

13.2.3 Financial & Risk Transaction Services Ireland Limited – Application for Exemption from Recognition as an Exchange – OSC Staff Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

**APPLICATION BY FINANCIAL & RISK TRANSACTION SERVICES IRELAND LIMITED
FOR EXEMPTION FROM RECOGNITION AS AN EXCHANGE**

A. Introduction

This notice requests comment on (i) the application filed by Financial & Risk Transaction Services Ireland Limited (the **Applicant**) under section 147 of the Securities Act (Ontario) (**Act**) for an exemption from the requirement to be recognized as an exchange contained in section 21 of the Act (**Recognition Requirement**); and (ii) the draft order exempting the Applicant from the Recognition Requirement.

The Applicant is a private company headquartered in Ireland that will assume the operation of the Refinitiv Multilateral Trading Facility (**MTF**), which will be regulated by the Central Bank of Ireland (**CBI**).

The MTF offers trading in Forwards Matching, FX forwards (swaps), FXall RFQ, FX forward (outright), FX swaps, FX NDFs, and FX options. The Applicant proposes to offer direct access in Ontario to its MTF to prospective participants in Ontario (**Ontario Participants**).

As the Applicant will be carrying on business in Ontario, it is required either to be recognized as an exchange under the Act or to apply for an exemption from the Recognition Requirement. The Applicant has applied for an exemption from the Recognition Requirement on the basis that it is already subject to regulatory oversight by the CBI.

B. Background

On January 3, 2018, the Markets in Financial Instruments Directive 2014/65/EU of the European Parliament and of the Council (**MiFID II**) was implemented. Under Article 28(1) of the Markets in Financial Instruments Regulation (Regulation (EU) No. 600/2014) (**MiFIR**), the regulation that accompanies MiFID II, certain European counterparties must trade certain derivatives on a trading venue and not bilaterally. As a result, Canadian banks and other institutions wishing to enter into transactions in these derivatives with EU counterparties must do so on a trading venue, namely a regulated market, an organised trading facility (**OTF**), an MTF or a third-country trading venue that the European Commission has determined has an equivalent system for regulating trading venues.

The Applicant has indicated that Canadian banks and other institutions wish to trade on its MTF.

MTFs provide a facility for bringing together orders from multiple buyers and sellers for types of over-the-counter (**OTC**) derivatives and other securities and use established non-discretionary methods under which the orders interact with each other. They meet the definition of “marketplace.”

An MTF has a responsibility to regulate the conduct of its participants with respect to trading on the MTF and to set rules governing trading on the system. Because of these self-regulatory responsibilities, under the Act they would be considered an exchange.

C. Application and Draft Exemption Order

In the application, the Applicant has outlined how it meets the criteria for exemption from the Recognition Requirement. The specific criteria can be found in Appendix 1 of the draft exemption order. Subject to comments received, Staff intend to recommend that the Commission grant an exemption order with terms and conditions based on the draft exemption order. The application can be found on our website at www.osc.gov.on.ca and the draft exemption order is attached to this Notice.

D. Comment Process

The Commission is publishing for public comment the Applicant's application and the draft exemption order. We are seeking comment on all aspects of the application and draft exemption order.

Please provide your comments in writing, via e-mail, on or before August 23, 2019, to the attention of:

Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario M5H 3S8

Email: comments@osc.gov.on.ca

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions may be referred to:

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**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(THE ACT)**

AND

**IN THE MATTER OF
FINANCIAL & RISK TRANSACTION SERVICES IRELAND LIMITED**

ORDER
(Section 147 of the Act)

WHEREAS Financial & Risk Transaction Services Ireland Limited (“**FRTSIL**” or the “**Applicant**”) has filed an application on behalf of the Refinitiv Multilateral Trading Facility (the “**Facility**” or “**MTF**”) dated June 21, 2019, (“**Application**”) with the Ontario Securities Commission (“**Commission**”) pursuant to section 147 of the Ontario *Securities Act* (“**Act**”) requesting an order exempting the Facility from the requirement to be recognized as an exchange under subsection 21(1) of the Act (“**Order**”);

