

Chapter 13

SROs, Marketplaces and Clearing Agencies

13.2 Marketplaces

13.2.1 Notice and Request for Comment – CNSX Markets Inc. – Application for Variation and Restatement of its Recognition Order

CNSX MARKETS INC.

APPLICATION FOR VARIATION AND RESTATEMENT OF ITS RECOGNITION ORDER

NOTICE AND REQUEST FOR COMMENT

CNSX Markets Inc. (CNSX Markets) submitted an application (Application) to the Ontario Securities Commission (Commission) for an order pursuant to subsection 21.(2) and section 144 of the *Securities Act (Ontario)* to vary and restate the current recognition order of the Commission dated May 7, 2004 and subsequently, varied on September 9, 2005, June 13, 2006 and May 16, 2008 (Draft Order).

CNSX Markets has also requested amendments to the definition of “Alternative Market Security” in Rule 1-101 *Definitions* and to Rule 11-102(1) Qualification for Alternative Market (collectively, the Rules). Please see this chapter for a copy of CNSX Markets’ Notice, blackline and clean copies of the Rules.

The Commission is publishing for a 30 day comment period the Application of CNSX Markets and the related documents. We are seeking comments on all aspects of the application and related documents.

A. CHANGES TO THE RECOGNITION ORDER

CNSX Markets submitted the Application to vary and restate its current recognition order for a number of purposes, including:

1. to consolidate the terms and conditions of the current recognition order;
2. to update the financial viability terms and conditions by clarifying the reporting requirements if certain ratios are not maintained and by removing items specific to conditions at the time of the initial recognition;
3. to update the systems related terms and conditions;
4. to add an outsourcing term and condition based on The Joint Forum’s *Outsourcing in Financial Services*¹ guiding principles;
5. to update the terms and conditions relating to issuer regulation, which in conjunction with the amendments to the Rules, broaden the qualification for securities to be traded on the Alternative Market (Pure Trading) to any stock exchange recognized in a jurisdiction in Canada and thereby including CNSX listed securities;
6. to require CNSX Markets, as other regulated entities, to continue to comply with the reporting obligations of the Commission’s Automation Review Program in Appendix A *Information to be filed*;
7. to revise the eligibility requirements for issuers in Appendix C *Eligible Issuers*; and
8. to make housekeeping amendments to update the current recognition order to reflect for example, CNSX Markets’ corporate name change and to make other minor clarifications.

Please see Schedule A for a copy of CNSX Markets’ Application, including the Draft Order.

¹ The Joint Forum (Composed of the Basel Committee on Banking Supervision, International Organization of Securities Commissions and International Association of Insurance Supervisors) *Outsourcing in Financial Services*, February 2005.

B. HOW TO PROVIDE YOUR COMMENTS

You must provide your comments in writing by June 13, 2010. If you are not sending your comments by email, you should also send an electronic file containing the submissions (in Windows format, Microsoft Word).

Please send your comments to the following address:

c/o John Stevenson, Secretary
Ontario Securities Commission
20 Queen Street West
Suite 800, Box 55
Toronto, Ontario
M5H 3S8
jstevenson@osc.gov.on.ca

The Commission will publish written comments received unless the Commission approves a commenter's request for confidentiality.

Questions may be referred to:

Emily Sutlic
Senior Legal Counsel, Market Regulation
(416) 593-2362
esutlic@osc.gov.on.ca

Michael Bennett
Senior Legal Counsel, Corporate Finance
(416) 593-8079
mbennett@osc.gov.on.ca

May 14, 2010

Schedule A - CNSX Application

CINDY F. PETLOCK
General Counsel & Corporate Secretary
T: 416.572.2000 x2282
cindy.petlock@cnsx.ca

BY EMAIL AND DELIVERY

April 16, 2010

Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, ON M5H 3S8
Attention: Emily Sutlic, Senior Legal Counsel, Market Regulation

Dear Ms Sutlic:

Re: CNSX Markets Inc. ("CNSX Markets") — Application for Variation of Recognition Order

CNSX Markets hereby applies under section 144 of the *Securities Act* (Ontario) (the "Act") for a variation and restatement of the order recognizing CNSX Markets as a stock exchange to: 1) consolidate the terms of its existing stock exchange recognition order, issued May 7, 2004 and amended September 9, 2005, June 13, 2006 and May 16, 2008 (the "Current Order"), and 2) to make further changes to update the order, as described below. A cheque for the application fee, in the amount of \$5,000, is attached.

Background and Overview

CNSX Markets was recognized as a quotation and trade reporting system ("QTRS") by the OSC on February 28, 2003 and commenced trading on July 25, 2003. In May, 2004 the Commission granted the order recognizing CNSX Markets as a stock exchange and rescinded the QTRS recognition order. Subsequent variations were issued as separate orders. We are currently operating as a stock exchange under the applicable exemptions in Alberta, British Columbia, Manitoba and Québec and the Ontario Securities Commission ("OSC" or "Commission") is CNSX Markets' lead regulator.

We have found it impractical to have a multi-part recognition order, especially when responding to requests for copies for it from third parties or when directing such parties to the OSC website. As a result of reviewing the order for consolidation purposes, we noticed minor clarifications that we would like to make. We are also seeking to update the order to:

- reflect the change to our corporate name,
- revise the financial viability term and condition to better address our stage of development,
- clarify the eligibility requirements for issuers in Appendix C, and
- make other amendments that OSC staff have requested relating to systems and outsourcing requirements.

We have taken this opportunity to address all of these amendments in one order. Please see the attached draft order for the specific terms and conditions as described in the following paragraphs.

CNSX Markets' Market Structure

We are not seeking any changes to our market structure. We continue to operate two separately-branded electronic markets: Canadian National Stock Exchange ("CNSX") and Pure Trading. Access rules continue to require that participants be registered investment dealers ("Dealers") and we continue to contract with the Investment Industry Regulatory Organization of Canada ("IIROC") to provide market regulation services, including market surveillance, timely disclosure policy administration, trade desk compliance and investigations and enforcement.

With respect to new listings, an issuer must be a reporting issuer in a Canadian jurisdiction before the application is accepted by CNSX, as before, with one exception: certain issuers whose debt securities are exempt from prospectus requirements under clauses 73(1)(a) and (b) of the Act (for example, provincial debt issuers and financial institutions) are also eligible for listing. We have added a condition to deal with cases where issuers are deemed to be reporting issuers for a particular purpose, such as via BC Instrument 51-509 *Issuers Quoted in the US Over-the-Counter Markets*. Investors are able to directly access an issuer's trading data and disclosure record on our website at www.cnsx.ca (the "Website").

Corporate Governance

CNSX Markets' corporate governance structure and arrangements are unchanged. We are requesting a small number of non-substantive amendments to term and condition #1 of the Current Order, including a change in the reference from "quoted" to "listed" and changes to better reflect the existing and ongoing nature of our obligations.

Fitness

We are seeking a change to term and condition #2 of the Current Order to state that we must "take reasonable steps" to ensure that each significant shareholder, officer and director meets the fit and proper requirements. This standard is consistent with the obligation imposed on other regulated entities.

Fair and Appropriate Fees

No substantive changes are being requested to term and condition #3.

Access

We are requesting only minor drafting clarifications to term and condition #4.

Financial Viability

To account for our stages of evolution as we grow, we are requesting amendments to term and condition #5. As discussed with OSC staff, the revised term and condition combines the pre-existing exchange financial viability provisions and those that had formed an exemption at the time of our original recognition. The steps for reporting if certain ratios are not maintained are spelled out more clearly, and items specific to conditions at the time of initial recognition that are no longer required have been removed.

Regulation

CNSX Markets continues to maintain its ability to perform its regulation functions including setting requirements governing the conduct of and disciplining CNSX Dealers and Issuers. We are seeking the following changes to term and condition #6 to:

- 1) add that such regulation will be carried out "...directly or indirectly through a regulation services provider";
- 2) incorporate the May, 2008 variation in the consolidated order, changing the reference from Market Regulation Services Inc. to IIROC as our regulation services provider;
- 3) generalize the references in the section to "its regulation services provider" to accommodate any further name changes or a change of regulation services provider, should that ever be the case; and
- 4) make some minor style changes to update the provision.

