engaged in by the marketplace participant (e.g., agency trader, proprietary trader, registered trader, market maker). A person shall be "primarily engaged" in an activity or function for purposes of this item when that activity or function is the one in which that person is engaged for the majority of their time. When more than one type of person at an entity engages in any of the activities or functions enumerated in this item, identify each type (e.g., agency trades,

¹ Exhibit I is to be provided only if not otherwise provided with Exhibit F.

² Exhibit J is to be provided only if not otherwise provided with Exhibit F or Exhibit I.

registered trader and market maker) and state the number of marketplace participants in each.

6. The class of participation or other access.

5. LISTING CRITERIA

Exhibit M³ A complete set of documents comprising the exchange's or quotation and trade reporting system's listing or quotation filings, including any agreements required to be executed in connection with listing or quotation and a schedule of listing or quotation fees. If the exchange or quotation and trade reporting system does not list securities, provide a brief description of the criteria used to determine what securities may be traded on the exchange or quotation and trade reporting system. Provide a table of contents listing the forms included in this Exhibit and a narrative description of the listing requirements.

6. FEES

Exhibit N A description of all fees to be paid by members to the exchange, including fees relating to connection to the system, access, data, regulation (if applicable) and how such fees are set.

7. FINANCIAL VIABILITY

Exhibit O⁴ For the latest financial year of the exchange or quotation and trade reporting system, audited financial statements of the exchange or quotation and trade reporting system and a report prepared by an independent auditor.

8. REGULATION

Exhibit P A description of the regulation performed by the exchange or quotation and trade reporting system, including the structure of the department performing regulation, how the department is funded, policies and procedures in place to ensure confidentiality and policies and procedures relating to conducting an investigation.

Exhibit Q If market regulation is conducted by a regulation services provider other than the filer, provide the contract between the filer and the regulation services provider.

Exhibit R If more than one entity is performing regulation services for a type of security and if the filer is conducting market regulation for itself and its members, provide the contract between the filer and the regulation services provider providing for co-ordinated monitoring and enforcement under section 7.5 of National Instrument 23-101.

³ The forms described in Exhibit M are to be provided only if not otherwise provided with Exhibit F.

⁴ For a new exchange, future oriented financial information should be provided instead of the information specified in Exhibit O.

**CERTIFICATE OF EXCHANGE OR QUOTATION AND
TRADE REPORTING SYSTEM**

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of exchange or quotation and trade reporting system)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

I. Contact Employee:

(Name and Title) (Telephone Number) (Facsimile) (E-mail address)

J. The ATS is

a member of _____
name of the recognized self-regulatory entity

a registered dealer

K. If this is an initial operation report, the date the alternative trading system expects to commence operation:

L. The ATS has contracted with [regulation services provider] to perform market regulation for the ATS and its subscribers.

THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Initial Operation Report. For each Exhibit, include the name of the ATS, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

If the ATS files an amendment to the information provided in its Initial Operation Report and the information relates to an Exhibit filed with the Initial Operation Report or a subsequent amendment, the ATS must, in order to comply with subsection 6.4(2) or 6.4(3) of National Instrument 21-101, provide a description of the change and file a complete and updated Exhibit.

Exhibit A A description of classes of subscribers (e.g., dealer, institution, or retail). Also describe any differences in access to the services offered by the alternative trading system to different groups or classes of subscribers.

Exhibit B:

1. A list of the types of securities the alternative trading system trades (e.g., equity, debt) or if this is an initial operation report, the types of securities it expects to trade.
2. A list of each of the securities the alternative trading system trades, or if this is an initial operation report, the securities it expects to trade.

Exhibit C A detailed description of the market structure of the alternative trading system (e.g., call market, auction market, dealer market).