AND WHEREAS the Facility is currently operated by Refinitiv Transaction Services Limited (“**RTSL**”), is located in the United Kingdom, and is subject to the regulatory oversight of the UK Financial Conduct Authority;

AND WHEREAS the Facility is currently offered to participants in Ontario pursuant to an Interim Order dated August 17, 2018 (the “**Interim Order**”);

AND WHEREAS on June 7, 2019, the Commission granted a variation order extending the termination date of the Interim Order to the earlier of (i) March 1, 2020 and (ii) 90 days after the effective date of a subsequent order exempting the MTF from the requirement to be recognized as an exchange;

AND WHEREAS it is the Applicant’s intention to assume operation of the Facility and migrate its operations to Ireland by the end of September 2019;

AND WHEREAS the Applicant has represented to the Commission that:

1. FRTSIL received authorization on March 28, 2019 from the Central Bank of Ireland (“**CBI**”), the Irish financial services regulator, under Part 2 of the Irish European Union (“**Markets in Financial Instruments**”) Regulations 2017 (“**2017 Regulations**”) as an investment firm, to act as the operator of the MTF;
2. The following types of investment are offered for trading on the Facility: foreign exchange FX forwards (swaps), FX forwards (outrights), FX swaps, FX non-deliverable forwards (“**NDFs**”) and FX options;
3. On January 3, 2018, the Markets in Financial Instruments Directive (Directive 2014/65/EU of the European Parliament and of the Council) (“**MiFID II**”) entered into force as implemented in the Republic of Ireland with the transposition into national law of the 2014 Regulations, The 2017 Regulations, together with the Markets in Financial Instruments Regulation (Regulation (EU) No 600/2014 of the European Parliament and of the Council) (“**MiFIR**”) which is directly applicable in the Republic of Ireland, contain the key requirements governing the regulatory framework for the operator of a multilateral trading facility;
4. Without the Requested Relief, participants in Ontario will be precluded from trading with EU/EEA participants on the MTF, a EU regulated trading venue;
5. The MTF comprises two trading segments known as Forwards Matching and FXall RFQ. All trading segments are governed by the MTF Rule Book (“**Rules**”) applicable to the MTF as a whole. Each trading segment further has its own Rules specific to that trading segment. A client who enters into a Participant Agreement in respect of the MTF (a “**Participant**”) must comply with both the Rules applicable to the Facility as a whole, and the Rules applicable to the specific trading segment to which the Participant is authorized and wishes to access. Trading on the Facility is offered in the financial instruments listed in the following table:

Trading Segment	Financial Instruments (as defined in MiFID II)
Forwards Matching	FX forwards (swaps)
FXall RFQ	FX forwards (outrights), FX swaps, FX NDFs, FX options

These Financial Instruments are admitted in various currency pairs;