Capacity and Integrity of Systems

On January 28, 2010, the requirements in National Instrument 21-101 ("NI 21-101") regarding systems were amended. In order to avoid having to revise the order for any further amendments to NI 21-101, following discussions with OSC staff we have made term and condition #7 principles-based. It now states that we must maintain reasonable controls to ensure capacity and integrity requirements and security of technology systems, and is supported by revised term and condition #16 that requires compliance with NI 21-101 and National Instrument 23-101 ("NI 23-101") generally. The title was also revised to "Capacity, Integrity and Security of Systems".

Purpose of Rules

We are submitting only formatting changes to term and condition #8.

Rules and Rule-Making

We are submitting only a minor grammatical change to term and condition #9.

Financial Statements

We are removing the reference to GAAP in term and condition #10 to accommodate the changes to accounting principles, and ensure the term and condition remains accurate whether we choose IFRS or the GAAP for Private Enterprises.

Discipline Rules

We are seeking to amend the title of term and condition #11 to “Disciplinary Powers” to better match the text. We are also proposing other drafting changes to conform to other similar entities’ recognition orders, including clarifying that the obligation regarding violations of securities legislation relates to providing notice to the OSC of any violations of securities legislation of which we become aware in the ordinary course.

Due Process

We are proposing drafting revisions to term and condition #12 for clarity only.

Information Sharing

CNSX Markets is able and willing to share information and otherwise co-operate with the entities listed in term and condition #13, but our ability to do so is subject to privacy and other, similar, legislation. We are therefore requesting that this restriction be added to the end of the section in the Current Order.

Issuer Regulation

Term and condition #14 had been drafted specifically to address issues at the point in time that the Current Order was originally issued in May, 2004. We have not altered the reference to Appendix C for issuer eligibility but are seeking to remove the time limitation in the Current Order for applying to amend condition (a) (now 14.1).

We are also proposing several clarification changes, including, in condition (b) (now 14.2), to:

- 1) specifically name Pure Trading; and
- 2) refer to the Pure Trading qualification provisions in the Rules and remove the duplicative requirements in the order.

Clearing and Settlement

There are no substantive changes to term and condition #15. We are proposing a drafting change to better reflect the fact that the clearing and settlement arrangements in place are requirements imposed on our participants, not our own arrangements.

Transparency Requirements

At the request of OSC staff, this term and condition is being broadened to refer to compliance with all requirements in NI 21-101 and NI 23-101, not just regarding transparency. It has been re-titled “Marketplace Regulatory Requirements”.

Outsourcing

As requested by OSC staff, we have included a term and condition regarding outsourcing.

Additional Information

In term and condition #18, we have only added language to reflect the fact that the provision continues to apply.

Appendix A

The Appendix is now titled “Reporting Obligations” for clarity. We are amending the notice section, #3, to replace the reference to “press release” with “notice” to reflect practice.

OSC staff have asked that we add section 4, General, to refer to compliance with the ongoing reporting obligations under the Automation Review Program.

Appendix B

There are only minor drafting changes to this appendix.

Appendix C

We are proposing to add to the existing eligibility standard, i.e. companies that are reporting issuers in a Canadian jurisdiction, certain issuers whose debt securities are exempt from prospectus requirements under clauses 73(1)(a) and (b) of the Act, (for example, provincial debt issuers and financial institutions). We have qualified the reporting issuer criterion to say that some reporting issuers, by virtue of how they became reporting issuers, may still be ineligible in accordance with the Rules until they file a prospectus, obtain a receipt and are not in default of any securities law requirements. A current example, as noted above, is an issuer deemed to be a reporting issuer under BC Instrument 51-509 *Issuers Quoted in the US Over-the-Counter Markets*.

Conclusion

We submit that the majority of the above changes are house-keeping amendments to update and clarify the terms and conditions of the Current Order. We look forward to receiving your comments at your earliest convenience. If you have any questions or would like to discuss any aspects of this application, please contact me at 416-572-2000 x 2282 or Robert Cook at 416-572-2000 x2470.

Yours truly,
CNSX MARKETS INC.

"Cindy Petlock"

Cindy Petlock
General Counsel & Corporate Secretary

cc: Susan Greenglass, Market Regulation, OSC
Tracey Stern, Market Regulation, OSC
Rob Cook, CNSX Markets
Mark Faulkner, CNSX Markets

CERTIFICATE

We authorize the making and filing of the attached application by CNSX Markets Inc. and confirm the truth of the facts contained therein.

DATED at Toronto this 16th day of April, 2010

CNSX MARKETS INC.

"Cindy Petlock"

Cindy Petlock
General Counsel & Corporate Secretary

CNSX Draft Order – s. 144 of the Act - Blacklined

**IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990,
CHAPTER S.5, As Amended (the “Act”)**

AND

**IN THE MATTER OF
CNSX MARKETS INC.**

**VARIATION TO RECOGNITION ORDER
(Section 144 of the Act)**

WHEREAS the Commission issued an order dated February 28, 2003, recognizing the Canadian Trading and Quotation System Inc. (CNQ) as a quotation and trade reporting system (QTRS) pursuant to section 21 of the Act (CNQ QTRS Recognition Order);

AND WHEREAS the Commission issued an order dated May 7, 2004, as varied on September 9, 2005, June 13, 2006, and May 16, 2008, granting recognition to CNQ as a stock exchange pursuant to section 21 of the Act and revoking the CNQ QTRS Recognition Order pursuant to section 144 of the Act (CNQ Exchange Recognition Order);

AND WHEREAS CNQ changed its name to CNSX Markets Inc. (CNSX Markets) on November 4, 2008;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue this order that varies and restates the CNQ Exchange Recognition Order to reflect the name change, update the financial viability and systems-related terms and conditions, add an outsourcing term and condition, update Schedule A, Appendix C relating to eligible issuers, and make certain additional amendments;

IT IS ORDERED, pursuant to section 144 of the Act that the CNQ Exchange Recognition Order be varied and restated as follows:

**IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990,
CHAPTER S.5, As Amended (the “Act”)**

AND

**IN THE MATTER OF
CNSX MARKETS INC.**

**RECOGNITION ORDER
(Section 21 of the Act)**

WHEREAS the Commission issued an order dated February 28, 2003, recognizing the Canadian Trading and Quotation System Inc. (CNQ) as a quotation and trade reporting system (QTRS) pursuant to section 21 of the Act (CNQ QTRS Recognition Order);

AND WHEREAS the Commission issued an order dated May 7, 2004, as varied on September 9, 2005, June 13, 2006, and May 16, 2008, granting recognition to CNQ as a stock exchange pursuant to section 21 of the Act and revoking the CNQ QTRS Recognition Order pursuant to section 144 of the Act (CNQ Exchange Recognition Order);

AND WHEREAS CNQ changed its name to CNSX Markets Inc. (CNSX Markets) on November 4, 2008;

AND WHEREAS CNSX Markets operates the Canadian National Stock Exchange (CNSX) and the Alternative Market facility, Pure Trading (PURE):

AND WHEREAS CNSX Markets has made an application (Application) to continue its recognition under a varied and restated recognition order to reflect the name change, update the financial viability and systems-related terms and conditions, add an outsourcing term and condition; update Schedule A, Appendix C relating to eligible issuers and make certain additional amendments (collectively, the Amendments);

AND WHEREAS the Commission has received certain representations and undertakings from CNSX Markets in connection with the Application;

AND WHEREAS CNSX Markets will continue to comply with National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules*;

AND WHEREAS the Commission considers it appropriate to set out in this order the terms and conditions of CNSX Markets' continued recognition as a stock exchange, which terms and conditions are set out in Schedule A;

AND WHEREAS CNSX Markets has agreed to the terms and conditions set out in Schedule A;

AND WHEREAS the Commission is of the opinion that the continued recognition of CNSX Markets as a stock exchange, subject to the terms and conditions set out in Schedule A would not be prejudicial to the public interest;

THE COMMISSION HEREBY continues to recognize CNSX Markets as a stock exchange pursuant to section 21 of the Act, subject to the terms and conditions set out in Schedule A.

