CNSX
CANADIAN NATIONAL
STOCK EXCHANGE

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Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Nova Scotia Securities Commission
Registrar of Securities, Department of Justice, Northwest Territories
Registrar of Securities, Government of Yukon Territory
Registrar of Securities, Legal Registries Division, Department of Justice, Nunavut
Registrar of Securities, Prince Edward Island
Saskatchewan Financial Services Commission
Superintendent of Securities, Newfoundland and Labrador
Ontario Securities Commission

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Dear Mesdames and Sirs,

Re: Request for Comments on Proposed Amendments to National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules*

We are pleased to provide our response to your Request for Comments, dated October 17, 2008 (the "Notice") on Proposed Amendments to National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules* (the "Proposed Amendments"). We commend the CSA for providing a thoughtful and comprehensive analysis of the regulatory regime for trade-through protection, a topic we believe is of critical importance to the competitiveness of the Canadian equity markets. We encourage you to review our related comments to IIROC Notice 08-0163 – *Provisions Respecting Implementation of Trade-Through Protection* ("IIROC's Notice"). Thank you also for extending the comment period.

I. Summary

We agree that trade-through protection is a critical obligation that underpins the price discovery process. As such, it is important that it is maintained, monitored and enforced effectively. Bifurcation of the obligation from the responsibility for executing it would only serve to add complexity in monitoring and enforcement and provide opportunities for regulatory arbitrage beyond those already created by the fact that different marketplaces have different regulators. It would also increase, not reduce, the costs (both in dollars and latency) of the equity market as a whole. Further, on the basis of information available to us, it appears that most of the early cost and technology concerns relating to leaving the obligation on dealers and possibly extending it to non-dealer subscribers have since been addressed through the implementation of numerous competitive and cost-effective solutions. Shifting the obligation at this point would have the unintended consequence of penalizing those dealers who, in good faith, dedicated the resources towards becoming compliant, while rewarding those that did not.

II. General Comments

Before responding to the specific questions in the Notice, we first wanted to provide some general observations for your consideration.

A. Key Underlying Assumptions

Certain key points of the proposal appear to have been based on information that was gathered several years ago. More specifically, the analysis in the Notice embarks from a starting point that assumes: 1) that it is appropriate to retain a trade-through avoidance obligation in the Canadian markets, and 2) that the obligation should be moved from dealers to marketplaces. Although there is a brief mention of the factors on which the Proposed Amendments were based in section 4 of part III of the Notice and in the Cost-Benefit Analysis in Appendix B, there is no indication of how the CSA confirmed that these assumptions remain valid. We believe that the market's evolution has not altered the rationale for the first assumption, but that it has drastically changed the second.

1. *Should there continue to be an obligation to honour better-priced orders?*

Given the size of the Canadian equity market and the substantial degree of direct retail participation, as well as the significant liquidity now provided by large electronic traders that rely on the ability to price and trade limit orders rapidly, we support the CSA's first assumption and continue to believe in the importance of a trade-through avoidance obligation to encourage the posting of limit orders. Limit orders remain the fundamental underpinning of efficient markets and a healthy price discovery mechanism. Witness the results when the dominant marketplace was down recently. There were orders held due not only to the dealers' technical challenges in tracking the orders already sent and changing defaults, but also because the sudden withdrawal of limit orders created a chain effect and responsive liquidity disappeared.

Trade-throughs erode the confidence of those placing limit orders in good faith and are, arguably, unfair. Often, those intentionally trading through (or using any derived-

price/price taking orders for that matter) are sophisticated and are using the pricing provided by others, but do not reward them for doing so.

2. *Is it more efficient to place the obligation on marketplace participants or marketplaces?*

The second assumption underlying the Proposed Amendments is that it would be more efficient to move the obligation to marketplaces. On this point, we respectfully disagree.

