

## 13.2 Marketplaces

### 13.2.1 TMX Select Inc. – Notice of Initial Operations Report and Request for Feedback

#### TMX SELECT INC.

#### NOTICE OF INITIAL OPERATIONS REPORT AND REQUEST FOR FEEDBACK

TMX Select has announced its plans to begin operations as an Alternative Trading System (ATS). It is publishing this Notice of Initial Operations Report in accordance with the requirements set out in OSC Staff Notice 21-703 – *Transparency of the Operations of Stock Exchanges and Alternative Trading Systems*. Pursuant to OSC Staff Notice 21-703, market participants are invited to provide feedback on the information provided in the Notice.

Feedback on the Initial Operations Notice should be in writing and submitted by April 4, 2011 to:

Market Regulation Branch  
Ontario Securities Commission  
Suite 1903, Box 55  
20 Queen Street West  
Toronto, ON M5H 3S8  
Fax (416) 595-8940  
Email: marketregulation@osc.gov.on.ca

And to:

Gary Knight  
Chief Executive Officer  
TMX Select  
Exchange Tower, 130 King Street West,  
Toronto, ON M5K1J2  
Email: gary.knight@tmx.com

Comments received will be made public on the OSC website. Upon completion of the review by OSC staff, and in the absence of any regulatory concerns, notice will be published to confirm the completion of Commission staff's review and to outline the intended start date for operation of the ATS.

#### TMX Select Inc.

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##### **Overview**

Owned and operated by TMX Group, TMX Select Inc. is a new Canadian ATS, offering a transparent, continuous, electronic auction marketplace. TMX Select is a distinct marketplace from Toronto Stock Exchange and TSX Venture Exchange (the "Exchanges"). As is the case with other ATSs, TMX Select will be registered as an investment dealer with the OSC and will be an IIROC member. TMX Select will initially facilitate the order matching and trade execution of securities listed and posted for trading on the Exchanges.

Recognizing the increasing diversity of trading strategies and participants, TMX Select has been designed to allow TMX Group greater flexibility in responding to evolving customer needs, and to offer participants additional execution and liquidity seeking opportunities through a differentiated marketplace and pricing model.

Subscribers to TMX Select must be IIROC member firms in good standing. TMX Select is accessible through the same order entry gateway and FIX and STAMP protocols as the Exchanges. Unlike trading on the Exchanges, TMX Select offers a single continuous trading session from 8am to 5pm EST where orders are matched in strict price-time priority. TMX Select is supported and operated by the same infrastructure (trading technology, customer service and management teams) that supports the Exchanges. This infrastructure, including services provided to TMX Select by other TMX Group employees that also support the Exchanges, is made available to TMX Select pursuant to a formal services agreement between TSX Inc. and TMX Select.

##### **Hours of Operation**

Continuous trading is available Monday to Friday from 8am-5pm EST (excluding statutory holidays). There will be no 'opening call'. Trading begins as quotes are posted and orders are matched.

### ***Technology and Operations***

Information systems management and maintenance for TMX Select's technology infrastructure, and operational support for execution and trading are provided to TMX Select by TSX Inc. TMX Select operates on the same high performance and reliable technology platform as the Exchanges, including the same order entry and data feeds gateway.

TMX Select operates with primary and secondary data center facilities to provide redundancy and back-up, thereby reducing the risk of disruption and the recovery time of critical systems at TMX Select. TMX Select is supported by the same high availability, business continuity, and disaster recovery processes and systems as the Exchanges.

Trading Support for TMX Select is available through TMX Trading and Vendor services from 7am – 5pm EST.

### ***Securities Traded***

TMX Select trades securities that are listed by exchanges that are recognized in a Canadian jurisdiction. TMX Select will initially support trading in all securities listed and posted for trading on the Toronto Stock Exchange and TSX Venture Exchange.

### ***Eligible Subscribers***

Only IIROC member firms in good standing are eligible to become TMX Select Subscribers.

### ***Access and Connectivity***

To become a Subscriber, a dealer must execute a TMX Select Subscriber agreement.