- Exhibit D** The name, address, telephone number, facsimile number and e-mail address of counsel for the alternative trading system.
- Exhibit E** A copy of the constating documents, including corporate by-laws and other similar documents, and all subsequent amendments.
- Exhibit F** The name of any person or company, other than the alternative trading system, that will be involved in the operation of the alternative trading system, including the execution, trading, clearing and settling of transactions on behalf of the alternative trading system. Provide a description of the role and responsibilities of each person or company.
- Exhibit G** The following information:
1. The manner of operation of the alternative trading system.
 2. Procedures governing entry of orders into the alternative trading system.
 3. The means of access to the alternative trading system.
 4. Fees charged by the alternative trading system.
 5. The procedures governing execution, reporting, clearance and settlement of transactions effected through the alternative trading system.
 6. Procedures for ensuring subscriber compliance with requirements of the alternative trading system.
 7. A description of safeguards and procedures implemented by the alternative trading system to protect subscribers' trading information.
 8. Description of the training to be provided to users of the System and a copy of any materials provided.
- Exhibit H** A brief description of the alternative trading system's procedures for reviewing system capacity, security and contingency planning procedures.
- Exhibit I** If any other person or company, other than the alternative trading system, will hold or safeguard subscriber funds or securities on a regular basis, attach the name of the person or company and a brief description of the controls that will be implemented to ensure the safety of the funds and securities.
- Exhibit J** A list of the full legal name of registered holders and beneficial owners of securities of the alternative trading system.
- Exhibit K** A description of all material contracts executed by the alternative trading system.
- Exhibit L** A copy of the contract executed between the ATS and the regulation services provider.
- Exhibit M** The form of contract executed between the ATS and its subscribers.
- Exhibit N** The form of acknowledgement required by subsections 6.10(2) and 6.11(2) of National Instrument 21-101.

Exhibit O Description of the training to be provided to subscribers relating to the requirements set by the regulation services provider and a copy of any materials provided.

CERTIFICATE OF ALTERNATIVE TRADING SYSTEM

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of alternative trading system)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

FORM 21-101F3
QUARTERLY REPORT OF ALTERNATIVE TRADING SYSTEM ACTIVITIES

Alternative Trading System Name: _____

Period covered by this report: _____ to _____

THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

1. Identification:

A. Full name of alternative trading system (if sole proprietor, last, first and middle name):

B. Name(s) under which business is conducted, if different from item 1A:

C. Alternative trading system's main street address:

2. Attach as Exhibit A, a list of all subscribers at any time during the period covered by this report.

3. Attach as Exhibit B, a list of all securities that were traded on the alternative trading system at any time during the period covered by this report.

4. (a) Provide the details requested in the form set out in the chart below for each type of security traded on the alternative trading system for transactions during regular trading hours during the quarter. Enter "None", "N/A" or "0" where appropriate.

(b) Provide the details requested in the form set out in the chart below for each type of security traded on the alternative trading system for transactions during after hours trading sessions during the quarter. Enter "None", "N/A" or "0" where appropriate.

Category of Securities	Average Daily Dollar Value of Trading Volume	Total Trading Volume	Total Number of Trades
A. Exchange-traded securities			
Equity securities			
Preferred securities			
Debt securities			
Options			

Category of Securities	Average Daily Dollar Value of Trading Volume	Total Trading Volume	Total Number of Trades
B. Unlisted debt securities - Government debt securities Domestic Foreign			
C. Unlisted debt securities - Corporate debt securities Domestic			
D. Foreign Exchange-Traded Securities Equity securities Preferred securities Debt securities Options			
E. Other Specify types of securities			

5. Provide the total trading volume for each security traded on the alternative trading system in the form set out in the chart below. Enter "None", "N/A" or "0" where appropriate.

Category of Securities	Total Trading Volume for Each Security
A. Exchange-traded securities Equity securities [name of securities] Preferred securities [name of securities] Debt securities [name of securities] Options [name of securities]	
B. Unlisted debt securities – Government debt securities Domestic [by issuer and maturity] Foreign [by issuer and maturity]	

Category of Securities	Total Trading Volume for Each Security
C. Unlisted debt securities – Corporate debt securities Domestic [by issuer and maturity]	
D. Foreign Exchange-Traded Securities Equity securities [name of securities] Preferred securities [name of securities] Debt securities [name of securities] Options [name of securities]	
E. Other Specify securities	

6. Attach as Exhibit C, a list of all persons granted, denied, or limited access to the alternative trading system during the period covered by this report, designating for each person (a) whether they were granted, denied, or limited access; (b) the date the alternative trading system took such action; (c) the effective date of such action; and (d) the nature of any denial or limitation of access.

CERTIFICATE OF ALTERNATIVE TRADING SYSTEM

The undersigned certifies that the information given in this report relating to the alternative trading system is true and correct.