On the first page of the Notice, it states that "The Proposed Trade-through Protection Rule that is being published along with this Notice is based largely on the proposal outlined in the Joint Notice and the responses of the commenters who, for the most part, expressed support for the initiative." We take this to mean that the CSA relied, to a significant degree, on the fact that the majority of commenters to the framework proposal published in April, 2007 supported this direction. We feel we must raise the obvious question of how applicable those comments remain today – for two reasons. First, the feedback was provided to the CSA in the context of the market environment of several years ago, at the very early stages of multiple markets in Canada. Secondly, it doesn't appear that the self-interests of those responding were factored in, i.e., the majority felt it should not be a dealer-based obligation, but the majority of commenters were dealers. Of course it may be argued that we, as the operator of an exchange, would be equally self-interested, so we propose instead that the focus should be on the specifics provided at that time to determine whether they remain accurate and whether the costs and benefits still support the initial conclusion.

(a) What has changed since early 2007?

By early 2007, after years of single venue trading in Canada, the first ATSs had arrived, but no competing visible, continuous auction markets had begun operations. The industry was anticipating the impact of the triggering of the longstanding best price obligation on dealers – that had been incorporated into the Universal Market Integrity Rules (UMIR). Dealers had not developed systems to deal with this, facing significant technology hurdles both in rationalizing their internal systems and in updating technology for linking to third party vendors and marketplaces. There were no third party routers and order entry and management tools were not geared for multi-market functionality. At that time, there were persuasive arguments that it would be cost-effective to require a handful of marketplaces to make the technology investment instead of dozens of dealers. However, the CSA made it clear in the April, 2007 proposal that it was not publishing a concrete rule amendment proposal, leaving the obligation on dealers under UMIR. As a result, it would have been a violation of the "reasonable efforts" of UMIR Rule 5.2 to take no steps to meet it.

The majority of dealers have therefore spent significant dollars on technology and process upgrades. Some of the larger domestic dealers have also taken notice of the practices in the US, and have been building systems that will allow them to retain control over their orders, regardless of where the obligation to avoid trade-throughs is placed. It is our understanding that all of the large broker/dealers and many technically advanced smaller firms in the US control their orders not only by extensive use of inter-market sweep orders ("ISOs"), but also by connecting directly to all protected markets, in many cases placing execution management software in close proximity to the market center's computers. These systems take data in from all market centers and route orders so as to

meet the order protection rule as well as best execution needs of their clients and to allow the broker/dealers to reward venues that show liquidity. They use the information to generate reports to feed into transaction cost analysis systems that form the basis of client best execution reporting and routing table modifications. If a system sends an order that is outside of the NBBO, it will be marked ISO to permit it to be executed. The onus is then on the broker/dealer to demonstrate compliance with the order protection rule. It is part of the evolution in the US that best execution has compelled a growing number of broker/dealers to avoid the additional filters by not relying on market centers to route. We have recently seen the acknowledgement of the interest in avoiding market center routing at the venue level in the new NASDAQ OMX BX Inc. (ex. Boston Stock Exchange) – its model specifically will not route away orders.

Further, the service providers in Canada (order management systems, execution management systems, smart routers, etc.) have created products to facilitate their clients' obligations and several marketplaces have built cost-effective (and even free) routing services to do the same. The combination of competition between vendors and economies of scale has led to the availability of solutions that have drastically changed the cost-benefit to dealers of meeting the obligation to avoid trade-throughs (as well as the cost-benefit to non-dealer subscribers, should the obligation be extended to them).

Moreover, the new trading imperative, worldwide, is speed. The efficiency of our system has attracted foreign trading interest, but the future growth of the Canadian equity market will depend on the ability of the industry to continue to deliver low latency trading. Any regulatory solution that does not take this need into account could reduce the competitiveness of our markets. If marketplaces must filter all orders received to check prices, unnecessary latency will be built into the system as a whole.

If no recent information has been gathered on dealer-readiness and the range of technology offerings available, we encourage the CSA to do so before finalizing the Proposed Amendments. Please see our comments on the Cost-Benefit Analysis below.