6. The Applicant is subject to regulatory supervision by the CBI, pursuant to an authorization to operate a multilateral trading facility granted March 28, 2019.
7. Accordingly, the Applicant is required to comply with the CBI's regulatory framework, which includes, among other things, rules on (i) the conduct of business (including rules regarding client categorization, communication with clients and other investor protections and client agreements), (ii) market conduct (including rules applicable to firms operating a multilateral trading facility), and (iii) systems and controls (including rules on outsourcing, governance, record-keeping and conflicts of interest). The CBI requires the Applicant to comply at all times with a set of threshold conditions for authorization, including requirements that the Applicant is "fit and proper" to be authorized and that it has appropriate resources for the activities it carries on. The Applicant is subject to prudential regulation, including minimum regulatory capital requirements, and is capitalized in excess of regulatory requirements. The Applicant is required to maintain a permanent and effective compliance function. The Applicant's Compliance Department is responsible for implementing and maintaining adequate policies and procedures designed to ensure that the Applicant (and all associated staff) comply with their obligations under the CBI rules. These policies and procedures are set forth in the FRTSIL Compliance Manual and associated internal policies and procedures;
8. The MTF is obliged to have requirements governing the conduct of Participants, to monitor compliance with those requirements and report to the CBI (a) significant breaches of the Facility's Rules, (b) disorderly trading conditions, and (c) conduct that may involve market abuse. The Applicant may also notify the CBI when a Participant's access is terminated, temporarily suspended or subject to condition(s). As required, the Applicant has implemented a trade surveillance program. As part of the program, the Applicant's Compliance Department conducts real-time market monitoring of trading activity on the MTF to identify disorderly trading and market abuse or anomalies. The trade surveillance program is designed to maintain a fair and orderly market for MTF participants;
9. Participants may only connect to the Facility using a connection method permitted by FRTSIL. These connection methods are described more fully in the rules relevant to each specific trading segment. The Forwards Matching trading segment currently permits connections through a Refinitiv GUI application and the Matching application programming interface ("**API**") for FX Forwards. Participants may allow remote-manned use of Refinitiv APIs if the Participant ensures that the API applications in use at the remote site are at all times monitored and managed from that remote monitoring site. The Facility offers publicly available pricing plans based on trading segment, rate engine or pricing tool selected. The rate stated is purely for the MTF transaction component and does not include any pricing for the rates engine or pricing tools used;
10. Participants are responsible for ensuring the prompt exchange and processing of transaction confirmations directly with their counterparties in accordance with market practice. Failure to settle transactions will constitute a breach of the Facility Rules. Participants are also responsible for ensuring that transactions are not required to be cleared pursuant to applicable law. If Participants are required or choose to clear a transaction, they are responsible for making the necessary arrangements;
11. The Applicant requires that all Participants meet the criteria of an Eligible Counterparty, either "per se" or "elective" as defined in Regulation 38 of the European Union (Markets in Financial Instruments) Regulations 2017. Each prospective participant must (i) comply and ensure that its authorized traders comply, and, in each case, continue to comply, with the Rules and applicable law (ii) have a sufficient level of trading ability, skill, competence and experience to conduct activities on the Facility; (iii) must be of adequate financial soundness; (iv) have adequate organizational arrangements commensurate with meeting their own regulatory obligations (v) have in place adequate systems and controls to ensure their on-going compliance with the Rules and management of their trading activities, and (vi) must satisfy any other criteria that FRTSIL may reasonably require from time to time;
12. FRTSIL offers direct access to trading on the MTF to participants that are located in Ontario ("**Ontario Participants**") and are appropriately registered as applicable under Ontario securities laws or are exempt from or not subject to those requirements, and qualify as an "eligible counterparty" (either "per se" or "elective"), as defined in Regulation 38 of the European Union (Markets in Financial Instruments) Regulations 2017. Ontario Participants are required to notify immediately the Applicant if they cease to meet the criteria of an Eligible Counterparty. Participants must also supply any information requested by the Facility or Applicant to enable monitoring of responsibilities with respect to eligibility and operational criteria;
13. The Facility also requires information to be provided regarding the operational functions of the participants, including the qualifications required of staff in key position and pre and post-trade controls;

14. Ontario Participants may include financial institutions, asset managers, dealers, government entities, pension funds and other well-capitalized entities that meet the criteria described above;
15. The MTF provides certain Ontario Participants with significant access to liquidity for which, at least for certain types of transactions, there is no appropriate alternative platform, and the Ontario capital markets will be disrupted if the Order is not granted;
16. Because the Facility sets requirements for the conduct of its participants and surveils the trading activity of its Participants, it is considered by the Commission to be an exchange;
17. Since the Applicant seeks to provide Ontario Participants with direct access to trading on the Facility, the Facility is considered by the Commission to be "carrying on business as an exchange" in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
18. The Facility has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described herein;

AND WHEREAS the products traded on the Facility are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Facility is not considered to be carrying on business as a commodity futures exchange in Ontario;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the requested relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant or the Facility's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgments of the Applicant to the Commission, the Commission has determined that the granting of the requested relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that, pursuant to section 147 of the Act, the Facility is exempt from recognition as an exchange under subsection 21(1) of the Act,

PROVIDED THAT the Applicant complies with the terms and conditions contained in Schedule "A".