DATED at _____ this ____ day of _____ 20__

 (Name of alternative trading system)

 (Name of director, officer or partner - please type or print)

 (Signature of director, officer or partner)

 (Official capacity - please type or print)

FORM 21-101F4
CESSATION OF OPERATIONS REPORT FOR
ALTERNATIVE TRADING SYSTEM

1. Identification:
 - A. Full name of alternative trading system (if sole proprietor, last, first and middle name):
 - B. Name(s) under which business is conducted, if different from item 1A:
 2. Date alternative trading system proposes to cease carrying on business as an ATS:
 3. If cessation of business was involuntary, date alternative trading system has ceased to carry on business as an ATS:
 4. Please check the appropriate box:
 - the ATS intends to carry on business as an exchange and has filed Form 21-101F1.
 - the ATS intends to cease to carry on business.
 - the ATS intends to become a member of an exchange.
- THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Cessation of Operations Report. For each exhibit, include the name of the ATS, the date of filing of the exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

- Exhibit A** The reasons for the alternative trading system ceasing to carry on business as an ATS.
- Exhibit B** A list of each of the securities the alternative trading system trades.
- Exhibit C** The amount of funds and securities, if any, held for subscribers by the alternative trading system, or another person or company retained by the alternative trading system to hold funds and securities for subscribers and the procedures in place to transfer or to return all funds and securities to subscribers.

CERTIFICATE OF ALTERNATIVE TRADING SYSTEM

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this _____ day of _____ 20__

(Name of alternative trading system)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

by the information processor. For each such marketplace, dealer or other party, provide a list of all securities for which information with respect to quotations for, or transactions in, is or is proposed to be collected, processed, distributed or published.

BUSINESS ORGANIZATION

12. Legal status: Corporation Sole Proprietorship

 Partnership Other (specify):

Except where the information processor is a sole proprietorship, indicate the date and place where the information processor obtained its legal status (e.g., place of incorporation, place where partnership agreement was filed or where information processor was formed):

(a) Date (DD/MM/YYYY): _____ (b) Place of formation:

- THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Initial Form. For each Exhibit, include the name of the information processor, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

If the information processor files an amendment to the information provided in its Initial Form, and the information relates to an Exhibit filed with the Initial Form or a subsequent amendment, the information processor must, in order to comply with sections 14.1 and 14.2 of National Instrument 21-101 provide a description of the change and file a complete and updated Exhibit.

1. CORPORATE GOVERNANCE

Exhibit A A copy of the constating documents, including corporate by-laws and other similar documents, and all subsequent amendments.

Exhibit B List any person or company who owns 10 percent or more of the information processor's stock or who, either directly or indirectly, through agreement or otherwise, in any other manner, may control or direct the management or policies of the information processor. Provide the full name and address of each such person and attach a copy of the agreement or, if there is none written, describe the agreement or basis through which such person exercises or may exercise such control or direction.

Exhibit C A list of the partners, officers, directors, governors, members of all standing committees or persons performing similar functions who presently hold or have held their offices or positions during the previous year, indicating the following for each::

1. Name.
2. Title.
3. Dates of commencement and expiry of present term of office or position and length of time the office or position held.
4. Type of business in which each is primarily engaged and current employer.
5. Type of business in which each was primarily engaged in the preceding five years, if different from that set out in item 4.
6. Whether the person is considered to be an independent director.

Exhibit D A narrative or graphic description of the organizational structure of the information processor.

Exhibit E A description of the personnel qualifications for each category of professional, non-professional and supervisory employee employed by the information processor. Detail whether the personnel are employed by the information processor or a third party.

Exhibit F For each affiliated entity of the information processor, and for any person or company with whom the information processor has a contractual or other agreement relating to the operations of the information processor, provide the following information:

1. Name and address of person or company.
2. Form of organization (e.g., association, corporation, partnership, etc.)
3. Name of location and statute citation under which organized. Date of incorporation in present form.
4. Brief description of nature and extent of affiliation or contractual or other agreement with the information processor.
5. Brief description of business or functions.
6. If a person or company has ceased to be an affiliated entity of the information processor during the previous year or ceased to have a contractual or other agreement relating to the operation of the information processor during the previous year, provide a brief statement of the reasons for termination of the relationship.

2. SYSTEMS AND OPERATIONS

Exhibit G Describe the manner of operation of the system (the “System”) of the information processor that collects, processes, distributes and publishes information in accordance with National Instruments 21-101 and 23-101. This description should include the following:

1. The means of access to the System.
2. Procedures governing entry and display of quotations and orders in the System.
3. The hours of operation of the System.
4. Description of the training provided to users of the System and any materials provided to the users.
5. Description of current and future capacity estimates, contingency and business continuity plans and the procedures to review and test methodology of the system and to perform stress testing.