DATED _____, 2010

SCHEDULE A

TERMS AND CONDITIONS

1. CORPORATE GOVERNANCE

1.1 ~~CNQ's~~CNSX Markets' arrangements with respect to the appointment, removal from office and functions of the persons ultimately responsible for making or enforcing the rules, policies and other similar instruments (Rules) of ~~CNQ~~CNSX Markets, namely, the ~~governing body~~board of directors (Board), are such as to ensure a proper balance between the interests of the different entities desiring access to the facilities of ~~CNQ~~CNSX Markets (~~CNQ Dealer~~CNSX Dealers) and companies seeking to be ~~quoted~~listed on ~~CNQ~~CNSX (~~CNQ Issuer~~CNSX Issuers), and a reasonable number and proportion of directors ~~are~~will be "independent" in order to ensure diversity of representation on the Board. An independent director is a director that is not:

- (a) an associate, director, officer or employee of a ~~CNQ Dealer~~CNSX Dealer;
- (b) an officer or employee of ~~CNQ~~CNSX Markets or its affiliates;
- (c) an associate, director, officer or employee of any person or company who owns or controls, directly or indirectly, over 10% of ~~CNQ~~CNSX Markets; or
- (d) a person who owns or controls, directly or indirectly, over 10% of ~~CNQ~~CNSX Markets.

In particular, ~~CNQ~~CNSX Markets will ensure that at least fifty per cent (50%) of its directors ~~are~~will be independent. In the event that at any time ~~CNQ~~CNSX Markets fails to meet such requirement, it will promptly remedy such situation.

1.2 Without limiting the generality of the foregoing, ~~CNQ's~~CNSX Markets' governance structure provides for:

- (a) fair and meaningful representation on its ~~governing body~~board of directors, in the context of the nature and structure of ~~CNQ~~CNSX Markets, and any governance committee thereto and in the approval of Rules;
- (b) appropriate representation of independent directors on any ~~CNQ~~CNSX Markets Board committees; and
- (c) appropriate qualifications, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of ~~CNQ~~CNSX Markets generally.

2. FITNESS

2.1 In order to ensure that ~~CNQ~~CNSX Markets operates with integrity and in the public interest, ~~CNSX Markets~~will take reasonable steps to ensure that each person or company that owns or controls, directly or indirectly, more than 10% of ~~CNQ~~CNSX Markets and each officer or director of ~~CNQ~~CNSX Markets is a fit and proper person and the past conduct of each person or company that owns or controls, directly or indirectly, more than 10% of ~~CNQ~~CNSX Markets and each officer or director of ~~CNQ~~CNSX Markets affords reasonable grounds for belief that the business of ~~CNQ~~CNSX Markets will be conducted with integrity.

3. FAIR AND APPROPRIATE FEES

3.1 Any and all fees imposed by ~~CNQ~~CNSX Markets will be equitably allocated. Fees will not have the effect of creating barriers to access and must be balanced with the ~~criteria~~criteria that ~~CNQ~~CNSX Markets will have sufficient revenues to satisfy its responsibilities.

3.2 ~~CNQ~~CNSX Markets's process for setting fees will be fair, appropriate and transparent.

4. ACCESS

4.1 ~~CNQ's~~CNSX Markets' requirements ~~will~~will permit all properly registered dealers that are members of a recognized SRO and satisfy access requirements established by ~~CNQ~~CNSX Markets to access the facilities of ~~CNQ~~CNSX Markets.

4.2 Without limiting the generality of the foregoing, ~~CNQ~~CNSX Markets will:

- (a) establish written standards for granting access to ~~CNQ Dealer~~CNSX Dealers trading on ~~CNQ~~its facilities;

- (b) not unreasonably prohibit 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 ~~CNQ Dealer~~CNSX Dealer, the reasons for granting such access, and
 - (ii) each denial or limitation of access, including the reasons for denying or limiting access to any applicant.

5. FINANCIAL VIABILITY

5.1 CNQCNSX Markets will maintain sufficient financial resources for the proper performance of its functions.

5.2 CNQCNSX Markets will deliver to Commission staff its annual financial budget, together with the underlying assumptions, that has been approved by its bBoard of dDirectors, within 30 days after the commencement of each fiscal year. Such financial budget should include monthly projected revenues, expenses and cash flows.

~~(c) For the two-year period commencing on September 9, 2005:~~

- ~~(i) CNQ will deliver to Commission staff unaudited monthly financial statements prepared in accordance with Generally Accepted Accounting Principles, and a status update on any pending capital raising transaction(s) including the amount, terms and name(s) of individuals/entities that have committed to providing funding and their commitment, within 30 days of each month end;~~
- ~~(ii) CNQ will deliver to Commission staff the following within 60 days of each quarter end:
 - ~~(A) a comparison of the monthly revenues and expenses incurred by CNQ with the projected monthly revenues and expenses included in the most recent annual financial budget delivered to Commission staff, and~~
 - ~~(B) for each revenue item whose actual was significantly lower than its projected amount, and for each expense item whose actual was significantly higher than its projected amount, the reasons for the variance;~~~~
- ~~(iii) CNQ will, prior to making a cash interest payment or principal repayment on the following debts, demonstrate to the satisfaction of Commission staff that it will have sufficient financial resources to continue its operations after the payment:
 - ~~(A) the subordinated, convertible debentures described in the term sheet dated November 29, 2002,~~
 - ~~(B) the debts owed by CNQ described in the subordinated agreement dated December 23, 2002 between 1141216 Ontario Limited, Wendsley Lake Corporation, CNQ and The Business, Engineering, Science & Technology Discoveries Fund Inc., and~~
 - ~~(C) any amounts owed by CNQ to any officers or directors, or to any person or company that owns or controls, directly or indirectly, more than 10% of CNQ, except for reasonable compensation arising in the normal course of business; and~~~~
- ~~(iv) CNQ will, prior to making any loans, bonuses, dividends or other distributions of assets to any director, officer, related company or shareholder that are in excess of the amount included in the most recent annual financial budget delivered to Commission staff, demonstrate to the satisfaction of Commission staff that it will have sufficient financial resources to continue its operations after the payment.~~

5.3 CNSX Markets shall calculate monthly the following financial ratios:

~~(d) After September 9, 2007:~~

- ~~(i) CNQ will, on a quarterly basis (along with the quarterly financial statements required to be delivered pursuant to paragraph 10), report to Commission staff the following financial ratios to permit trend analysis and provide an early warning signal with respect to the financial health of the company:
 - (a) a current ratio, being the ratio of current assets to current liabilities;;~~

- (b) a debt to cash flow ratio, being the ratio of total debt (including any line of credit draw downs, term loans ~~(and the current and long-term portions) and debentures of any loans~~, but excluding accounts payable, accrued expenses and other liabilities) to EBITDA (or earnings before interest, taxes, stock based compensation, depreciation and amortization) for the most recent 12 months; and
- (c) a financial leverage ratio, being the ratio of total assets to shareholders' equity,

in each case following the same accounting principles as those used for the audited financial statements of CNQ CNSX Markets;

5.4 CNSX Markets will report quarterly (along with the financial statements required to be delivered pursuant to section 10.1) to Commission staff the monthly calculations for the previous quarter of the financial ratios as required to be calculated under section 5.3.

5.5 Depending on the results of the calculations under section 5.3, CNSX Markets may be required to provide additional reporting as set out below.

- (a) If CNSX Markets determines that it does not have fails to maintain, or anticipates it will that, fail to maintain in the next twelve months, it will not have:
 - (i) a current ratio of greater than or equal to 1.1/1,
 - (ii) a debt to cash flow ratio of less than or equal to 4.0/1, or
 - (iii) a financial leverage ratio of less than or equal to 4.0/1,

it will immediately report to notify Commission staff; and of the above ratio(s) that it is not maintaining, the reasons, along with an estimate of the length of time before the ratio(s) will be maintained.

- (b) Upon receipt of a notification made by CNSX Markets pursuant to paragraph (a), the Commission or its staff may, as determined appropriate, impose terms or conditions on CNSX Markets, which may include any of the terms and conditions set out in paragraphs 5.6(b) and (c).

