

Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 TriAct Canada Marketplace LP – Proposed Change to the MATCHNow Trading System – Notice of Approval

TRIACT CANADA MARKETPLACE LP

NOTICE OF APPROVAL OF PROPOSED CHANGE TO THE MATCHNOW TRADING SYSTEM

On September 13, 2018, the Ontario Securities Commission (the **OSC**) approved a revised version of the amendment proposed by TriAct Canada Marketplace LP (also known as **MATCHNow**) to its Form 21-101F2.

MATCHNow proposed a change to the MATCHNow trading system to create a new order type known as “conditional orders” or “Conditionals.”

In accordance with the OSC’s *Process for the Review and Approval of the Information Contained in Form 21-101F2 and Exhibits Thereto*, a notice outlining and requesting feedback on the proposed change was published on the OSC website and in the OSC Bulletin on May 10, 2018 at [\(2018\), 41 OSCB 3936](#) (the **Notice of Proposed Change**).

One comment letter was received regarding this proposed change, and the summary of comments and MATCHNow’s responses is published in Appendix A to this notice.

One of the issues raised in the comment letter pertained to information leakage. A related concern that MATCHNow examined relates to the opt-in feature proposed by MATCHNow, namely, the “optionality to allow standing MATCHNow liquidity to interact with Conditionals” (the **Opt-In Feature**). See Notice of Proposed Change, 41 OSCB at 3937 (Section A, 2nd para.). MATCHNow considered, in particular, whether an invitation to firm up that stems from a regular standing order that has engaged the Opt-In Feature could be seen as a “display” of an “order” to the initiator of the Conditional and if so, whether MATCHNow could be seen as displaying an order to a person or company in contravention of paragraph 7.1(1) of National Instrument 21-101 (**NI 21-101**).

In an abundance of caution, MATCHNow has decided to withdraw the Opt-In Feature. Thus, as approved at this time, MATCHNow Conditionals will not allow for the interaction of regular standing orders with Conditionals, and therefore, by necessity, the ability of a Subscriber whose Conditionals privileges have been restricted to “continue to have the ability to trade with new conditional orders as contra liquidity in the standard MATCHNow liquidity pool” via the Opt-In Feature (see Notice of Proposed Change, Section A, 5th para.) is also being removed from the proposal; everything else described in the Notice of Proposed Change, however, remains the same.

MATCHNow may revisit the Opt-In Feature in the future.

MATCHNow will publish a notice indicating the date of implementation of this approved change.

**TRIACT CANADA MARKETPLACE LP
APPENDIX A
SUMMARY OF COMMENTS AND RESPONSES**

The following is a summary of comments received in response to the Notice of Proposed Change filed by TriAct Canada Marketplace LP (also known as **MATCHNow**) and published on May 10, 2018, along with MATCHNow's responses to these comments.

MATCHNow has made one modification to its proposed change, namely, to withdraw the optionality for regular standing orders to "opt in" to interact with Conditionals, as explained in greater detail in the Notice of Approval to which this Appendix A is attached. With the exception of the removal of that narrow "opt in" feature from the proposal, MATCHNow is proceeding with the proposed change as is. Further details are provided below.

Commenters

In response to the Notice of Proposed Change, we received one comment letter, which was submitted by the Trading Issues Committee of the Canadian Securities Traders Association.

In the comments and responses below, capitalized terms used and not otherwise defined shall have the meaning given in the Notice of Proposed Change.

Summary of Comment Received	MATCHNow's Response
Continued innovation through features useful for institutional investors is beneficial to the Canadian trading ecosystem, and conditional orders may offer users latitude in their use of dark markets and generally assist in the management of liquidity fragmentation	MATCHNow agrees with and appreciates this comment
Additional measures should be considered to address users with systematically low firm-up rates	MATCHNow conducted exhaustive consultations with its Subscribers. We also conducted research with respect to how conditional orders are dealt with by marketplaces outside of Canada. We are confident that the compliance mechanism for conditional orders, as proposed in our filing, is a reasonable and effective starting point. Once conditional orders are implemented, we will consider modifications to the compliance mechanism, including additional or more onerous standards, but this will require observation of how conditional orders are being used over time. While we agree that stringent firm-up standards are desirable and necessary, and while we are open to allowing the compliance mechanism to evolve over time, we decline to make any additions to it at this time.
MATCHNow should incorporate average resting time metrics into the performance evaluation process to ensure that potential misuse is detected	As part of the proposed change, MATCHNow has already undertaken to track average resting time and provide it to our Subscribers in their Conditionals reporting. In addition, as alluded to in our filing, under our compliance mechanism, every fall-down will be counted in determining whether to impose a temporary trading restriction (which occurs when a Subscriber's firm-up rate falls below 70% for the day, provided at least 10 orders have been sent), regardless of the average duration of the conditional orders that have fallen down. This is because matches occur only when contra liquidity is available; in other words, matching is event-driven. The possibility of deriving undue information from systematically cancelling conditional orders after an arbitrarily short resting time is essentially nil. The duration of the orders makes no difference. A Subscriber that falls below the 70% firm-up threshold will be penalized, regardless of the average resting time of its cancelled conditional orders.