Exhibit H A description in narrative form of each service or function listed in Item 10 and performed by the information processor. Include a description of all procedures utilized for the collection, processing, distribution and publication of information with respect to quotations for, and transactions in, securities.

Exhibit I A list of all computer hardware utilized by the information processor to perform the services or functions listed in Item 10, indicating:

1. Manufacturer, and manufacturer’s equipment and identification number.
2. Whether purchased or leased (if leased, duration of lease and any provisions for purchase or renewal).
3. Where such equipment (exclusive of terminals and other access devices) is physically located.

Exhibit J A description of the measures or procedures implemented by the information processor to provide for the security of any system employed to perform the functions of an information processor. Include a general description of any physical and operational safeguards designed to prevent unauthorized access to the system. Describe any measures used to verify the accuracy of information received or disseminated by the system.

Exhibit K Where the functions of an information processor are performed by automated facilities or systems, attach a description of:

1. All backup systems which are designed to prevent interruptions in the performance of any information providing functions as a result of technical malfunctions or otherwise in the system itself, in any permitted input or output system connection or as a result of any independent source,
2. Business continuity and contingency plans for the ongoing operations of the facilities or systems in the event of a catastrophe,

3. Each type of interruption which has lasted for more than two minutes and has occurred within the six (6) months preceding the date of the filing, including the date of each interruption, the cause and duration, and
4. The total number of interruptions which have lasted two minutes or less.

Exhibit L For each service or function listed in Item 10,

1. Quantify in appropriate units of measure the limits on the information processor's capacity to retrieve, collect, process, store or display the data elements included within each function.
2. Identify the factors (mechanical, electronic or other) which account for the current limitations reported in answer to 1. on the capacity to receive, collect, process, store or display the data elements included within each function.

3. FINANCIAL VIABILITY

Exhibit M Audited financial statements for the latest financial year of the information processor and a report prepared by an independent auditor. Please discuss the financial viability of the information processor in the context of having sufficient financial resources to properly perform its functions.

Exhibit N A business plan with pro forma financial statements and estimates of revenue.

4. FEES

Exhibit O A complete list of all fees and other charges imposed, or to be imposed, by or on behalf of the information processor for its information services, including the cost of establishing a connection that will provide information to the information processor.

5. ACCESS

Exhibit P Attach the following:

1. State the number of persons who presently subscribe or who have notified the information processor of their intention to subscribe to the services of the information processor.
2. For each instance during the past year in which any person has been prohibited or limited in respect of access to services offered by the information processor, indicate the name of each such person and the reason for the prohibition or limitation.

Exhibit Q The form of contract governing the terms by which persons may subscribe to the services of an information processor.

Exhibit R A description of any specifications, qualifications or other criteria which limit, are interpreted to limit or have the effect of limiting access to or use of any services provided by the information processor and state the reasons for imposing such specifications, qualifications or other criteria. This applies to limits relating to providing information to the information processor and the limits relating to accessing the consolidated feed distributed by the information processor.

Exhibit S Attach any specifications, qualifications or other criteria required of participants who supply securities information to the information processor for collection, processing for distribution or publication by the information processor.

CERTIFICATE OF INFORMATION PROCESSOR

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of information processor)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

**FORM 21-101F6
CESSATION OF OPERATIONS REPORT FOR
INFORMATION PROCESSOR**

1. Identification:
 - A. Full name of information processor:

 - B. Name(s) under which business is conducted, if different from item 1A:

2. Date information processor proposes to cease carrying on business:

3. If cessation of business was involuntary, date alternative trading system ceased to carry on business:
 THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Cessation of Operations Report. For each Exhibit, include the name of the information processor, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

Exhibit A The reasons for the information processor ceasing to carry on business.

Exhibit B A list of each of the securities the information processor displays.

CERTIFICATE OF INFORMATION PROCESSOR

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this _____ day of _____ 20__

(Name of information processor)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

THE MANITOBA SECURITIES COMMISSION
MSC Rule No. 2001-20
(Section 149.1, *The Securities Act*)

NATIONAL INSTRUMENT 23-101
TRADING RULES

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THE MANITOBA SECURITIES COMMISSION
MSC Rule No. 2001-20
(Section 149.1, *The Securities Act*)

NATIONAL INSTRUMENT 23-101
TRADING RULES

PART 1 – DEFINITION AND INTERPRETATION

Definition

1.1 In this Instrument

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

Interpretation - NI 21-101

1.2 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

Application of this instrument

2.1 A person or company is exempt from subsection 3.1(1) and Parts 4 and 5 of this Instrument if the person or company complies with the rules, policies and other similar instruments 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

Manipulation and fraud

3.1(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.