TMX Select is accessed by all Subscribers for order entry via a single front-end gateway using either a FIX or STAMP protocol. As a result of TMX Select using the order entry gateway and existing FIX and STAMP protocols of the Exchanges, Participating Organizations ("PO") and Access Vendors of either Exchange can use existing connections to access TMX Select. New connections to TMX Select can also be requested if required.

To send orders to TMX Select, a Subscriber must trade through an Approved Trader with an assigned trader identifier, and have access to the TMX order entry gateway through a provider (either through their proprietary trading system or through an ISV) that has been certified by TMX Select to demonstrate compliance with the designated order entry protocol of TMX Select.

All entities that operate systems which qualify for order entry access (whether a Subscriber's proprietary system or ISV system) must also sign a connectivity (gateway) agreement with TMX Select.

Orders received by the order entry gateway are directed to TMX Select as opposed to the Exchanges through a new order entry protocol tag designation. The default, if this tag is not sent or is blank, is to send orders to the Exchanges.

TMX Select will permit eligible clients to trade via sponsored Direct Market Access (DMA) on TMX Select through a Subscriber in the same manner as permitted by the Exchanges.

### ***Order Matching and Trade Execution***

TMX Select features a transparent, continuous matching platform where trading occurs in a single Central Limit Order Book (CLOB) from 8:00am to 5:00pm EST.

TMX Select accepts buy, sell, and short sell orders and matches orders in real-time continuously throughout the trading day, from the time of opening to closing. Trades are executed by matching orders in price-time priority sequence, with the exception that orders that are part of a cross will execute prior to all other orders at that price. Displayed portions of orders are given trading priority based on price-time priority. At any given price level after all displayed portions are exhausted the non-displayed portions of icebergs and then non-displayed orders are given priority based on time. Orders that are not matched are booked in the CLOB for subsequent matching, subject to any special handling instructions.

All remaining orders in the system expire and are cancelled at the end of the trading day (5:00pm EST).

General trading terms, including minimum tick sizes and standard trading units, are as defined in UMIR.

### ***Market Data and Trade Reporting***

TMX Select disseminates trade and order data electronically in real-time. Data feeds provided include a public real-time market depth feed that contains full depth of all TMX Select trades and orders, and a private real-time market depth feed that contains

full depth of all TMX Select trades and orders, including a Subscriber's encrypted private data. All market data feeds will be in the same format as existing Exchange feeds.

Trades are also reported directly to the Information Processor for dissemination in the IP's standard data format and to IIROC in the standard regulatory STEP format.

### **Order Types and Features**

The following order types and features are supported during TMX Select operating hours:

#### **Market order**

An order for immediate execution at the best available price.

#### **Limit order**

An order to buy a security to be executed at a specified maximum price, and an order to sell a security to be executed at a specified minimum price.

#### **Change former order instruction (CFO)**

An order instruction to cancel the former order's version by replacing it with a new version. Such orders will retain relative priority only if the change is limited to a decrease in the displayed size of the order, an increase or decrease in the undisplayed portion of an iceberg, a change from sell long to sell short or vice-versa, or any change to other non-public markers that are incidental. Any other modification to an order, including an increase in the displayed size of the order a price change, or a change from a regular order to an iceberg order will result in such order losing time priority relative to other orders at the same price.

#### **Anonymous**

When an order is entered on TMX Select, the identity of the Subscriber will be disclosed unless the Subscriber designates the order as anonymous. The anonymous designation allows the Subscriber to execute a trade under an anonymous Subscriber number which is designated as 001.

#### **Iceberg**

An order that replenishes the displayed order size as executions are received. A minimum size of one standard trading unit must be displayed and only the displayed volume will have priority at the given price level.

#### **Short**

An order to sell shares that are not owned directly or indirectly by the seller. The UMIR short sale tick rule will be system-enforced by TMX Select, where short orders will only execute at a price equal to or greater than the last sale price. TMX Select will book limit priced short orders at the best possible execution price and then continuously adjust that price downward towards the short order's original limit if/when the last sale price permits the downward adjustment of the short sale order. Market priced short sales will also be adjusted where necessary, but only once upon entry, not continuously. To determine the last sale price for each security for this purpose, TMX Select will reference the last sale price from the listing Exchange, or the last sale price from TMX Select if the TMX Select trade occurred after and is lower than the trade on the listing exchange.