(b) Practical considerations

- How would marketplaces meet the obligation?

In our response to IIROC's Notice we questioned their conclusion that a marketplace-based solution would remove the need for participants to have access to all applicable marketplaces. We reiterate our concerns here. Assuming many marketplaces would choose to route orders to avoid fragmentation of the markets, and not choose some other method to meet the obligation (such as not executing if it would result in a trade-through or by offering mechanisms that adjust the price), there are a number of practical issues involved in moving the responsibility for routing to marketplaces. Please see our comments about marketplace routing alternatives in our response to Question #4 in Part III, section A, on page 8 below.

- Other (non-monetary) costs of moving the obligation to marketplaces

A marketplace-based trade-through avoidance obligation would lead to marketplace-driven routing and the speed of trading would be dictated by trading venues. Since high-speed traders seek to avoid anything that causes even millisecond delays, they would also seek mechanisms to avoid this outcome, creating a stratified market. As noted above,

this is something some of the large domestic dealers have already stated as their intention, regardless of where the obligation lies. Under the current structure, to accommodate all interests, marketplaces and vendors offer services that run the gamut – from facilitating super-fast execution for the most sophisticated traders to easy solutions for ensuring that trades occur at the best price for the least sophisticated. If the obligation is moved to marketplaces, it would reward those that chose not to attempt to comply at the expense of those that did, and it could reduce innovation because instead of the competitive pressures of numerous participants and their vendors trying to improve routing decision-making tools, there would only be a few marketplaces doing so.

We also suggest some consideration be given to issues relating to the fact that there are two sources of latency: order entry latency and data distribution latency. Depending on where the obligation to avoid trade-throughs lies, it may be harder to determine where the inefficiencies are if order entry decisions are separated from routing decisions.

Marketplaces' routing services typically confine their analysis to competitive factors, but dealers would need to take in the full range of information to best reflect their clients' interests, as well as their own. Although marketplaces would have to route to the best price, any other factors considered would likely favour their own venue instead of the variety of factors required under a best execution obligation (e.g., where a dealer would decide between two venues with the best price based on best execution, marketplaces, with a much more limited obligation would default to themselves where possible).

- How would the obligations be monitored?

There are instances where, even if the "obligation" is placed on marketplaces, the *responsibility* will rest with dealers. This is acknowledged on OSCB page 10036 of the Notice:

> …in certain circumstances, the marketplace can trade through…where a marketplace participant has taken certain action (for example, routing an inter-market sweep order). In these circumstances, it is important that marketplace participants create policies and procedures that will reasonably prevent trade-throughs and maintain relevant information so that the effectiveness of section 6.1 of NI 23-101 can be adequately evaluated by regulatory authorities.

Not only would market participants' use of ISOs need to be overseen but so would trading on foreign markets to determine compliance with the anti-avoidance provision. Further, if any marketplaces choose to route via arrangements with dealers (as discussed below) it could lead to other instances of a dual dealer/marketplace obligation.

This leads to some challenges in ensuring effective regulation. Would the marketplaces be allowed to monitor their participants who have chosen to assume the responsibility themselves? For example, could an exchange do desk reviews to ensure the dealers' use of ISOs is appropriate? Would ATSs, which cannot regulate, be allowed to monitor directly? What would be expected of a marketplace in monitoring participants that direct it to by-pass the filter because it is too slow and instead agree to take on the obligation to check prices? If IIROC assumes the role of monitoring and enforcing the aspects of the obligation taken on by dealers when the general obligation has been placed on marketplaces, it puts the marketplaces in a difficult position, especially if the levels of non-compliance by the dealers are high, as they are at present.

- How would regulatory arbitrage be avoided?

Given the different parts of the obligation subject to different regulatory jurisdiction, there is potential for regulatory arbitrage. Marketplaces are subject to different regulation than dealers. Exchanges are regulated by one of more CSA jurisdictions and ATSs are overseen by IIROC, but also must meet CSA-level requirements. How would the monitoring and enforcement of the various responsibilities and obligations be coordinated among these different entities to avoid gaps and overlaps, and how would the regulators ensure fairness?

