



November 21, 2012

The Secretary
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8
e-mail: comments@osc.gov.on.ca

Re: **Request for Comments – Proposed Amendments to OSC Rule 13-502 Fees and Companion Policy 13-502CP Fees**

Dear Sirs/Mesdames:

Chi-X Canada ATS Limited (“Chi-X Canada” or “we”) welcomes the opportunity to provide comments on the Ontario Securities Commission’s Proposed Amendments to Rule 13-502 Fees and Companion Policy 13-502CP (“Proposed Amendments”).

As a subsidiary of Chi-X Global, a global operator of marketplaces, we have helped usher in the evolution that has taken place in equity securities trading and which is referred to in the Notice to Proposed Amendments. New technologies are now responsible for automatic order generation and directing order flow between multiple venues in the search for best execution and the need to comply with multiple regulations. These advancements have created efficiencies leading to increased volumes and faster trading. We are sympathetic to the OSC and understand the rationale behind Proposed Amendments that the cost to regulate markets has increased as complexity in trading has risen. Regulators need to have the resources to be able to be proactive in identifying issues in addition to being able to effectively monitor a market that is rapidly changing.

We are supportive of the new fees for oversight of specified regulated entities and ratings agencies performed by the Market Regulation Branch (“MR”) even though it will increase our own regulation fees. Chi-X Canada, as an operator of an Alternative Trading System (“ATS”) has been regulated by the Market Regulation Branch of the OSC since making its application to begin operations in 2007. We believe that this branch is of critical importance to the Commission and to the markets as decisions made regarding market structure direct the course of the capital markets in Canada. In our perspective, we believe that perhaps more than other branch in the Commission, that additional resources are needed for this group. While the number of marketplaces that operate in Canada have increased more than three times in the last five years, only a few additional staff have been added. MR now regulates clearing agencies and ratings agencies and continues to oversee self regulatory organizations such as Investment Industry Organization of Canada (“IIROC”) and CDS. We would strongly encourage the additional fees collected as a result of work done by MR to be reinvested in this branch to meet the increasing needs of the department.

We do not object to the moderate increase in the level of Capital Markets Participation Fees. However, given developments in marketplace regulation we do not understand why ATSS are required to pay them at this time.

As you know, the introduction of NI 21-101 which created the category of an ATS and allowed competition to take place between marketplaces for trading services. Part of the requirements to become

an ATS is that the person or company must be registered as an Investment Dealer.¹ The rationale at this time for this requirement was that the OSC did not have authority to approve ATSs. Consequently, an ATS's registration status provided Market Regulation with "a catch" or the power to suspend or rescind an ATS registration if there were issues with its operation or regulation. Since this time the OSC has been given statutory authority to approve the operations of an ATS, making the need for registration as an Investment Dealer unnecessary.

Also part of NI 21-101 is the requirement that an ATS must be a member of IIROC.² In addition to the fees paid by all marketplaces to IIROC for market regulation, ATSs must also pay, individual registration fees, and a \$37,000 annual fee to be a marketplace member. In exchange for these fees Chi-X Canada receives oversight of both its member and dealer requirements that includes on-site business conduct, financial conduct, and trade desk reviews.

We question what regulation services are provided to an ATS as an Investment Dealer and consequently why an ATS should have to pay the corresponding annual Capital Market Participation Fees associated with this category of registration. As stated above, oversight of ATSs is the responsibility of IIROC for which they are already compensated. To charge ATSs Capital Market Participant Fees places an unfair burden on them compared to an exchange. If, as outlined in the Notice, Capital Market Participation Fees serve as a proxy for the market participants use of Ontario capital markets, then comparing the business models of an ATS with an Exchange, why would an Exchange not also have to pay a similar fees? They both provide identical services and therefore the same usage of Ontario's Capital Markets. Publicly listed exchanges pay Corporate Issuer Participation Fees for the review of key public documents before their release making these fees justified. Non-public exchanges pay neither Participation Fee permitting regulatory arbitrage to take place. Why make ATSs (unless they carry on traditional brokerage activities) pay a fee because of a regulatory need that no longer exists? We strongly encourage the OSC to exempt ATSs from this requirement to ensure fairness between marketplaces.

We would once again like to thank the OSC for the opportunity to respond to Proposed Amendments and welcome a meeting to discuss our submission with the staff.

Sincerely,

Chi-X Canada

¹ NI 21-101 Part 6.1(a).

² NI 21-101 Part 6.1(b)