



Aetna Tower, 9<sup>th</sup> Floor  
145 King St. West  
Toronto ON  
Canada M5H 1J8

T 416.646.7273  
F 416.646.7265

P.O. Box 11580  
Suite 2600  
650 West Georgia St.  
Vancouver, BC  
Canada V6B 4N8

T 604.602.6962  
F 604.488.3132

August 28, 2002

Secretary of the Commission  
Ontario Securities Commission  
20 Queen Street West  
Toronto, Ontario  
M5H 3S8

Dear Sir/Madam:

**Re: Comments on the Application for Recognition of Canadian Trading  
and Quotation System**

Generally Market Regulation Services Inc. ("RS") is very supportive of the Canadian Trading and Quotation System ("CNQ") application. In reviewing the Policies and Rules and the draft recognition order it is clear that CNQ's staff have addressed many of the issues which may impact CNQ and its operations in a satisfactory manner.

RS has the following comments relating to the CNQ's Request for Recognition, Policies and Rules and the draft recognition order:

**Draft Recognition Order**

The draft recognition order published is satisfactory from RS's perspective, however one change could be considered:

**Section 8**

2. Wording should be incorporated in section 8 indicating that CNQ be required to adopt the Universal Market Integrity Rules or such other market integrity rules as may be utilized by RS.

### Policies and Rules

CNQ's rules and policies are generally very comprehensive and progressive and reflect a desire on the part of CNQ staff to provide a fair, transparent marketplace while providing liquidity.

CNQ is seeking to provide a quotation facility for issuers with relatively small amounts of capital. RS is aware that there may be a public perception, whether correct or not, that marketplaces providing trading facilities to such issuers may be subject to increased opportunities for manipulation. Upon review of CNQ's rules and considering the existing Universal Market Integrity Rules RS believes that opportunities for manipulation will be minimized and that RS will be in a position to ensure that quotation and trading activity on CNQ complies with standards established by the Canadian Securities Administrators.

Specific comments are as follows:

#### **Policy 1, Paragraph 3.2**

In the definition of "Business Day" the term "statutory holidays" should be capitalized.

Consideration should be given to amending the definition of the term "material information" to incorporate the concepts within the definition of the term "material change" within the *Securities Act* (Ontario).

#### **Policy 2, Paragraph 2.3(d)**

RS requires further information regarding how CNQ proposes to coordinate the assignment of stock symbols with RS. RS must confirm its ability to provide the necessary services.

#### **Policy 2, Paragraph 2.4**

RS requests clarification whether CNQ proposes that CNQ or RS staff review documentation posted on the CNQ website. Without some procedures for review there is a possibility that such documentation may not comply with applicable requirements.

#### **Policy 2, Paragraph 2.5**

Subparagraph (b)(v) should reference Policy 2-2.3(g) rather than 2-2.3(f).

#### **Policy 3, Paragraph 1.1**

CNQ must ensure that the Quotation Agreement clearing defines halt and suspensions. CNQ has provided RS with a draft of the agreement which will be reviewed by RS prior to distribution to prospective quoting organizations.

**Policy 4, Paragraph 3.3**

The CNQ must ensure that its information collection efforts comply with applicable privacy legislation.

**Policy 5**

CNQ should consider the addition of a paragraph following Paragraph 5.2 with suggested wording similar to:

Regardless of the timing of the disclosure, the CNQ Issuer must advise the Market Regulator of its content and a copy of the disclosure provided prior to its release. The Market Regulator must also be advised of the proposed method of dissemination.

**Policy 5, Paragraph 10.1**

At the end of the second sentence additional wording should be added to clarify that the Market Regulator should be advised of the impending announcement in advance, where possible. In addition the third sentence should be amended to indicate that the Market Regulator be advised prior to disclosure, where possible.

**Policy 5, Paragraph 12.1**

Subsection (d) indicates that the Market Regulator will normally halt where a CNQ Issuer is not in compliance with its quotation agreement, any CNQ Requirement or Ontario securities law. RS does not, in the normal course, have jurisdiction to suspend trading for violations of marketplace requirements and the provision of such jurisdiction would not be consistent with RS's relationship with existing marketplaces. If agreed, the power to impose such suspensions must be provided for in an agreement between CNQ and RS.