B. Other Elements of the Proposed Amendments

1. Should the obligation be full-depth of book?

The principle of price protection to encourage placement of limit orders would ideally be extended to all price levels. We are aware of the concerns expressed by some industry participants that the full-depth obligation would cause unnecessary technology costs and add unnecessary complexity to routing decisions. We believe the current technology has addressed the complexity sufficiently, and feel that unless analysis of the data generated to date provides evidence of a disadvantage, the obligation should remain as is.

2. Should there be exceptions for closing price orders?

We agree with the CSA's proposal to include an exception for orders trading in a closing facility where the closing price is not known (included as a Calculated Price Order). We do not believe the benefits of an exception for trading at an established closing price (e.g. after-hours, fixed-price trading sessions) warrant a departure from the general obligation to protect better-priced orders. Any benefits suggested for indexers and others that require a specific marketplace's closing price should be closely analyzed to see whether the exception would simply entrench practices that could be adjusted to allow the needs of these investors to be met in a manner consistent with price priority.

3. Should the Proposed Amendments address trading on foreign markets?

We agree with the CSA's approach to add an anti-avoidance provision to ensure orders are not routed to foreign markets solely for the purpose of avoiding the trade-through protection obligation. Please see our comments on IIROC's Concept Proposal.

4. Should required marketplace statistics be put in place concurrently with the shifting of the trade-through avoidance obligation?

While there is utility in having statistics to allow dealers and investors to compare execution quality, there are challenges (as we note below) in ensuring they are comparable. Marketplace customers with the sophistication necessary to derive value from the prescribed statistics are gathering their own data to tailor it to their needs, and will very likely continue to do so. We suggest that, if the obligation is moved to marketplaces, any such reporting should be delayed until the practical implications are worked through and the industry has adjusted to the change. It is as difficult at this juncture to predict which statistics will be useful to the next generation of routers as it was to predict today's needs a few years ago. Perhaps this would be an appropriate case where it could be left to the industry to develop standards.

5. Functionality of protected orders

Please note that on page 10035-6 of the Notice, there is a description of "automated functionality" and a list of factors, including the ability to mark orders "fill-or-kill" and executing a fill-or-kill order. We agree with the description of "automated functionality" but note that "fill-or-kill" and "fill-and-kill" are terms that are used interchangeably and have different meanings in different jurisdictions. We suggest that, to avoid confusion, the CSA's definition of "fill-or-kill" or a description of such an order's functionality should be included.

III. Responses to Specific Questions

A. Amendments to National Instruments 21-101 and 23-101

1. Should marketplaces be permitted to pass on the trade-through protection obligation to their marketplace participants? If so, in what circumstances? Please provide comment on the practical implications if this were permitted?

As we have stated, we hope that upon further reflection on the changes in our markets and the practical lessons learned over the past few years, the CSA reconsiders shifting the obligation. However, if the decision is made to do so, we are at a loss to understand the purpose of prohibiting marketplaces from using any particular alternative for meeting the obligation.

What are the practical implications? Today, although the obligation rests on participants, all marketplaces have spent significant amounts of time and effort to help their customers meet their best price and best execution obligations. Why would that change if the marketplaces were given the obligation to avoid trade-throughs? If a marketplace chose to facilitate its users' desire to control their orders, it would retain the obligation, but the *responsibility* for the execution would be in the hands of the participants, and it would need to rely on the users' compliance to provide this service. It is also possible that sophisticated participants might want to *create* a marketplace that is not subject to the costs and inherent latency of filtering and routing technology because they have their own systems for identifying the best price and routing to it. Why would regulators ban that outcome? The reality is that the change from a single venue to a multi-venue market requires all dealers to make some adjustments to meet best execution and the smaller firms that do not want to bear additional technology costs already have a number of options open to them, many of which do not involve material technology investments. These options range from the traditional solution of entering into an introducing/carrying arrangement with another dealer, to using a third party router, to trading on an ATS that offers low cost routing to attract order flow.

