

**13.2.2 TSX Inc. – Use of Post Only on Dark Orders – Notice of Approval**

**TSX INC.**

**NOTICE OF APPROVAL**

**USE OF POST ONLY ON DARK ORDERS**

In accordance with the *Process for the Review and Approval of the Information Contained in Form 21-101 F1 and the Exhibits Thereto* (Protocol), on September 2, 2016, the Commission approved significant changes to Form 21-101 F1 for TSX Inc. reflecting the introduction of the Post Only instruction with dark orders.

A staff notice and TSX's Request for Comment on the proposed changes was published on the Commission's website and in the Commission's Bulletin on July 7, 2016 at (2016), 39 OSCB 3812. One comment letter was received. A summary of the public comments and responses, prepared by TSX, is attached to this notice at Appendix A.

After analyzing the proposal and comments received, Staff is of the view that the benefit of execution outweighs any potential unfairness in implementation of the Post Only instruction. We will require TSX to report on dark Post Only executions bi-annually for a period of time to monitor for potential impact.

The date of implementation is to be determined.

**APPENDIX A**

**SUMMARY OF COMMENTS PREPARED BY TSX**

**List of Commenters:**

1. Nasdaq CXC

Capitalized terms used and not otherwise defined shall have the meaning given in the Request for Comments published on the OSC website on July 7, 2016.

**Summary of Comments Received**

Nasdaq CXC's comments were directed towards questions of fairness raised by OSC staff related to the proposed functionality that could allow a non-Post Only midpoint order to become active in certain circumstances upon a change in the NBBO ("specific functionality").

Nasdaq CXC was supportive of the TSX proposal and confirmed similar functionality with respect to their marketplace to that proposed by TSX. Nasdaq CXC did not agree that there are fairness issues with the specific functionality and noted that because all market participants have equal opportunity to use the Post Only feature when entering a midpoint order, the specific functionality is fair. They also noted that denying approval for the specific functionality would unfairly limit trading choices for participants who may prefer to trade against available liquidity (and incurring a trading fee), and would impose risks on those participants of missing a trade and the potential price slippage that would occur if the market moves away.

**TSX Response**

TSX agrees with this comment.