3.1(2) In Alberta, British Columbia and Saskatchewan, instead of subsection (1), the provisions of the *Securities Act* (Alberta), the *Securities Act* (British Columbia) and *The Securities Act, 1988* (Saskatchewan), respectively, relating to manipulation and fraud apply.

PART 4 – BEST EXECUTION

Application of this part

4.1 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.

Best execution

4.2(1) A dealer acting as agent for a client shall make reasonable efforts to ensure that the client receives the best execution price on a purchase or sale of securities by the client.

4.2(2) Without limiting the generality of subsection (1), a dealer acting as agent for a client shall not execute a transaction on a marketplace that could be filled at a better price on another marketplace or with another dealer.

4.2(3) In order to satisfy the requirements in subsections (1) and (2), a dealer shall make reasonable efforts to use facilities providing information regarding orders.

PART 5 – REGULATORY HALTS

Regulatory halts

5.1 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, 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

Trading hours

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

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

Requirements for a recognized exchange

7.1(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.

7.1(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.

Agreement between a Recognized Exchange and a Regulation Services Provider

7.2 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 recognized exchange and its members;
- (b) that the regulation services provider will enforce the requirements set under subsection 7.1(1);
- (c) that the recognized exchange will transmit the information required by Part 11 of NI 21-101 to the regulation services provider; and
- (d) that the recognized exchange will comply with all orders or directions made by the regulation services provider.

Requirements for a recognized quotation and trade reporting system

7.3(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.

7.3(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.

Agreement between a recognized quotation and trade reporting system and a regulation services provider

7.4 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 recognized quotation and trade reporting system and its users;
- (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 the information required by Part 11 of NI 21-101 to the regulation services provider; and
- (d) that the recognized quotation and trade reporting system will comply with all orders or directions made by the regulation services provider.

Co-ordination of monitoring and enforcement

7.5 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 this Part.

PART 8 – MONITORING AND ENFORCEMENT REQUIREMENTS FOR AN ATS

Pre-condition to trading on an ATS

8.1 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.

Requirements set by a regulation services provider for an ATS

8.2(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.

8.2(2) A regulation services provider shall monitor the conduct of an ATS and its subscribers and shall enforce the requirements set under subsection (1).

Agreement between an ATS and a regulation services provider

8.3 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 the information required by Part 11 of NI 21-101 to the regulation services provider; and

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

Agreement between an ATS and its subscriber

8.4 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, including orders excluding the subscriber from trading on any marketplace.

Exemption for an ATS executing trades in unlisted debt securities

8.5(1) Sections 8.1, 8.2, 8.3 and 8.4 do not apply to an ATS executing trades in unlisted debt securities, if the ATS complies with the requirements of IDA Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets, as amended.

8.5(2) Subsection (1) does not apply after December 31, 2003.

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

Requirements set by a regulation services provider for an inter-dealer bond broker

9.1(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.

9.1(2) A regulation services provider shall monitor the conduct of an inter-dealer bond broker and shall enforce the requirements set under subsection (1).

Agreement between an inter-dealer bond broker and a regulation services provider

9.2 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.

Exemption for an inter-dealer bond broker

9.3(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 IDA Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets, as amended.

9.3(2) Subsection (1) does not apply after December 31, 2003.

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

Requirements set by a regulation services provider for a dealer executing trades of unlisted debt securities outside of a marketplace

10.1(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.

10.1(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).

Agreement between a dealer executing trades of unlisted debt securities outside of a marketplace and a regulation services provider

10.2 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.

Exemption for a dealer executing trades of unlisted debt securities outside of a marketplace

10.3(1) Sections 10.1 and 10.2 do not apply to a dealer executing trades of unlisted debt securities outside of a marketplace, if the dealer complies with the requirements of IDA Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets, as amended.

10.3(2) Subsection (1) does not apply after December 31, 2003.

PART 11 – AUDIT TRAIL REQUIREMENTS

Application of this part

11.1 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.

Audit trail requirements for dealers and inter-dealer bond brokers

Recording requirements for receipt or origination of an order

11.2(1) Immediately following the receipt or origination of an order for securities, 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; and

(q) the currency of the order.