2. What length of time should be considered an "immediate" response by a marketplace to a received order?

It does not seem productive to try to establish any bright line test for what should be considered "immediate" in trade execution terms. Trading speed continues to increase and what was immediate several years ago is now too slow. We suggest that marketplaces and market participants should be required to include in their policies and

procedures what their expectations of an immediate response are, given the performance standards at that time, and this should be updated as these expectations change.

3. *Are any additional exceptions necessary?*

We can think of no additional exceptions to suggest, but reiterate that any exception should be considered carefully, asking whether they are in some way taking the benefit of the public limit orders, whether their use could lead to a disincentive to post limit orders and, if so, whether they serve a purpose that creates a benefit that is on balance greater than the potential adverse impact on the price discovery process due to this disincentive.

4. *Please comment on the various alternatives available to a marketplace to route orders to another marketplace.*

The simplest and fastest mechanism would be for marketplaces to route an order with minimal processing – i.e. by routing it intact, including the broker ID. Otherwise, either a new type of marketplace-as-participant access will be needed (and it is unclear to us if this conflicts with the CSA's view, stated on page 10038 of the Notice, that a marketplace should not be required to provide direct access to non-members/subscribers) or exchanges would have to add/make arrangements with dealers (which would be cost prohibitive and only add even more latency). ATSs would either do the same or take on a more active role under their investment dealer registration.

If a new type of access is created, it raises new questions about who is responsible for the completion of the trades. If, on the other hand, exchanges are required to set up dealers, would these dealers have a special category of registration? What responsibility would they have for the trades? The cost to marketplaces to accommodate either solution does not appear to have been analyzed, including the duplication associated with IIROC overseeing any such dealers' executions and the various CSA jurisdictions overseeing the marketplaces' policies and procedures.

We understand that much reliance has been put on the solutions that arose in response to the SEC's Regulation NMS ("Reg NMS"). We are not sure that the differences have been considered. For example, as noted by the SEC in the release with the final Reg NMS rules, the Intermarket Trading System ("ITS") plan was already operating among all the trading centers for exchange-listed securities. Part of the SEC's consideration of how to implement the price protection rule was based on the fact that much of the connectivity among those trading centers was already in place. With respect to Nasdaq stocks, because of the nature of the market, connectivity was already established by private linkages, and a number of private vendors were already providing connectivity for both exchange-listed and Nasdaq stocks. This is why, in the Reg NMS release, the SEC clearly contemplates the extensive use of private linkages to allow market centers to meet the order protection requirements. Since we do not have pre-existing arrangements between marketplaces in Canada, the cost-benefit of market participants versus marketplaces using such private linkages may lead to a different conclusion than in the US. More importantly, we would be relying on a solution based on a legacy architecture that the US markets have since had to overcome.

5. *Should the CSA set an upper limit on fees that can be charged to access an order for trade-through purposes? If so, is it appropriate to*

reference the minimum price increment described in IIROC Universal Market Integrity Rule 6.1 as this limit?

This question would be less pertinent if the current obligation was left in place on dealers. However, if that does move to marketplaces, it seems reasonable that some upper limit be put in place to ensure that competitive forces in combination with the trade-through avoidance obligation do not lead to prices that are instantly not "best" once that fee has been added.

6. ***Should there be a prohibition against intentionally creating a "locked market"?***

The existence of a locked market is not necessarily evidence of a problem. In theory, a market with no bid/ask spread represents ideal efficiency. Two traders may have an interest in entering passive orders on different marketplaces at the same price on the bid and ask. This would be positive for other participants, including both institutional and retail clients, since the spread would be zero. The caveat to this is that, if a dealer creates a locked market and misses an execution for a client who is seeking an immediate fill, it has failed to meet its best execution obligations. Perhaps the latter instance could be clarified in the best execution provisions instead of prohibiting the placement of any order that intentionally locks markets.