DATED _____, 2019

Schedule A

Terms and Conditions

Regulation and Oversight of the Applicant

1. The Applicant will maintain its permission to operate as a multilateral trading facility (MTF) with the Central Bank of Ireland (CBI) and will continue to be subject to the regulatory oversight of the CBI.
2. The Applicant will continue to comply with the ongoing requirements applicable to it as the operator of an MTF authorized by the CBI.
3. The Applicant will promptly notify the Commission if its permission to operate an MTF has been revoked, suspended, or amended by the CBI, or the basis on which its permission to operate an MTF has been granted has significantly changed.
4. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

Access

5. The Applicant will not provide direct access to a participant in Ontario (Ontario User) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements and qualifies as an “eligible counterparty” (either “per se” or “elective”), as defined by Regulation 38 of the European Union (Markets in Financial Instruments) Regulations 2017.
6. For each Ontario User provided direct access to its MTF, the Applicant will require, as part of its application documentation or continued access to the MTF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
7. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses the Applicant’s MTF.
8. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User’s access to the MTF if the Ontario User is no longer appropriately registered or exempt from those requirements.
9. The Applicant must make available to Ontario Users appropriate training for each person who has access to trade on the Applicant’s facilities.

Trading by Ontario Users

10. The Applicant will not provide access to an Ontario User to trading in products other than swaps, as defined in section 1a(47) of the United States Commodity Exchange Act as amended, without prior Commission approval.

Submission to Jurisdiction and Agent for Service

11. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission’s regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
12. The Applicant will file with the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission’s regulation and oversight of the Applicant’s activities in Ontario.

Disclosure

13. The Applicant will provide to its Ontario Users disclosure that:
- (a) rights and remedies against the Applicant may only be governed by the laws of the Republic of Ireland, rather than the laws of Ontario and may be required to be pursued in the Republic of Ireland rather than in Ontario; and
 - (b) the rules applicable to trading on MTF may be governed by the laws of the Republic of Ireland rather than the laws of Ontario.

Prompt Reporting

14. The Applicant will notify staff of the Commission promptly of:
- (a) any material change to its business or operations or the information provided in the Application, including, but not limited to material changes to:
 - (i) the regulatory oversight by the CBI;
 - (ii) the corporate governance structure of the Applicant;
 - (iii) the access model, including eligibility criteria, for Ontario Users;
 - (iv) systems and technology; and
 - (v) the clearing and settlement arrangements for the Applicant;
 - (b) any change in the Applicant's regulations or the laws, rules and regulations in the Republic of Ireland relevant to the financial instruments available for trading on the Applicant's MTF where such change may materially affect its ability to meet the criteria set out in Attachment I to this Schedule;
 - (c) any condition or change in circumstances whereby the Applicant is unable or anticipates it will not be able to continue to meet any of the relevant rules and regulations of the CBI, as set forth in the regulatory guidance issued by the CBI or applicable legislation (including the European Union (Markets in Financial Instruments) Regulations 2017 (as amended) and related Irish and European legislation, the Markets in Financial Instruments Regulation (EU) No 600/2014, applicable anti-money laundering, financial sanctions and market abuse legislation).
 - (d) any known investigations of, or any disciplinary action against the Applicant by the CBI or any other regulatory authority to which it is subject;
 - (e) any matter known to the Applicant that may materially and adversely affect its financial or operational viability, including, but not limited to, any declaration of an emergency pursuant to the Applicant's rules;
 - (f) any default, insolvency, or bankruptcy of a participant of the Applicant known to the Applicant or its representatives that may have a material, adverse impact upon the Applicant; and
 - (g) any material systems outage, malfunction or delay.
15. The Applicant will promptly provide staff of the Commission with the following information to the extent it is required to provide to or file such information with the CBI:
- (a) details of any material legal proceeding instituted against the Applicant;
 - (b) notification that the Applicant has instituted a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it; and
 - (c) the appointment of a receiver or the making of any voluntary arrangement with creditors.