5.6 If CNSX Markets' fails to maintain its current ratio, debt to cash flow ratio or financial leverage ratio falls below the levels outlined in paragraph (d)(ii) in subparagraphs 5.5(a)(i), (ii) and (iii) above for a period of more than three months, its President CNSX Markets will:

- (a) immediately deliver a letter advising Commission staff of the reasons for the continued ratio deficiencies and the steps being taken to rectify the situation, and the Commission or its staff may impose terms or conditions on CNSX as it determines appropriate, including but not limited to requirements outlined in paragraph (c) above;
- (b) deliver to Commission staff, on a monthly basis, within 30 days of the end of each month:
 - (i) unaudited monthly financial statements and a status update on any pending capital raising transaction(s) including the amount, terms and name(s) of individuals/entities that have committed to providing funding and their commitment,
 - (ii) a comparison of the monthly revenues and expenses incurred by CNSX Markets against the projected monthly revenues and expenses included in CNSX Markets' most recently updated budget for that fiscal year,
 - (iii) for each revenue item whose actual was significantly lower than its projected amount, and for each expense item whose actual was significantly higher than its projected amount, the reasons for the variance, and
 - (iv) a calculation of the current ratio, debt to cash flow ratio and financial leverage ratio for the month;
- (c) prior to making any type of payment to any director, officer, related company or shareholder that is in excess of the amount included in the most recent annual financial budget delivered to Commission staff, demonstrate to the satisfaction of Commission staff that it will have sufficient financial resources to continue its operations after the payment; and

(d) adhere to any additional terms or conditions imposed by the Commission or its staff, as determined appropriate, on CNSX Markets,

until such time as CNSX Markets has maintained each of its current ratio, debt to cash flow ratio and financial leverage ratio at the levels outlined in subparagraphs 5.5(a)(i), (ii) and (iii) for a period of at least 6 consecutive months.

6. REGULATION

- 6.1 CNQCNSX Markets will maintain its ability to perform its regulation functions including setting requirements governing the conduct of CNQ DealerCNSX Dealers and CNQ IssuerCNSX Issuers and disciplining CNQ DealerCNSX Dealers and CNQ issuerCNSX Issuers, whether directly or indirectly through a regulation services provider.
- 6.2 CNQCNSX Markets has retained and will continue to retain the Investment Industry Regulatory Organization of Canada (IIROC, the successor to Market Regulation Services Inc.) Market Regulation Services Inc. (RS Inc.) as a regulation services provider to provide certain regulation services which have been approved by the Commission. CNQCNSX Markets will provide to the Commission, on an annual basis, a list outlining the regulation services performed by RS Inc. IIROC and the regulation services performed by CNQCNSX Markets. All amendments to those listed services are subject to the prior approval of the Commission.
- 6.3 CNQCNSX Markets will provide the Commission with an annual report with such information regarding its affairs as may be requested from time to time. The annual report will be in such form as may be specified by the Commission from time to time.
- 6.4 CNQCNSX Markets will perform all other regulation functions not performed by RS Inc. IIROC its regulation services provider.
- 6.5 Management of CNQCNSX Markets (including the President and CEO) will at least annually assess the performance by RS Inc. IIROC its regulation services provider of its regulation functions and report to the Board, together with any recommendations for improvements. CNQCNSX Markets will provide the Commission with copies of such reports and shall will advise the Commission of any proposed actions arising there from.
- 6.6 CNQCNSX Markets shall will provide the Commission with the information set out in Appendix A, as amended from time to time.

7. CAPACITY AND INTEGRITY OF SYSTEMS

7.1 CNSX Markets will maintain, in accordance with prudent business practice, reasonable controls to ensure capacity, integrity requirements and security of its technology systems.

For each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, CNQ will:

- (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;
 - (v) establish reasonable contingency and business continuity plans;
- (b) annually, cause to be performed an independent review and written 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 Commission of material systems failures and changes.

8. PURPOSE OF RULES

- 8.1 ~~CNQ~~CNSX Markets will establish Rules that are necessary or appropriate to govern and regulate all aspects of its business and affairs.
- 8.2 More specifically, ~~CNQ~~CNSX Markets will ensure that:
- (a) the Rules are designed to:
 - (i) ensure compliance with securities legislation;
 - (ii) prevent fraudulent and manipulative acts and practices;
 - (iii) promote just and equitable principles of trade;
 - (iv) foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities; and
 - (v) provide for appropriate discipline;
 - (b) the Rules do not:
 - (i) permit unreasonable discrimination among ~~CNQ Issuer~~CNSX Issuers and ~~CNQ Dealer~~CNSX Dealers; or
 - (ii) impose any burden on competition that is not necessary or appropriate in furtherance of securities legislation; ~~and~~.
 - (c) the Rules are designed to ensure that its business is conducted in a manner so as to afford protection to investors.

9. RULES AND RULE-MAKING

- 9.1 ~~CNQ~~CNSX Markets will comply with the rule review process set out in Appendix B, as amended from time to time, concerning Commission approval of changes ~~to~~in its Rules.

10. FINANCIAL STATEMENTS

- 10.1 ~~CNQ~~CNSX Markets will file unaudited quarterly financial statements within 60 days of each quarter end and audited annual financial statements within 90 days of each year end, ~~prepared in accordance with generally accepted accounting principles.~~

11. DISCIPLINARY POWER ~~RULES~~

- 11.1 ~~CNQ~~CNSX Markets will have general disciplinary and enforcement provisions in its Rules that will apply to any person or company subject to its regulation.
- 11.2 ~~CNQ~~CNSX Markets will ensure, through ~~Market Regulation Services Inc. IIROC~~ and otherwise, that any person or company subject to its regulation is appropriately ~~disciplined~~sanctioned for violations of securities legislation and the Rules. In addition, CNSX Markets will provide notice to the Commission of any violations of securities legislation of which it becomes aware in the ordinary course of its business.

12. DUE PROCESS

- ~~12.1~~ ~~CNSX Markets~~ ~~CNQ~~ will ensure that:
- (a) ~~its requirements relating to access to the its facilities of CNQ, the imposition of limitations or conditions on access and denial of access are fair and reasonable, including in respect of giving notice, giving parties an opportunity to be heard or make representations, keeping records, giving reasons and providing for appeals of its decisions.~~
 - (b) ~~parties are given an opportunity to be heard or make representations; and~~
 - (c) ~~it keeps a record, gives reasons and provides for appeals of its decisions.~~

13. INFORMATION SHARING

13.1 CNQCNSX Markets will share information and otherwise co-operate with the Commission and its staff, the Canadian Investor Protection Fund, other Canadian exchanges and recognized self-regulatory organizations and regulatory authorities responsible for the supervision or regulation of securities firms and financial institutions, subject to the applicable privacy or other laws about the sharing of information and the protection of personal information.

14. ISSUER REGULATION

14.1 CNQCNSX Markets will ensure that only the issuers set out in Appendix C, as amended from time to time, are eligible for listing on CNSX, ~~provided that upon application by CNQ made at any time after May 15, 2005, the Commission may amend or revoke this condition if it determines that to do so would not be prejudicial to the public interest.~~

14.2 CNQCNSX Markets may, in accordance with the requirements for qualification for trading on PURE set out in its Rules, ~~trade designate certain listed securities as eligible for trading on PURE of issuers listed on designated Canadian stock exchanges in its Alternative Market without approving such securities for an additional listing, provided that CNQ shall cease to trade any such security immediately upon notification that the security has been suspended or delisted by the designated exchange, or if it was the subject of a trading halt;~~

14.3 CNQCNSX Markets has and will continue to ensure that it has sufficient authority over its CNSX listed issuers.

14.4 CNQCNSX Markets will ~~carries~~ out appropriate review procedures to monitor and enforce listed issuer compliance with the Rules.

provided that:

a. ~~for at least two months immediately prior to operating the Alternative Market, CNQ shall make available to the public any technology requirements regarding interfacing with and access to the marketplace; and~~

b. ~~after the technology requirements set out in subsection (a) have been published, CNQ shall make available to the public, for at least one month, testing facilities for interfacing with and access to the marketplace.~~

14.5 CNQCNSX Markets will amend its Policies and Forms, from time to time, at the request of the Director, Corporate Finance, to reflect changes to the disclosure requirements of Ontario securities law.

15. CLEARING AND SETTLEMENT

15.1 ~~The Rules impose a requirement on CNQCNSX Dealers to have appropriate arrangements in place for clearing and settlement through a clearing agency recognized by the Commission underfor the purposes of the Securities Act (Ontario) Act.~~

16. TRANSPARENCY MARKETPLACE REGULATORY REQUIREMENTS

16.1 CNQCNSX Markets will comply with the ~~pre-trade and post-trade transparency requirements~~ set out in National Instrument 21-101 *Marketplace Operation* and in National Instrument 23-101 *Trading Rules*.