<p>Fall-down rates resulting from quote changes should also be subject to a materiality threshold (e.g. 5 tickets or 25 bps), as is it possible that a MATCHNow Subscriber might influence the NBBO and thereby obtain a “no-consequence” fall-down, while receiving an information advantage</p>	<p>As a general matter, market surveillance on the MATCHNow marketplace and enforcement of the Universal Market Integrity Rules (UMIR), including UMIR 2.2 (<i>Manipulative and Deceptive Activities</i>), which prohibits the type of improper price influencing alluded to in this comment, is the responsibility of IIROC, pursuant to MATCHNow’s Regulation Services Agreement with IIROC. See e.g. IIROC, Equity Marketplaces We Regulate (“[MATCHNow] has retained IIROC to [a]dminister and enforce the Universal Market Integrity Rules”). Nevertheless, MATCHNow will certainly discuss the issue raised by the commenter with IIROC, and we will take reasonable measures to ensure that IIROC has the appropriate data and tools to conduct surveillance to detect and prevent the type of potential price manipulation described in the comment.</p>
<p>Use of the typical minimum size requirement, i.e. greater than 50 standard trading units or \$100,000 in value, should be reconsidered as such a minimum represents far too low a barrier to be consistent with the spirit of a conditional order, which exists to enable large “block sized” execution</p>	<p>The minimum size for conditional orders set forth in our proposed change is consistent with the minimum size threshold for Dark Orders (as defined in UMIR 1.1) that may be inferred from the requirements of UMIR 6.3 (<i>Exposure of Client Orders</i>) and 6.6 (<i>Provision of Price Improvement by a Dark Order</i>). This size threshold was enshrined in IIROC’s rules in 2012, with the approval of Canadian securities regulatory authorities, see e.g. IIROC Rules Notice 12-0130, Provisions Respecting Dark Liquidity (Apr. 13, 2012), ss. 2.4-2.5, and we see no reason to deviate from it at this time.</p>
<p>There is no clear consensus as to whether the enforcement of the firm-up rate would be more appropriate at the Subscriber level (as proposed) or at the Trader ID level</p>	<p>We have had discussions regarding this issue with numerous Subscribers, including many who have experience with conditional orders currently available in marketplaces outside of Canada (e.g. in the United States and Europe), and we received majority support from our Subscribers for firm-up rates being tracked at the Subscriber level. For this reason, we stand by the compliance mechanism as proposed, including, in particular, as it relates to the methodology for tracking firm-up rates.</p>
<p>Having additional fall-down deterring features (such as minimum resting times and long-term restriction abilities) would be appropriate under fair access requirements</p>	<p>As stated in our proposal, we believe our compliance mechanism is specific, transparent, and reasonable, as it strikes an appropriate balance by encouraging higher firm-up rates, and thus greater liquidity, without undermining “fair access” under section 5.1 of NI 21-101. It is possible that incorporating additional or more onerous requirements would be consistent with “fair access” requirements; and as noted above, we are certainly open to allowing the compliance mechanism to evolve in the future, based on how it functions once implemented. However, we decline to modify our proposal at this time.</p>
<p>Fair access rules through the establishment of a precedent may result in marketplaces “pushing the envelope” and creates many carve-outs and a lack of clarity as to permitted behaviors. Concurrently with any decision with respect to the proposed change, the OSC should publish guidance setting out the acceptable limitations on fair access with respect to conditional orders.</p>	<p>MATCHNow acknowledges the guidance provided in section 7.1 of the Companion Policy to NI 21-101 regarding the “fair access” requirements of section 5.1 of NI 21-101. Nevertheless, we agree that additional guidance from Canadian securities regulatory authorities regarding the specifics of what is expected of Canadian marketplaces under “fair access” requirements—including as it relates to specific measures deemed appropriate and/or required as part of a reasonable compliance mechanism for conditional orders—would be helpful.</p>