Quarterly Reporting

16. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a quarterly basis (within 30 days of the end of each calendar quarter), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users and whether the Ontario User is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading on the Applicant's MTF as customers of participants (**Other Ontario Participants**);
 - (b) the legal entity identifier assigned to each Ontario User, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;
 - (c) a list of all Ontario Users whom the Applicant has referred to the CBI, or, to the best of the Applicant's knowledge, whom have been disciplined by the CBI with respect to such Ontario Users' activities on the Applicant's MTF and the aggregate number of all participants referred to the CBI in the last quarter by the Applicant;
 - (d) a list of all active investigations during the quarter by the Applicant relating to Ontario Users and the aggregate number of active investigations during the quarter relating to all participants undertaken by the Applicant;
 - (e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant during the quarter, together with the reasons for each such denial;
 - (f) a list of all additions, deletions, or changes to the products available for trading since the prior quarter;
 - (g) for each product,
 - (i) the total trading volume and value on the MTF originating from Ontario Users, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario User or per Other Ontario Participant basis; and
 - (ii) the proportion of worldwide trading volume and value on the MTF conducted by Ontario Users, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Users and Other Ontario Participants;provided in the required format; and
 - (h) a list outlining each material incident of a security breach, systems failure, malfunction, or delay (including cyber security breaches, systems failures, malfunctions or delays reported under section 14(g) of this Schedule) that occurred at any time during the quarter for any system relating to trading activity, including trading, routing or data, specifically identifying the date, duration and reason, to the extent known or ascertainable by the Applicant, for the failure, malfunction or delay, and noting any corrective action taken.

Annual Reporting

17. The Applicant will file with the Commission any annual financial report or financial statements (audited or unaudited) of the Applicant provided to or filed with the CBI promptly after filing with the CBI.

Information Sharing

18. The Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

Attachment 1

CRITERIA FOR EXEMPTION

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the MTF

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

- (a) effective oversight of the exchange,
- (b) that business and regulatory decisions are in keeping with its public interest mandate,
- (c) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:
 - (i) appropriate representation of independent directors, and
 - (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,
- (d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest, and
- (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are reviewed by the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange including, but not limited to, margin requirements, intra-day margin calls, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

- (a) The exchange has established appropriate written standards for access to its services including requirements to ensure
 - (i) participants are appropriately registered as applicable under Ontario securities laws or Ontario commodity futures laws, or exempted from these requirements,
 - (ii) the competence, integrity and authority of systems users, and
 - (iii) systems users are adequately supervised.
- (b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.
- (c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.
- (d) The exchange does not
 - (i) permit unreasonable discrimination among participants, or
 - (ii) impose any burden on competition that is not reasonably necessary and appropriate.
- (e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

- (a) The exchange has rules, policies and other similar instruments (Rules) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.
- (b) The Rules are not contrary to the public interest and are designed to
 - (i) ensure compliance with applicable legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,
 - (iii) promote just and equitable principles of trade,
 - (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 the products traded on the exchange,
 - (v) provide a framework for disciplinary and enforcement actions, and
 - (vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

- (a) parties are given an opportunity to be heard or make representations, and
- (b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 8 CLEARING AND SETTLEMENT

N/A

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,
- (d) trade reporting,
- (e) trade comparison,
- (f) data feeds,
- (g) market surveillance,
- (h) trade clearing, and
- (i) financial reporting.

9.2 System Capability/Scalability

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

- (a) makes reasonable current and future capacity estimates;
- (b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- (c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;
- (d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;

- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- (g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.3 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and circuit breakers.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

11.2 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.2 Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.3 Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

PART 13 RECORD KEEPING

13.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 15 FEES

15.1 Fees

- (a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.
- (b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

16.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Ontario Securities Commission and the Foreign Regulator.

PART 17 IOSCO PRINCIPLES

17.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organization of Securities Commissions (**IOSCO**) including those set out in the "Principles for the Regulation and Supervision of Commodity Derivative Markets" (**2011**).