

MAPLE SECURITIES



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Market Regulation Branch
Ontario Securities Commission
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We are writing in response to the OSC's request for comments to the proposed new order types to be offered by Alpha ATS, as set out in

http://www.osc.gov.on.ca/documents/en/Marketplaces/ats_20100716_proposed-changes.pdf

We believe that these new order types will be very popular with the dealer community, and expect that all marketable client orders will be routed through these dark markets first before they are routed to visible markets. They may even argue that in order to guarantee best price for their clients, they are obliged to send marketable orders through dark markets first, where price improvement over visible markets is possible.

However, we have some concerns about how these order types could affect client orders.

- 1. Client Price Improvement:** We believe that the introduction of sub-penny order types, for Dark Orders only, is contrary to the spirit of the IROC rule requiring tick improvement for client orders trading against proprietary dealer accounts. A dealer with a Dark Order quote could affect an inventory trade against a client order for as little as 10% of the standard tick size, but would have to pay the full tick to affect the same trade in the visible market. If the regulation had intended sub-tick price improvement, it could have been written that way.
- 2. Dark Price Improvement Disadvantage:** Because the sub-penny price improvement is "dark", clients cannot easily compare potential price improvements between dealers. Dealer A may be willing to pay more than Dealer B in the dark market, but the client cannot know to change the execution broker and take advantage of the opportunity. Because these orders only interact with SDL orders from the same broker, a client may realize a price that is less than the best available in the market. Even if the realized price is better than the best price in the visible market, it may still be less than the best dark price available. Clearly this result is contrary to the spirit of client order protection.
- 3. Disadvantage to Client Order Participation:** Dealers can also use dark market matching to avoid "interference" by client orders booked in the visible market. By arranging large trades in the dark market between the visible quote, client orders booked in the visible market that could have participated in dealer crosses will be left unfilled. To protect their order priority, clients will have to simultaneously book orders in the dark and the visible markets, severely complicating order management. Only the most sophisticated clients will be capable of such management, leaving out the most vulnerable retail clients.

4. **Dark Locked and Crossed Markets:** A great deal of effort has been expended by the dealer community to abide by IIROC rulings on locked and crossed markets. Dark Orders, as specified in the Alpha proposal, do not trade against each other, but only against SDL orders from the same broker. This would naturally lead to situations where Dark Orders are bid at NBBO + 60% and offered at NBBO – 60%, either across brokers or even within the same broker. As IIROC has ruled that this condition is unacceptable across visible markets, the same ruling should be honoured by Dark Orders.

5. **Risk of Dark Market Front-Running:** Dark Order sub-penny pricing clearly increases the risk of client orders in the visible market being front run by predatory algorithms. “Sniffing” algorithms would experience a fraction of the risk, as little as 10% of a tick, for the same opportunity to get in front of large client orders. Sub-penny pricing would also allow these predatory algorithms to be extended to the most liquid securities, which already trade with only a one tick bid/ask spread, increasing the volume of predatory orders dramatically. Because these orders are not visible except when they execute, it will be much more difficult for clients to detect so that they can alter their execution strategies to thwart the predatory algorithms. Clients would be forced to adapt by trading through Dark Orders, because visible orders do not allow sub-penny pricing.

Although we have always been supporters of innovation in the Canadian marketplace, developments in dark markets should still be bound by the order protection principles that govern visible markets. As proposed, Alpha’s Dark Orders and SDL orders do not meet this standard.

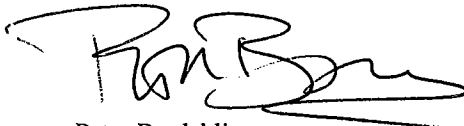
We believe that many of these issues could be resolved as follows:

1. SDL orders should trade against all brokers rather than only the originating broker, ensuring that orders receive the best available price.
2. Market SDL orders that are not fully filled in the dark market should trade immediately with the visible market, so that client orders booked in the visible market are not disadvantaged.
3. Dark Orders should be subject to the same tick rules as visible orders, whether full penny or sub-penny.
4. IIROC should rule on how locked and crossed market rules will be applied to dark markets before Alpha is allowed to proceed.

We thank you for considering our comments.



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