17. OUTSOURCING

17.1 ~~In any material outsourcing of any of its business functions to a third party, CNSX Markets will proceed in accordance with industry best practices. Without limiting the generality of the foregoing, CNSX Markets will:~~

(a) ~~establish and maintain policies and procedures that are approved by its board of directors for the evaluation and approval of such material outsourcing arrangements;~~

(b) ~~in entering into any such material outsourcing arrangement:~~

(i) ~~assess the risk of such arrangement, the quality of the service to be provided and the degree of control to be maintained by CNSX Markets, and~~

(ii) ~~execute a contract with the service provider addressing all significant elements of such arrangement, including service levels and performance standards;~~

- (c) ensure that any contract implementing such material outsourcing arrangement that is likely to impact on CNSX Markets' regulation functions provide for CNSX Markets, its agents and the Commission to be permitted to have access to and to inspect all data and information maintained by the service provider that CNSX Markets is required to share under section 13.1 or that is required for the assessment by the Commission of the performance of CNSX Markets of its regulation functions and the compliance of CNSX Markets with the terms and conditions in this Schedule A; and
- (d) monitor the performance of the service provided under such material outsourcing arrangement.

17.18. ADDITIONAL INFORMATION

- (a) ~~CNQ~~ has completed and submitted Form 21-101F1 (including the exhibits) to the Commission.
- 18.1 ~~CNQ~~CNSX Markets will provide the Commission with any additional information the Commission may require from time to time.

Appendix A

Information to be filed
Reporting Obligations

1. Quarterly Reporting on Exemptions or Waivers Granted

On a quarterly basis, ~~CNQ~~CNSX Markets will submit to the Commission a report summarizing all exemptions or waivers granted pursuant to the rules, policies or other similar instruments (Rules) to any ~~CNQ Dealer~~CNSX Dealer or ~~CNQ Issuer~~CNSX Issuer during the period. This summary should include the following information:

- (a) The name of the ~~CNQ Dealer~~CNSX Dealer or ~~CNQ Issuer~~CNSX Issuer;
- (b) The type of exemption or waiver granted during the period;
- (c) The Date of the exemption or waiver_i; and
- (d) A description of ~~CNQ~~CNSX Markets staff's reason for the decision to grant the exemption or waiver.

2. Quarterly Reporting on Listing Applications

On a quarterly basis, ~~CNQ~~CNSX Markets will submit to the Commission a report containing the following information:

- (a) The number of listing applications filed;
- (b) The number of listing applications that were accepted;
- (c) The number of listing applications that were rejected and the reasons for rejection, by category;
- (d) The number of listing applications that were withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category;
- (e) The number of listing applications filed by ~~CNQ Issuer~~CNSX Issuers as a result of a Fundamental Change;
- (f) The number of listing applications filed by ~~CNQ Issuer~~CNSX Issuers as a result of a Fundamental Change that were accepted;
- (g) The number of listing applications filed by ~~CNQ Issuer~~CNSX Issuers as a result of a Fundamental Change that were ~~that were~~ rejected and the reasons for rejection, by category;
- (h) The number of listing applications filed by ~~CNQ Issuer~~CNSX Issuers as a result of a Fundamental Change that were withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category.

In each of the foregoing cases, the numbers shall be broken down by industry category and in any other manner that a Director of the Commission requests.

3. Notification of Suspensions and Disqualifications

If a ~~CNQ Issuer~~CNSX Issuer has been suspended or disqualified from qualification for listing, ~~CNQ~~CNSX Markets will immediately issue a ~~press release~~ notice setting out the reasons for the suspension and file this information with the Commission.

4. General

CNSX Markets will continue to comply with the reporting obligations under the Automation Review Program.

Appendix B

Rule Review Process

1. CNQCNSX Markets will file with the Commission each new or amended rule, policy and other similar instrument (Rules) adopted by its Board.
2. More specifically, CNQCNSX Markets will file the following information:
 - (a) the Rule;
 - (b) a notice of publication including:
 - (i) a description of the Rule and its impact;
 - (ii) a concise statement, together with supporting analysis, of the nature, purpose and intended effect of the Rule;
 - (iii) the possible effects of the Rule on marketplace participants, competition and the costs of compliance;
 - (iv) a description of the rule-making process, including a description of the context in which the Rule was developed, the process followed, the issues considered, the consultation process undertaken, the alternative approaches considered and the reasons for rejecting the alternatives;
 - (v) where the Rule requires technological changes to be made by CNQCNSX Markets, CNQ DealerCNSX Dealers or CNQ IssuerCNSX Issuers, CNQCNSX Markets will provide a description of the implications of the Rule and, where possible, an implementation plan, including a description of how the Rule will be implemented and the timing of the implementation;
 - (vi) a reference to other jurisdictions including an indication as to whether another regulator in Canada, the United States or another jurisdiction has a comparable rule or has made or is contemplating making a comparable rule and, if applicable, a comparison of the Rule to the rule of the other jurisdiction; and
 - (vii) whether the Rule is classified as “public interest” or “housekeeping”; and
 - (viii) where the Rule is classified as “housekeeping”, the effective date of the Rule.
3. For the purposes of the Rule Review Process, a Rule may be classified as “housekeeping” if it does not affect the meaning, intent or substance of an existing rule and involves only:
 - (a) the correction of spelling, punctuation, typographical or grammatical mistakes or inaccurate cross-referencing;
 - (b) stylistic formatting, including changes to headings or paragraph numbers;
 - (c) amendments required to ensure consistency with an existing approved rule; or
 - (d) changes in routine procedures and administrative practices of CNQCNSX Markets provided that such changes do not impose any significant burden or any barrier to competition that is not appropriate.

Any Rule falling outside of this definition would be categorized as a “public interest” Rule. Prior to proposing a Rule that is of a “public interest” nature, as defined above, the bBoard of directors of CNQCNSX Markets shall have determined that the entry into force of such “public interest” Rule would be in the best interests of the capital markets in Ontario. The material filed with the Commission in relation to “public interest” Rules shall be accompanied by a statement to that effect.

4. Where a Rule has been classified as “public interest”, the Commission will publish for a 30 day comment period in its bulletin or on its website the notice filed by CNQCNSX Markets and the Rule. If amendments to the Rule are necessary as a result of comments received, ~~the Commission staff~~ shall have discretion to determine whether the Rule should be re-published for comment. If the Rule is re-published, the request for comment shall include CNQ'sCNSX Markets' summary of comments and responses thereto together with an explanation of the revisions to the Rule and the supporting rationale for the amendments.

5. A “public interest” Rule will be effective as of the date of Commission approval or on a date determined by CNQCNSX Markets, whichever is later. A “housekeeping” Rule shall be deemed to have been approved upon being filed with the Commission, unless staff of the Commission communicate to CNQCNSX Markets, within five business days of receipt of the Rule, their disagreement with CNQ’s CNSX Markets’ classification of the Rule as “housekeeping” and the reasons for their disagreement. Where staff of the Commission disagree with CNQ’s CNSX Markets’ classification, CNQCNSX Markets shall re-file the Rule as a “public interest” Rule. A “housekeeping” Rule shall be effective on the date indicated by CNQCNSX Markets in the filing.
6. The Commission shall publish a Notice of Commission Approval of both “public interest” and “housekeeping” Rules in its bulletin or on its website. All such notices relating to “public interest” Rules shall also include CNQ’s CNSX Markets’ summary of comments and responses thereto. All such notices relating to “housekeeping” Rules shall be accompanied by the notice filed by CNQCNSX Markets and the Rule itself.
7. If CNQCNSX Markets is of the view that there is an urgent need to implement a Rule, CNQCNSX Markets may make a Rule effective immediately upon approval by CNQ’s CNSX Markets’ board of directors provided that CNQCNSX Markets:
 - (a) provides the Commission with written notice of the urgent need to implement the Rule prior to the submission of the Rule to CNQ’s CNSX Markets’ board of directors; and
 - (b) includes in the notice referenced in 2(b)(ii) an analysis in support of the need for immediate implementation of the Rule.
8. If the Commission does not agree that immediate implementation is necessary, ~~the Commission staff will~~ advise CNQCNSX Markets that ~~the Commission~~ disagrees and provide the reasons for its disagreement. If no notice is received by CNQCNSX Markets within 5 business days of the Commission receiving CNQ’s CNSX Markets’ notification, CNQCNSX Markets shall assume that the Commission agrees with its assessment.
9. A Rule that is implemented immediately shall be published, reviewed and approved in accordance with the procedure set out above. Where the Commission subsequently disapproves a Rule that was implemented immediately, CNQCNSX Markets shall repeal the Rule and publish a notice informing its marketplace participants.
10. The terms, conditions and procedures set out in this section may be varied or waived by ~~the Commission staff~~. A waiver or variation may be specific or general and may be made for a time or for all time. The waiver or variation must be in writing by Commission staff.