Recording requirements for transmission of an order

11.2(2) 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.

Recording requirements for variation, correction or cancellation of an order

11.2(3) 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.

Recording requirements for execution of an order

11.2(4) 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.

Transmittal of order information

11.2(5) A dealer and inter-dealer bond broker shall transmit to a regulation services provider the information required by the regulation services provider in the format and at the time required by the regulation services provider.

Electronic form

11.2(6) After December 31, 2003, the record kept by the dealer or inter-dealer bond broker under subsections (1) through (4) and the transmission of information to a regulation services provider under subsection (5) shall be in electronic form.

PART 12 – EXEMPTION

Exemption

12.1(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.

12.1(2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

PART 13 – EFFECTIVE DATE AND CITATION

Effective date

13.1 This Instrument comes into force on December 1, 2001.

Citation

13.2 This Instrument may be cited as MSC Rule 2001-20.

**COMPANION POLICY 23-101CP
TO NATIONAL INSTRUMENT 23-101
TRADING RULES**

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**COMPANION POLICY 23-101CP
TO NATIONAL INSTRUMENT 23-101
TRADING RULES**

PART 1 INTRODUCTION

- 1.1 Introduction** - The purpose of this Companion Policy is to state the views of the Canadian securities regulatory authorities on various matters related to National Instrument 23-101 Trading Rules (the "Instrument"), including
- (a) a discussion of the general approach taken by the Canadian securities regulatory authorities in, and the general regulatory purpose for, the Instrument; and
 - (b) the interpretation of various terms and provisions in the Instrument.
- 1.2 Just and Equitable Principles of Trade** - While the Instrument deals with specific trading practices, as a general matter, the Canadian securities regulatory authorities expect marketplace participants to transact business openly and fairly, and in accordance with just and equitable principles of trade.

PART 2 APPLICATION OF THE INSTRUMENT

- 2.1 Application of the Instrument** – Section 2.1 of the Instrument provides an exemption from subsection 3.1(1) and Parts 4 and 5 of the Instrument if a person or company complies with rules, policies or other similar instruments established by a recognized exchange that monitors and enforces the requirements set under subsection 7.1(1) of the Instrument directly, a recognized quotation and trade reporting system that monitors and enforces requirements set under subsection 7.3(1) of the Instrument directly or a regulation services provider. The rules, policies or other similar instruments are filed by the recognized exchange, recognized quotation and trade reporting system or regulation services provider and approved by a securities regulatory authority. If a person or company is not in compliance with the requirements of the recognized exchange, recognized quotation and trade reporting system or the regulation services provider, then the exemption does not apply and that person or company is subject to subsection 3.1(1) and Parts 4 and 5 of the Instrument. The exemption from subsection 3.1(1) does not apply in Alberta, British Columbia and Saskatchewan and the relevant provisions of securities legislation apply.

PART 3 MANIPULATION AND FRAUD

3.1 Manipulation and Fraud

- (1) Subsection 3.1(1) of the Instrument prohibits the practices of manipulation and deceptive trading, as these may create misleading price and trade activity, which are detrimental to investors and the integrity of the market.
- (2) Subsection 3.1(2) of the Instrument provides that despite subsection 3.1(1) of the Instrument, the provisions of the *Securities Act* (Alberta), the *Securities Act* (British Columbia) and *The Securities Act, 1988* (Saskatchewan), respectively, relating to manipulation and fraud apply in Alberta, British Columbia and Saskatchewan. The jurisdictions listed have provisions in their legislation that deal with manipulation and fraud.
- (3) For the purposes of subsection 3.1(1) of the Instrument, and without limiting the generality of those provisions, the Canadian securities regulatory authorities, depending on the circumstances, would normally consider the following to result in, contribute to or create a misleading appearance of trading activity in, or an artificial price for, a security:
 - (a) Executing transactions in a security if the transactions do not involve a change in beneficial or economic ownership. This includes activities such as wash-trading.
 - (b) Effecting transactions that have the effect of artificially raising, lowering or maintaining the price of the security. For example, making purchases of or offers to purchase securities at successively higher prices or making sales of or offers to sell a security at successively lower prices or entering an order or orders for the purchase or sale of a security to:
 - (i) establish a predetermined price or quotation,
 - (ii) effect a high or low closing price or closing quotation, or
 - (iii) maintain the trading price, ask price or bid price within a predetermined range.
 - (c) Entering orders that could reasonably be expected to create an artificial appearance of investor participation in the market. For example, entering an order for the purchase or sale of a security with the knowledge that an order of substantially the same size, at substantially the same time, at substantially the same price for the sale or purchase, respectively, of that security has been or will be entered by or for the same or different persons.