#### **Short exempt**

An order designation for short sale orders that will permit the short sale order to execute without being subject to TMX Select's system-enforced short sale rules.

#### **Crosses**

A cross is a trade resulting from the entry by a Subscriber of both the order to purchase and the order to sell a security, but does not include a trade in which the Subscriber has entered one of the orders as a jitney order.

Crosses are not subject to interference from orders in the book, and must be entered at a price that is at or inside TMX Select's best bid price and best ask price, unless otherwise noted.

The following cross types are supported:

**Basis cross** - A trade designated by the Subscriber whereby a basket of securities or an index participation unit is transacted at prices achieved through the execution of related exchange-traded derivative instruments which may include index futures, index options and index participation units in an amount that will correspond to an equivalent market exposure. A basis cross can be executed outside the TMX Select best bid price and best ask price. A basis cross will not set the TMX Select last sale price.

**VWAP (Volume-Weighted Average Price) cross** - A transaction for the purpose of executing a trade at a volume-weighted average price of a security traded for a continuous period on or during a Trading Day. A VWAP cross can be executed outside of the TMX Select best bid price and best ask price. A VWAP cross will not set the TMX Select last sale price.

**Contingent cross** - A trade resulting from a paired order placed by a Subscriber on behalf of a client to execute an order on a security that is contingent on the execution of a second order placed by the same client for an offsetting volume of a related security.

**Intentional Cross** - A trade resulting from the entry by a Subscriber of both the order to purchase and the order to sell a security, but does not include a trade in which the Subscriber has entered one of the orders as a jitney order. Intentional crosses must be entered at a price that is at or inside TMX Select's best bid price and best ask price.

**Internal Cross** - An Intentional Cross between two client accounts of a Subscriber which are managed by a single firm acting as portfolio manager with discretionary authority to manage the investment portfolio granted by each of the clients and includes a trade where the Subscriber is acting as a portfolio manager in authorizing the trade between the two client accounts.

**Bypass Cross** - A cross that will trade intact even when outside the TMX Select best bid price and best ask price, without setting the TMX Select last sale price and without being rejected.

#### **Dark Limit Order**

The Dark Limit order is a hidden order where the price and volume is not displayed and is executable at or inside the best bid or ask. This order can execute against visible orders in the continuous book, other Dark Limit orders, or Dark Mid-point orders. A displayed order shall be executed prior to a non-displayed order or any undisclosed portion of an order at the same price.

#### **Dark Mid-point Order**

Dark Mid-point orders are non-displayed orders continuously pegged to the mid-point of the national best bid or offer. Dark Mid point orders are pegged to execute at the floating midpoint of the CBBO (Canadian Best Bid/Offer) with an optional limit price. This order can execute against visible orders in the continuous book, Dark Limit orders, or other Dark Mid-point orders. A displayed order shall be executed prior to a non-displayed order or any undisclosed portion of an order at the same price.

#### **Post-only order**

An order that will be rejected if immediately executable.

#### **Self trade prevention order**

An optional order feature that prevents two orders from the same Subscriber from executing based on unique trading keys defined by the Subscriber. An active order is rejected instead of trading against a resting order with the same unique trading key from the same Subscriber.

#### **Bypass order**

A Fill or Kill order that executes only against passive displayed orders, bypassing all non-displayed interest, including non-displayed iceberg order volume.

#### **Time in Force Conditions**

**Day Orders**, which expire at the end of the Trading Day. All orders on TMX Select by default are considered day orders and will expire at the end of the continuous session.

**Immediate Or Cancel (IOC)**, which is eligible to receive a full or partial fill. Any portion of an IOC order that is not filled is cancelled immediately.

**Fill Or Kill (FOK)**, which is eligible to receive a full fill. If a FOK order is not fully filled, the entire order is cancelled immediately.

**Order Protection Rule (OPR) Features:**

The following features are supported by TMX Select to comply with the Order Protection Rule obligation.