Appendix C

Eligible Issuers

1. ~~Only an issuer that is a reporting issuer or the equivalent in a jurisdiction in Canada and that is not in default of any requirements of securities legislation in any jurisdiction in Canada is eligible for listing.~~
1. Subject to section 2 below, only an issuer that:
 - (a) is a reporting issuer or the equivalent in a jurisdiction in Canada; or
 - (b) is proposing to list debt securities issued or guaranteed by a government in Canada that are exempt from the prospectus requirements under clause 73(1)(a) of the Act; or
 - (c) is proposing to list debt securities issued or guaranteed by a financial institution that are exempt from the prospectus requirements under clause 73(1)(b) of the Act; and
 - (d) is not in default of any requirements of securities legislation in any jurisdiction in Canada,
is eligible for listing. However, if an issuer is eligible for listing under paragraph (b) or (c) above, CNSX may only list debt securities of the issuer that are contemplated by those paragraphs unless the issuer files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada.
2. An issuer that is a reporting issuer in a jurisdiction in Canada but is not considered eligible under the Rules due to the process by which it became a reporting issuer, is ineligible for listing unless it:
 - (a) files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada; and
 - (b) is not in default of any requirements of securities legislation in any jurisdiction in Canada.

CNSX Draft Order – s. 144 of the Act - Clean

**IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990,
CHAPTER S.5, As Amended (the “Act”)**

AND

**IN THE MATTER OF
CNSX MARKETS INC.**

**VARIATION TO RECOGNITION ORDER
(Section 144 of the Act)**

WHEREAS the Commission issued an order dated February 28, 2003, recognizing the Canadian Trading and Quotation System Inc. (CNQ) as a quotation and trade reporting system (QTRS) pursuant to section 21 of the Act (CNQ QTRS Recognition Order);

AND WHEREAS the Commission issued an order dated May 7, 2004, as varied on September 9, 2005, June 13, 2006, and May 16, 2008, granting recognition to CNQ as a stock exchange pursuant to section 21 of the Act and revoking the CNQ QTRS Recognition Order pursuant to section 144 of the Act (CNQ Exchange Recognition Order);

AND WHEREAS CNQ changed its name to CNSX Markets Inc. (CNSX Markets) on November 4, 2008;

AND WHEREAS the Commission has determined that it is not prejudicial to the public interest to issue this order that varies and restates the CNQ Exchange Recognition Order to reflect the name change, update the financial viability and systems-related terms and conditions, add an outsourcing term and condition, update Schedule A, Appendix C relating to eligible issuers, and make certain additional amendments;

IT IS ORDERED, pursuant to section 144 of the Act that the CNQ Exchange Recognition Order be varied and restated as follows:

**IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990,
CHAPTER S.5, As Amended (the “Act”)**

AND

**IN THE MATTER OF
CNSX MARKETS INC.**

**RECOGNITION ORDER
(Section 21 of the Act)**

WHEREAS the Commission issued an order dated February 28, 2003, recognizing the Canadian Trading and Quotation System Inc. (CNQ) as a quotation and trade reporting system (QTRS) pursuant to section 21 of the Act (CNQ QTRS Recognition Order);

AND WHEREAS the Commission issued an order dated May 7, 2004, as varied on September 9, 2005, June 13, 2006, and May 16, 2008, granting recognition to CNQ as a stock exchange pursuant to section 21 of the Act and revoking the CNQ QTRS Recognition Order pursuant to section 144 of the Act (CNQ Exchange Recognition Order);

AND WHEREAS CNQ changed its name to CNSX Markets Inc. (CNSX Markets) on November 4, 2008;

AND WHEREAS CNSX Markets operates the Canadian National Stock Exchange (CNSX) and the Alternative Market facility, Pure Trading (PURE);

AND WHEREAS CNSX Markets has made an application (Application) to continue its recognition under a varied and restated recognition order to reflect the name change, update the financial viability and systems-related terms and conditions, add an outsourcing term and condition; update Schedule A, Appendix C relating to eligible issuers and make certain additional amendments (collectively, the Amendments);

AND WHEREAS the Commission has received certain representations and undertakings from CNSX Markets in connection with the Application;

AND WHEREAS CNSX Markets will continue to comply with National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules*;

AND WHEREAS the Commission considers it appropriate to set out in this order the terms and conditions of CNSX Markets' continued recognition as a stock exchange, which terms and conditions are set out in Schedule A;

AND WHEREAS CNSX Markets has agreed to the terms and conditions set out in Schedule A;

AND WHEREAS the Commission is of the opinion that the continued recognition of CNSX Markets as a stock exchange, subject to the terms and conditions set out in Schedule A would not be prejudicial to the public interest;

THE COMMISSION HEREBY continues to recognize CNSX Markets as a stock exchange pursuant to section 21 of the Act, subject to the terms and conditions set out in Schedule A.

DATED _____, 2010

SCHEDULE A

TERMS AND CONDITIONS

1. CORPORATE GOVERNANCE

1.1 CNSX Markets' arrangements with respect to the appointment, removal from office and functions of the persons ultimately responsible for making or enforcing the rules, policies and other similar instruments (Rules) of CNSX Markets, namely, the board of directors (Board), are such as to ensure a proper balance between the interests of the different entities desiring access to the facilities of CNSX Markets (CNSX Dealers) and companies seeking to be listed on CNSX (CNSX Issuers), and a reasonable number and proportion of directors are "independent" in order to ensure diversity of representation on the Board. An independent director is a director that is not:

- (a) an associate, director, officer or employee of a CNSX Dealer;
- (b) an officer or employee of CNSX Markets or its affiliates;
- (c) an associate, director, officer or employee of any person or company who owns or controls, directly or indirectly, over 10% of CNSX Markets; or
- (d) a person who owns or controls, directly or indirectly, over 10% of CNSX Markets.

In particular, CNSX Markets will ensure that at least fifty per cent (50%) of its directors are independent. In the event that at any time CNSX Markets fails to meet such requirement, it will promptly remedy such situation.

1.2 Without limiting the generality of the foregoing, CNSX Markets' governance structure provides for:

- (a) fair and meaningful representation on its board of directors, in the context of the nature and structure of CNSX Markets, and any governance committee thereto and in the approval of Rules;
- (b) appropriate representation of independent directors on any CNSX Markets Board committees; and
- (c) appropriate qualifications, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of CNSX Markets generally.

2. FITNESS

2.1 In order to ensure that CNSX Markets operates with integrity and in the public interest, CNSX Markets will take reasonable steps to ensure that each person or company that owns or controls, directly or indirectly, more than 10% of CNSX Markets and each officer or director of CNSX Markets is a fit and proper person and the past conduct of each person or company that owns or controls, directly or indirectly, more than 10% of CNSX Markets and each officer or director of CNSX Markets affords reasonable grounds for belief that the business of CNSX Markets will be conducted with integrity.

3. FAIR AND APPROPRIATE FEES

3.1 Any and all fees imposed by CNSX Markets will be equitably allocated. Fees will not have the effect of creating barriers to access and must be balanced with the criterion that CNSX Markets will have sufficient revenues to satisfy its responsibilities.

3.2 CNSX Markets' process for setting fees will be fair, appropriate and transparent.

4. ACCESS

4.1 CNSX Markets' requirements will permit all properly registered dealers that are members of a recognized SRO and satisfy access requirements established by CNSX Markets to access the facilities of CNSX Markets.

4.2 Without limiting the generality of the foregoing, CNSX Markets will:

- (a) establish written standards for granting access to CNSX Dealers trading on its facilities;
- (b) not unreasonably prohibit 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 CNSX Dealer, the reasons for granting such access, and
 - (ii) each denial or limitation of access, including the reasons for denying or limiting access to any applicant.