- (d) Executing prearranged transactions that have the effect of creating a misleading appearance of active public trading or that have the effect of improperly excluding other marketplace participants from the transaction.
- (e) Effecting transactions if the purpose of the transactions is to defer payment for the securities traded.
- (f) Entering orders to purchase or sell securities without the ability and the intention to
 - (i) make the payment necessary to properly settle the transaction, in the case of a purchase; or
 - (ii) deliver the securities necessary to properly settle the transaction, in the case of a sale.

This includes activities known as free-riding, kiting or debit kiting, in which a person or company avoids having to make payment or deliver securities to settle a trade.

- (g) Engaging in any transaction, practice or scheme that unduly interferes with the normal forces of demand for or supply of a security or that artificially restricts or reduces the public float of a security in a way that could reasonably be expected to result in an artificial price for the security.
 - (h) Engaging in manipulative trading activity designed to increase the value of a derivative position.
 - (i) Entering a series of orders for a security that are not intended to be executed.
- (4) The Canadian securities regulatory authorities do not consider market stabilization activities carried out in connection with a distribution to be activities in breach of subsection 3.1(1) of the Instrument, if the market stabilization activities are carried out in compliance with the rules of the marketplace on which the securities trade or with provisions of securities legislation that permit market stabilization by a person or company in connection with a distribution.
- (5) Section 3.1 of the Instrument applies to transactions both on and off a marketplace. In determining whether a transaction results in, contributes to or creates a misleading appearance of trading activity in, or an artificial price for a security, it may be relevant whether the transaction takes place on or off a marketplace. For example,

a transfer of securities to a holding company for *bona fide* purposes that takes place off a marketplace would not normally violate section 3.1 even though it is a transfer with no change in beneficial ownership.

- (6) The Canadian securities regulatory authorities are of the view that section 3.1 of the Instrument does not create a private right of action.
- (7) In the view of the Canadian securities regulatory authorities, section 3.1 includes attempting to create a misleading appearance of trading activity in or an artificial price for, a security or attempting to perpetrate a fraud.

PART 4 BEST EXECUTION

4.1 Best Execution

- (1) The best execution obligation in Part 4 of the Instrument does not apply to an ATS that is registered as a dealer. However, the best execution obligation does apply to a dealer acting in its role as an intermediary for its client.
- (2) Subsection 4.2(1) of the Instrument requires a dealer acting as agent for a client to make reasonable efforts to ensure that the client receives the best execution price on a purchase or sale of securities by the client.
- (3) For inter-listed securities, the Canadian securities regulatory authorities are of the view that in making reasonable efforts, a dealer should also consider whether it would be appropriate in the particular circumstances to look at markets outside of Canada.
- (4) Subsection 4.2(2) of the Instrument prohibits a dealer acting as agent for a client in any marketplace from "trading through" a better-priced order on another marketplace or with another dealer. In an environment where there are multiple competing marketplaces, it is important that all investors have access to the best price for their orders at time of execution. Without consolidation of these markets, fragmentation may occur if investors are not given information about the best price available or if they are unable to access the best price. In order to mitigate possible negative effects of fragmenting the markets, it is important for these markets to be integrated to prevent trading through a better price existing in another marketplace.
- (5) The Canadian securities regulatory authorities are of the view that in satisfying its fiduciary obligations to its client, a dealer should make reasonable efforts to obtain a lower price on an order to buy or a higher price on an order to sell than is currently

available by posting a better bid or offer. In order to achieve this price improvement for a client, the dealer should have an order management system that has the capability of providing price improvement. In addition, the dealer should make reasonable efforts by using facilities providing information regarding orders.

- (6) The Canadian securities regulatory authorities are of the view that dealers should ensure best execution price to clients for their purchases or sales of foreign exchange-traded securities. To meet this obligation, dealers should look to the foreign markets upon which the securities trade to ensure that the client receives the best execution price on that purchase or sale of securities.
- (7) Subsection 4.2(3) of the Instrument requires that a dealer make reasonable efforts to use facilities providing information regarding orders. These reasonable efforts refer to the use of the information displayed by the information processor.

