

ALPHA ATS LP

NOTICE OF COMPLETION OF STAFF REVIEW OF PROPOSED CHANGES

On July 16, 2010, Alpha ATS LP announced proposed changes to its Form 21-101F2 that would result in the implementation of its proposed IntraSpread facility – a set of new order types that would allow its subscribers to seek order matches within their firm without pre-trade transparency, while providing for guaranteed price improvement for active orders.

A notice describing the proposed IntraSpread facility was published for comment on July 16, 2010¹ in accordance with OSC Staff Notice 21-703 – *Transparency of the Operations of Stock Exchanges and Alternative Trading Systems*. Thirteen comment letters were received. A summary of the comments and a response prepared by Alpha ATS LP may be found in Chapter 13 of this Bulletin.

OSC staff have completed their review of the proposed changes.

OSC staff acknowledge that there is current precedent for a marketplace to offer internalize-only order types or features, that are similar to the order types and features contemplated in the proposed IntraSpread facility.² We note that the first time that these order types or features were formally offered or proposed to be offered by a marketplace following the introduction of NI 21-101 was in 2005. Since that time, the Canadian market has evolved dramatically, giving rise to new issues and concerns and providing for greater perspective. As the market has evolved, so have staff's views on various matters, including internalize-only order types and features.

In addition, the process under which an ATS now publishes for comment certain proposed operational changes has only recently been implemented. This process did not exist at the time that any other ATS proposed to offer internalize-only order types or features. In connection with our review of the proposed IntraSpread facility, which included consideration of the public comments received, we have had an opportunity to reconsider our position on these order types and features in the context of the fair access requirements set out in NI 21-101.³

It is our view that a marketplace that offers order types that allow for an order to be systematically restricted from interacting with the orders of other participants is operating in a manner that is inconsistent with the fair access requirements set out in NI 21-101.

Consequently, we have discussed our views with Alpha ATS LP and they do not intend to implement the IntraSpread facility as was proposed. Alpha ATS LP has amended its proposal and the proposal is being published for comment at the same time as this notice. We have also spoken with the marketplace currently offering a similar internalize-only order type, with the objective of facilitating the discontinuance of the use of this order type by February 1, 2011. The marketplace will issue a notice with further details on this matter.

Questions may be addressed to:

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¹ Published at (2010) 33 OSCB 6629.

² An internalize-only order type or feature offered by a marketplace allows a marketplace participant to enter orders on that marketplace which will only execute against orders from the same marketplace participant – i.e., the interaction of the orders is restricted to same-firm order flow.

³ Paragraphs 5.1(b) and 6.13(b) of NI 21-101 (together, the fair access provisions) establish access requirements for both recognized exchanges and quotation and trade reporting systems (QTRSS), and alternative trading systems (ATSS). The fair access provisions state that exchanges, QTRSSs, and ATSSs: "shall not unreasonably prohibit, condition, or limit access by a person or company to services offered by it."