**Directed Action Order (DAO)**

The private DAO marker is an implicit or explicit order instruction as defined in NI 23-101. Orders are assumed to be DAO by TMX Select for all TMX Select orders provided directly to the order entry gateway via FIX or STAMP from a Subscriber's system, or if the explicit DAO marker is provided. DAO orders trade or book without any attempt to protect better-priced orders on away markets. The responsibility to prevent trade-throughs for orders considered DAO is assumed by the Subscriber.

**OPR Route Out Service**

Subscribers not prepared to accept the default designation of orders as DAO can have their orders intermediated by the OPR Route Out Service made available through the TSX Smart Order Router. The use of this service, which will route orders to other marketplaces with better-priced orders, requires Subscribers to send orders to the TSX SOR through a separate SOR connection. The OPR Route Out Service will be provided free to Subscribers.

**Price Volatility Parameters**

TMX Select has established the same price parameters that are applied to all trades throughout the trading day as those in operation on the Exchanges. There are two types of price parameters:

Freeze limits are configurable for each security and are referenced based on the number of price increments (ticks) a tradable order has initiated relative to the most recent independent TMX Select trade. If an order were to execute causing the price of the security to exceed the freeze limit relative to the TMX Select last sale price, a temporary suspension of trading on the security will result. When a security freezes, TMX Select staff assesses and determine whether the order will be allowed, and whether to resume trading in the security. While the security is frozen, further order entry is prevented and existing orders cannot be cancelled or modified.

Bid/Ask Tick Limits are configurable across the market based on the security's quoted price, and apply automatically to market and better price limit orders. This mechanism limits the number of ticks past the best bid price or best ask price an order can trade through. If an incoming tradable order hits the bid/ask limit and still has volume remaining, the remaining volume is booked at the bid/ask limit.

**Erroneous Trade and Trade Amendment Policy**

In the event that a Subscriber executes an order in error ("erroneous trade") the Subscriber will be asked to contact the TMX Select Trading Services desk. The Trading Services desk may, upon request of the Subscriber, contact the other party to the trade to request cancellation of the trade. Both parties to the trade must agree to the trade cancellation or they may elect to contact IIROC for assistance.

In the event of a technical, systems, or access problem that has substantially impaired or impacted access or trading, TMX Select has the discretion to cancel an impacted trade without the consent of both parties and will notify IIROC of the decision. Otherwise, TMX Select cannot unilaterally cancel a trade without the consent of both parties and without consultation with and approval of IIROC.

In the event of a trade that requires a change or amendment to price and/or quantity the Subscriber will contact IIROC for approval. If IIROC approves the amendment, they will then contact the TMX Select Trading Services Desk to instruct TMX Select to make the change.

This policy excludes any requests received by IIROC or other securities regulator to cancel or amend a trade.

In the event of a dispute between two Subscribers, TMX Select will make available any information required to settle the dispute, subject to any confidentiality restrictions on the disclosure of such information.

***Clearing and Settlement***

All transactions executed are reported to CDS at day end for clearing. The CDS Participant Rules govern the operation of CDS clearing and settlement services.

All trades done on TMX Select will settle by default on a T+3 basis. In the case of a special direction for clearing and settlement from the primary exchange, TMX Select will make the appropriate adjustments to indicate the special clearing to TMX Select's end of day file before the file is sent to CDS.

***Internal Policies – Managing Perceived Conflicts of Interest***

TMX Group has established over time an Employee Code of Conduct (“Code”) that, among other things, instills and ensures positive behaviours in TMX Group employees. The application of this Code enables TMX Group to maintain public confidence in the integrity of TMX Group operations. All TMX Select employees, as well as any TMX Group employees that support TMX Select, are governed by the Code. The Code requires, among other things, that confidential information be kept confidential by employees and that no advantage is taken of such confidential information. This ensures that non-public information of TMX Select Subscribers will be protected and not used inappropriately by TMX Select. TMX Select employees are also subject to additional policies that exist to ensure appropriate employee activities that are consistent with TMX Group's reputation of ensuring market quality.