**Rule 1, Section 1-101**

The definition of the term "CNQ Dealer" should reference "User" rather than "Participant". Reference to "User" would allow CNQ to provide access to CNQ, to "Access Persons", as well as "Participants".

The definition of "hit order" references orders entered on a "Fill or Kill basis". "Fill or Kill basis" is not defined in the Rules however "Fill and Kill Order" is defined. The reference should be amended so that it is consistent with the definition for "Fill and Kill Order".

The definition for “Market Regulator” should note that RS is recognized by the commission as a “self-regulatory organization” not as a “regulation services provider”. I would suggest the following wording; “. . . recognized by the Commission as a *self-regulatory organization capable of providing services as a regulation services provider . . .*”.

The definition of the term “significant equity interest” is substantially similar to the definition of the term “control block holder”. It may not be necessary to use both terms.

The definition of the term “take order” references “Fill or Kill basis”, which is not defined. CNQ may wish to reference “Fill and Kill Order”, which is a defined term.

**Rule 1, Section 2-101**

CNQ may wish to add an additional subparagraph:

(c) be registered as a securities dealer in accordance with the *Securities Act*.

**Rule 2, Section 2-110**

The reference at the end of subsection (1) should reference “Rule 7-105” rather than “Rule 7-107”.

**Rule 2, Section 2-111**

The reference at the end of subsection (2) should reference “Rule 7-105” rather than “Rule 7-107”.

CNQ may wish to consider adding an additional subsection requiring CNQ Dealers to pay all fees and charges owing to the Market Regulator.

**Rule 3, Section 3-101**

Subsection 3-101(2)(iii) references the fact that the CNQ System will close at 5:00 p.m. What type of activity will occur on the CNQ System between 4 and 5 p.m. ?

**Rule 3, Section 3-102**

References in subsections (1) and (2) to “Board” should be referenced to “CNQ Board” to be consistent with the definition.

**Rule 3, Section 3-103**

This section must be consistent with the terms of the services agreement negotiated between RS and CNQ. RS must assess its capability to provide all services.

**Rule 3, Section 3-104**

Subsection (2) should clarify that any exemption granted should be in writing.

**Rule 4, Section 4-101**

In the first line of subsection (1) the reference to “CNQ dealer” should refer to “CNQ Dealer” to be consistent with the definition.

Subsection 4-101(1)(a) refers to “Approved Trader”. This term is not defined in the CNQ rules, CNQ may wish to reference the TSX Rules.

**Rule 4, Section 4-108**

This rule should be made explicitly subject to the Universal Market Integrity Rule 8.1 – Client Principal Trading. The requirement to provide a fair price must be considered in context with the requirement for price improvement within the Client-Principal Trading Rule.

**Rule 4, Section 4-112**

Subsection 4-112(3) references the Market Maker’s obligation to “maintain a two-sided quotation”, CNQ should consider making the obligation to “maintain a *continuous* two-sided quotation. In addition, this subsection references the fact that the Market Maker is obliged to act for a period of at least three months. After the three month period expires can the Market Maker resign? Do they have to provide notice?

Subsection 4-112(5) provides CNQ with the discretion to appoint a CNQ Dealer as a Market Maker. CNQ should ensure that this discretion is reflected in the terms of the CNQ Dealer Agreement.

**Rule 4, Section 4-115**

Subsection 4-115(1) should require the Market Maker to advise both CNQ *and* the Market Regulator of unusual trading or order entry patterns. RS requires such information immediately.

**Rule 5, Section 5-110**

Subsection 5-110(1) references “Buy-In Notice” in the second line. This term is not defined.

**Rule 7, Section 7-103**

CNQ should consider whether this section complies with applicable privacy legislation.

**Rule 7, Section 7-110**

Subsection 7-110(2) requires that the Market Regulator conduct hearings “in accordance with the procedures established by the Market Regulator”. CNQ should consider changing this to “in accordance with the procedures established *or adopted* by the Market Regulator” to be consistent with the concept of UMIR.

Please feel free to contact me if you have any questions or comments.

Yours truly,

Michael Brady  
Counsel

MB/bo

cc: Cindy Petlock, Manager, Market Regulation, Ontario Securities Commission  
Susan Greenglass, Senior Legal Counsel, Market Regulation, Ontario Securities Commission  
Robert Cook, President, CNQ  
Timothy Baikie, General Counsel and Secretary, CNQ