5. FINANCIAL VIABILITY

- 5.1 CNSX Markets will maintain sufficient financial resources for the proper performance of its functions.
- 5.2 CNSX Markets will deliver to Commission staff its annual financial budget, together with the underlying assumptions, that has been approved by its board of directors, within 30 days after the commencement of each fiscal year. Such financial budget should include monthly projected revenues, expenses and cash flows.
- 5.3 CNSX Markets shall calculate monthly the following financial ratios:
- (a) a current ratio, being the ratio of current assets to current liabilities;
 - (b) a debt to cash flow ratio, being the ratio of total debt (including any line of credit draw downs, and the current and long-term portions of any loans, but excluding accounts payable, accrued expenses and other liabilities) to EBITDA (or earnings before interest, taxes, stock based compensation, depreciation and amortization) for the most recent 12 months; and
 - (c) a financial leverage ratio, being the ratio of total assets to shareholders' equity,
- in each case following the same accounting principles as those used for the audited financial statements of CNSX Markets.
- 5.4 CNSX Markets will report quarterly (along with the financial statements required to be delivered pursuant to section 10.1) to Commission staff the monthly calculations for the previous quarter of the financial ratios as required to be calculated under section 5.3.
- 5.5 Depending on the results of the calculations under section 5.3, CNSX Markets may be required to provide additional reporting as set out below.
- (a) If CNSX Markets determines that it does not have, or anticipates that, in the next twelve months, it will not have:
 - (i) a current ratio of greater than or equal to 1.1/1,
 - (ii) a debt to cash flow ratio of less than or equal to 4.0/1, or
 - (iii) a financial leverage ratio of less than or equal to 4.0/1,it will immediately notify Commission staff of the above ratio(s) that it is not maintaining, the reasons, along with an estimate of the length of time before the ratio(s) will be maintained.
 - (b) Upon receipt of a notification made by CNSX Markets pursuant to paragraph (a), the Commission or its staff may, as determined appropriate, impose terms or conditions on CNSX Markets, which may include any of the terms and conditions set out in paragraphs 5.6(b) and (c).
- 5.6 If CNSX Markets' current ratio, debt to cash flow ratio or financial leverage ratio falls below the levels outlined in subparagraphs 5.5(a)(i), (ii) and (iii) above for a period of more than three months, CNSX Markets will:
- (a) immediately deliver a letter advising Commission staff of the reasons for the continued ratio deficiencies and the steps being taken to rectify the situation;
 - (b) deliver to Commission staff, on a monthly basis, within 30 days of the end of each month:
 - (i) unaudited monthly financial statements and a status update on any pending capital raising transaction(s) including the amount, terms and name(s) of individuals/entities that have committed to providing funding and their commitment,

- (ii) a comparison of the monthly revenues and expenses incurred by CNSX Markets against the projected monthly revenues and expenses included in CNSX Markets' most recently updated budget for that fiscal year,
 - (iii) for each revenue item whose actual was significantly lower than its projected amount, and for each expense item whose actual was significantly higher than its projected amount, the reasons for the variance, and
 - (iv) a calculation of the current ratio, debt to cash flow ratio and financial leverage ratio for the month;
- (c) prior to making any type of payment to any director, officer, related company or shareholder that is in excess of the amount included in the most recent annual financial budget delivered to Commission staff, demonstrate to the satisfaction of Commission staff that it will have sufficient financial resources to continue its operations after the payment; and
- (d) adhere to any additional terms or conditions imposed by the Commission or its staff, as determined appropriate, on CNSX Markets,

until such time as CNSX Markets has maintained each of its current ratio, debt to cash flow ratio and financial leverage ratio at the levels outlined in subparagraphs 5.5(a)(i), (ii) and (iii) for a period of at least 6 consecutive months.

6. REGULATION

- 6.1 CNSX Markets will maintain its ability to perform its regulation functions including setting requirements governing the conduct of CNSX Dealers and CNSX Issuers and disciplining CNSX Dealers and CNSX Issuers, whether directly or indirectly through a regulation services provider.
- 6.2 CNSX Markets will continue to retain the Investment Industry Regulatory Organization of Canada (IIROC, the successor to Market Regulation Services Inc.) as a regulation services provider to provide certain regulation services which have been approved by the Commission. CNSX Markets will provide to the Commission, on an annual basis, a list outlining the regulation services performed by IIROC and the regulation services performed by CNSX Markets. All amendments to those listed services are subject to the prior approval of the Commission.
- 6.3 CNSX Markets will provide the Commission with an annual report with such information regarding its affairs as may be requested from time to time. The annual report will be in such form as may be specified by the Commission from time to time.
- 6.4 CNSX Markets will perform all other regulation functions not performed by its regulation services provider.
- 6.5 Management of CNSX Markets (including the President) will at least annually assess the performance by its regulation services provider of its regulation functions and report to the Board, together with any recommendations for improvements. CNSX Markets will provide the Commission with copies of such reports and will advise the Commission of any proposed actions arising there from.
- 6.6 CNSX Markets will provide the Commission with the information set out in Appendix A, as amended from time to time.

7. CAPACITY AND INTEGRITY OF SYSTEMS

- 7.1 CNSX Markets will maintain, in accordance with prudent business practice, reasonable controls to ensure capacity, integrity requirements and security of its technology systems.

8. PURPOSE OF RULES

- 8.1 CNSX Markets will establish Rules that are necessary or appropriate to govern and regulate all aspects of its business and affairs.
- 8.2 More specifically, CNSX Markets will ensure that:
- (a) the Rules are designed to:
 - (i) ensure compliance with securities legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,

- (iii) promote just and equitable principles of trade,
- (iv) foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, and
- (v) provide for appropriate discipline;
- (b) the Rules do not:
 - (i) permit unreasonable discrimination among CNSX Issuers and CNSX Dealers, or
 - (ii) impose any burden on competition that is not necessary or appropriate in furtherance of securities legislation; and
- (c) the Rules are designed to ensure that its business is conducted in a manner so as to afford protection to investors.

9. RULES AND RULE-MAKING

- 9.1 CNSX Markets will comply with the rule review process set out in Appendix B, as amended from time to time, concerning Commission approval of changes to its Rules.

10. FINANCIAL STATEMENTS

- 10.1 CNSX Markets will file unaudited quarterly financial statements within 60 days of each quarter end and audited annual financial statements within 90 days of each year end.

11. DISCIPLINARY POWERS

- 11.1 CNSX Markets will have general disciplinary and enforcement provisions in its Rules that will apply to any person or company subject to its regulation.
- 11.2 CNSX Markets will ensure, through IIROC and otherwise, that any person or company subject to its regulation is appropriately sanctioned for violations of the Rules. In addition, CNSX Markets will provide notice to the Commission of any violations of securities legislation of which it becomes aware in the ordinary course of its business.

12. DUE PROCESS

- 12.1 CNSX Markets will ensure that its requirements relating to access to its facilities, the imposition of limitations or conditions on access and denial of access are fair and reasonable, including in respect of giving notice, giving parties an opportunity to be heard or make representations, keeping records, giving reasons and providing for appeals of its decisions.

13. INFORMATION SHARING

- 13.1 CNSX Markets will share information and otherwise co-operate with the Commission and its staff, the Canadian Investor Protection Fund, other Canadian exchanges and recognized self-regulatory organizations and regulatory authorities responsible for the supervision or regulation of securities firms and financial institutions, subject to the applicable privacy or other laws about the sharing of information and the protection of personal information.

14. ISSUER REGULATION

- 14.1 CNSX Markets will ensure that only the issuers set out in Appendix C, as amended from time to time, are eligible for listing on CNSX.
- 14.2 CNSX Markets may, in accordance with the requirements for qualification for trading on PURE set out in its Rules, designate certain listed securities as eligible for trading on PURE without approving such securities for an additional listing.
- 14.3 CNSX Markets has and will continue to ensure that it has sufficient authority over its CNSX listed issuers.
- 14.4 CNSX Markets will carry out appropriate review procedures to monitor and enforce listed issuer compliance with the Rules.

14.5 CNSX Markets will amend its Policies and Forms, from time to time, at the request of the Director, Corporate Finance, to reflect changes to the disclosure requirements of Ontario securities law.

15. CLEARING AND SETTLEMENT

15.1 The Rules impose a requirement on CNSX Dealers to have appropriate arrangements in place for clearing and settlement through a clearing agency recognized by the Commission under the Act.

16. MARKETPLACE REGULATORY REQUIREMENTS

16.1 CNSX Markets will comply with the requirements set out in National Instrument 21-101 *Marketplace Operation* and in National Instrument 23-101 *Trading Rules*.