PART 5 REGULATORY HALTS

5.1 Regulatory Halts – In the view of the Canadian securities regulatory authorities, an order may trade on a marketplace despite the fact that trading of the security has been suspended because the issuer of the security has ceased to meet minimum listing or quotation requirements, or has failed to pay to the recognized exchange, the recognized quotation and trading system or the exchange or quotation and trade reporting system recognized for the purposes of the Instrument and NI 21-101 any fees in respect of the listing or quotation of securities of the issuer. Similarly, an order may trade on a marketplace despite the fact that trading of the security has been delayed or halted because of technical problems affecting only the trading system of the recognized exchange, recognized quotation and trading system or exchange or quotation and trade reporting system recognized for the purposes of the Instrument and NI 21-101.

PART 6 TRADING HOURS

6.1 Trading Hours

- (1) Section 6.1 of the Instrument provides that each marketplace shall set requirements in respect of the hours of trading to be observed by marketplace participants. A marketplace may have after hours trading at any prices.
- (2) An ATS can trade after hours at prices outside of the closing bid price and ask price of a security set by the marketplace where that security is listed or quoted.

PART 7 MONITORING AND ENFORCEMENT

- 7.1 Monitoring and Enforcement of Requirements Set By a Recognized Exchange or Recognized Quotation and Trade Reporting System** - Under section 7.1 of the Instrument, a recognized exchange will set its own requirements governing the conduct of its members. Under section 7.3 of the Instrument, a recognized quotation and trade reporting system will set its own requirements governing the conduct of its users. The recognized exchange or recognized quotation and trade reporting system can monitor and enforce these requirements either directly or indirectly through a regulation services provider. A regulation services provider is a person or company that provides regulation services and is either a recognized exchange, recognized quotation and trade reporting system or a recognized self-regulatory entity. Sections 7.2 and 7.4 of the Instrument require the recognized exchange or recognized quotation and trade reporting system that chooses to have the monitoring and enforcement performed by the regulation services provider to enter into an agreement with the regulation services provider in which the regulation services provider agrees to enforce the requirements of the recognized exchange or recognized quotation and trade reporting system.
- 7.2 Monitoring and Enforcement Requirements for an ATS** - Section 8.2 of the Instrument requires the regulation services provider to set requirements that govern an ATS and its subscribers. Before executing a trade for a subscriber, the ATS must enter into an agreement with a regulation services provider and an agreement with each subscriber. These agreements form the basis upon which a regulation services provider will monitor the trading activities of the ATS and its subscribers and enforce its requirements. The requirements set by a regulation services provider must include requirements that the ATS and its subscribers will conduct trading activities in compliance with the Instrument. The ATS and its subscribers are considered to be in compliance with the Instrument and are exempt from the application of most of its provisions if the ATS and the subscriber are in compliance with the requirements set by a regulation services provider.
- 7.3 Monitoring and Enforcement Requirements for an Inter-Dealer Bond Broker** - Section 9.1 of the Instrument requires that a regulation services provider set requirements governing the conduct of an inter-dealer bond broker. Under section 9.2 of the Instrument, the inter-dealer bond broker must enter into an agreement with the regulation services provider providing that the regulation services provider monitor the activities of the inter-dealer bond broker and enforce the requirements set by the regulation services provider.
- 7.4 Monitoring and Enforcement Requirements for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace** - Section 10.1 of the Instrument requires that a regulation services provider set requirements governing the conduct of a dealer executing trades of unlisted debt securities outside of a marketplace. Under section 10.2 of the Instrument, the dealer must also enter into an agreement with the regulation services provider

providing that the regulation services provider monitor the activities of the dealer and enforce the requirements set by the regulation services provider.

PART 8 AUDIT TRAIL REQUIREMENTS

- 8.1 Audit Trail Requirements** - Section 11.2 of the Instrument imposes obligations on dealers and inter-dealer bond brokers to record in electronic form and to report certain items of information with respect to orders and trades. The purpose of the obligations set out in Part 11 is to enable the entity performing the monitoring and surveillance functions to construct an audit trail of order, quotation and transaction data which will enhance its surveillance and examination capabilities.
- 8.2 Transmission of Information to a Regulation Services Provider** - Subsection 11.2(5) of the Instrument requires that a dealer and an inter-dealer bond broker provide to the regulation services provider information as required by the information services provider in the format and at the time required by the regulation services provider. This requirement is triggered only when the regulation services provider sets requirements to transmit information.