17. OUTSOURCING

17.1 In any material outsourcing of any of its business functions to a third party, CNSX Markets will proceed in accordance with industry best practices. Without limiting the generality of the foregoing, CNSX Markets will:

- (a) establish and maintain policies and procedures that are approved by its board of directors for the evaluation and approval of such material outsourcing arrangements;
- (b) in entering into any such material outsourcing arrangement:
 - (i) assess the risk of such arrangement, the quality of the service to be provided and the degree of control to be maintained by CNSX Markets, and
 - (ii) execute a contract with the service provider addressing all significant elements of such arrangement, including service levels and performance standards;
- (c) ensure that any contract implementing such material outsourcing arrangement that is likely to impact on CNSX Markets' regulation functions provide for CNSX Markets, its agents and the Commission to be permitted to have access to and to inspect all data and information maintained by the service provider that CNSX Markets is required to share under section 13.1 or that is required for the assessment by the Commission of the performance of CNSX Markets of its regulation functions and the compliance of CNSX Markets with the terms and conditions in this Schedule A; and
- (d) monitor the performance of the service provided under such material outsourcing arrangement.

18. ADDITIONAL INFORMATION

18.1 CNSX Markets will provide the Commission with any additional information the Commission may require from time to time.

Appendix A

Reporting Obligations

1. Quarterly Reporting on Exemptions or Waivers Granted

On a quarterly basis, CNSX Markets will submit to the Commission a report summarizing all exemptions or waivers granted pursuant to the rules, policies or other similar instruments (Rules) to any CNSX Dealer or CNSX Issuer during the period. This summary should include the following information:

- (a) The name of the CNSX Dealer or CNSX Issuer;
- (b) The type of exemption or waiver granted during the period;
- (c) The date of the exemption or waiver; and
- (d) A description of CNSX Markets staff's reason for the decision to grant the exemption or waiver.

2. Quarterly Reporting on Listing Applications

On a quarterly basis, CNSX Markets will submit to the Commission a report containing the following information:

- (a) The number of listing applications filed;
- (b) The number of listing applications that were accepted;
- (c) The number of listing applications that were rejected and the reasons for rejection, by category;
- (d) The number of listing applications that were withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category;
- (e) The number of listing applications filed by CNSX Issuers as a result of a Fundamental Change;
- (f) The number of listing applications filed by CNSX Issuers as a result of a Fundamental Change that were accepted;
- (g) The number of listing applications filed by CNSX Issuers as a result of a Fundamental Change that were rejected and the reasons for rejection, by category;
- (h) The number of listing applications filed by CNSX Issuers as a result of a Fundamental Change that were withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category.

In each of the foregoing cases, the numbers shall be broken down by industry category and in any other manner that a Director of the Commission requests.

3. Notification of Suspensions and Disqualifications

If a CNSX Issuer has been suspended or disqualified from qualification for listing, CNSX Markets will immediately issue a notice setting out the reasons for the suspension and file this information with the Commission.

4. General

CNSX Markets will continue to comply with the reporting obligations under the Automation Review Program.

Appendix B

Rule Review Process

1. CNSX Markets will file with the Commission each new or amended rule, policy and other similar instrument (Rules) adopted by its Board.
2. More specifically, CNSX Markets will file the following information:
 - (a) the Rule;
 - (b) a notice of publication including:
 - (i) a description of the Rule and its impact;
 - (ii) a concise statement, together with supporting analysis, of the nature, purpose and intended effect of the Rule;
 - (iii) the possible effects of the Rule on marketplace participants, competition and the costs of compliance;
 - (iv) a description of the rule-making process, including a description of the context in which the Rule was developed, the process followed, the issues considered, the consultation process undertaken, the alternative approaches considered and the reasons for rejecting the alternatives;
 - (v) where the Rule requires technological changes to be made by CNSX Markets, CNSX Dealers or CNSX Issuers, CNSX Markets will provide a description of the implications of the Rule and, where possible, an implementation plan, including a description of how the Rule will be implemented and the timing of the implementation;
 - (vi) a reference to other jurisdictions including an indication as to whether another regulator in Canada, the United States or another jurisdiction has a comparable rule or has made or is contemplating making a comparable rule and, if applicable, a comparison of the Rule to the rule of the other jurisdiction; and
 - (vii) whether the Rule is classified as “public interest” or “housekeeping”; and
 - (viii) where the Rule is classified as “housekeeping”, the effective date of the Rule.
3. For the purposes of the Rule Review Process, a Rule may be classified as “housekeeping” if it does not affect the meaning, intent or substance of an existing rule and involves only:
 - (a) the correction of spelling, punctuation, typographical or grammatical mistakes or inaccurate cross-referencing;
 - (b) stylistic formatting, including changes to headings or paragraph numbers;
 - (c) amendments required to ensure consistency with an existing approved rule; or
 - (d) changes in routine procedures and administrative practices of CNSX Markets provided that such changes do not impose any significant burden or any barrier to competition that is not appropriate.

Any rule falling outside of this definition would be categorized as a “public interest” Rule. Prior to proposing a Rule that is of a “public interest” nature, as defined above, the board of directors of CNSX Markets shall have determined that the entry into force of such “public interest” Rule would be in the best interests of the capital markets in Ontario. The material filed with the Commission in relation to “public interest” Rules shall be accompanied by a statement to that effect.

4. Where a Rule has been classified as “public interest”, the Commission will publish for a 30 day comment period in its bulletin or on its website the notice filed by CNSX Markets and the Rule. If amendments to the Rule are necessary as a result of comments received, Commission staff shall have discretion to determine whether the Rule should be re-published for comment. If the Rule is re-published, the request for comment shall include CNSX Markets’ summary of comments and responses thereto together with an explanation of the revisions to the Rule and the supporting rationale for the amendments.

5. A “public interest” Rule will be effective as of the date of Commission approval or on a date determined by CNSX Markets, whichever is later. A “housekeeping” Rule shall be deemed to have been approved upon being filed with the Commission, unless staff of the Commission communicate to CNSX Markets, within five business days of receipt of the Rule, their disagreement with CNSX Markets’ classification of the Rule as “housekeeping” and the reasons for their disagreement. Where staff of the Commission disagree with CNSX Markets’ classification, CNSX Markets shall re-file the Rule as a “public interest” Rule. A “housekeeping” Rule shall be effective on the date indicated by CNSX Markets in the filing.
6. The Commission shall publish a Notice of Commission Approval of both “public interest” and “housekeeping” Rules in its bulletin or on its website. All such notices relating to “public interest” Rules shall also include CNSX Markets’ summary of comments and responses thereto. All such notices relating to “housekeeping” Rules shall be accompanied by the notice filed by CNSX Markets and the Rule itself.
7. If CNSX Markets is of the view that there is an urgent need to implement a Rule, CNSX Markets may make a Rule effective immediately upon approval by CNSX Markets’ board of directors provided that CNSX Markets:
 - (a) provides the Commission with written notice of the urgent need to implement the Rule prior to the submission of the Rule to CNSX Markets’ board of directors; and
 - (b) includes in the notice referenced in 2(b) an analysis in support of the need for immediate implementation of the Rule.
8. If the Commission does not agree that immediate implementation is necessary, Commission staff will advise CNSX Markets that the Commission disagrees and provide the reasons for its disagreement. If no notice is received by CNSX Markets within 5 business days of the Commission receiving CNSX Markets’ notification, CNSX Markets shall assume that the Commission agrees with its assessment.
9. A Rule that is implemented immediately shall be published, reviewed and approved in accordance with the procedure set out above. Where the Commission subsequently disapproves a Rule that was implemented immediately, CNSX Markets shall repeal the Rule and publish a notice informing its marketplace participants.
10. The terms, conditions and procedures set out in this section may be varied or waived by Commission staff. A waiver or variation may be specific or general and may be made for a time or for all time. The waiver or variation must be in writing by Commission staff.

Appendix C

Eligible Issuers

1. Subject to section 2 below, only an issuer that:
 - (a) is a reporting issuer or the equivalent in a jurisdiction in Canada; or
 - (b) is proposing to list debt securities issued or guaranteed by a government in Canada that are exempt from the prospectus requirements under clause 73(1)(a) of the Act; or
 - (c) is proposing to list debt securities issued or guaranteed by a financial institution that are exempt from the prospectus requirements under clause 73(1)(b) of the Act; and
 - (d) is not in default of any requirements of securities legislation in any jurisdiction in Canada,is eligible for listing. However, if an issuer is eligible for listing under paragraph (b) or (c) above, CNSX may only list debt securities of the issuer that are contemplated by those paragraphs unless the issuer files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada.
2. An issuer that is a reporting issuer in a jurisdiction in Canada but is not considered eligible under the Rules due to the process by which it became a reporting issuer, is ineligible for listing unless it:
 - (a) files and obtains a receipt for a preliminary prospectus and a prospectus in a jurisdiction in Canada; and
 - (b) is not in default of any requirements of securities legislation in any jurisdiction in Canada.