B. Additional Amendments – Reporting Requirements

In general, we favour transparency and the availability of statistics that will permit participants to make meaningful comparisons. Specific variables that are easily quantifiable, without room for variance in definition, would fall within this category. However, variables that involve significant qualitative interpretation or which, by their split second nature, allow for subjective measurement, would likely prove very difficult to objectively assess or impartially present and could be prone to gaming.

7. ***Should the marketplace statistics focus on units of securities traded instead of orders and number of trades?***

Subject to the above limitation to objective measures, we think all three should be provided.

8. ***Should the marketplace statistics require separate reporting on specific order types that would include market orders, intentional crosses, and pre-arranged trades?***

Yes. Reliable statistics on all order types offered would be useful.

9. ***Should the focus of the liquidity measures be the number of orders or the cumulative number of shares?***

Both should be available; which would be more useful would depend on the needs and trading practices of each participant.

10. ***Would it be useful to have information about partially or fully hidden liquidity that is available on certain marketplaces? If so, what measures of that liquidity would be most informative?***

This type of information would be useful, but it would present quantification and verification challenges.

11. ***Would it be useful to include reporting similar to the near-the-quote orders required by the SEC in the United States? What price increment away from the quote would be appropriate to use for the Canadian market?***

We understand the use of programs and data generation is not uncommon in the US to exaggerate the data being measured in order to improve marketing position and/or revenues.

12. ***Are statistics regarding average realized and effective spreads useful without a consolidated best bid and offer?***

Regardless of a CBBO, given the range of order types now in use, and the subjective nature of the statistic it would fall into the category described above, i.e., it would not produce comparable data and would be very costly to maintain. It would be impacted by orders trading at less than minimum price increments – which reduce spreads but do not add to price discovery.

13. ***Are the time frames used to assess speed and certainty of execution on a marketplace in section 11.1.1 of NI 21-101 appropriate? If not, what time frames should be used?***

Similar requirements in the US have been rendered meaningless by virtue of the differences in calculation and presentation. Data relying on clock synchronization amongst the markets is difficult to compare because of differing levels of clock "drift" in the trading systems.

14. ***In addition to the proposed reporting requirements for marketplaces, would other information, such as the following, be useful to dealers or advisors to assess best execution:***
    - ***(a) a breakdown of the information by order size (i.e. 100-499 shares, 500-1999 shares, 2000-4999 shares, 5000 or more);***
    - ***(b) the proportion of time that a marketplace had orders that were at the best bid or the best ask;***
    - ***(c) the proportion of trades (in number of shares or number of trades based on our decision) executed inside the best bid and ask price?***

We are not sure how useful the information in part (a) is, and are concerned that the information in (b) and (c) is particularly difficult to assess and present objectively. It could create an incentive for a marketplace to rely more on pegged orders and a disincentive to offer entry to limit orders at prices determined by those entering them. Moreover it would be costly because it would technically be difficult to measure.

15. Do you agree that an information processor should disseminate consolidated trade information along with a feed that contains the best bid and best offer and all orders at all price levels (along with the marketplace identifier/market)? For practical reasons, should the price levels be limited? If so, to how many levels?

It would be beneficial to have an information processor to ensure the availability of consolidated information for regulatory compliance purposes. However, we share the concerns of others that the IP not be provided with any competitive advantages. Therefore the information that would be appropriate would depend on scope (e.g. the order types to be included, the purposes the feed can be used for, etc.), governance, fees, and market neutrality. Without knowing these details, we find it difficult to provide more specific comments.

IV. Cost-Benefit Analysis – Appendix B to the Notice

The following is a summary of our observations on the analysis presented in Appendix B to the Notice:

- A number of costs to marketplaces were not included. Depending on the mechanism chosen for meeting the new requirements:
  - marketplaces would need to add a new filter on top of their system to check each order and then (for non-ISOs) if there is a better price elsewhere, either route away or re-engineer their systems to cancel the order or re-price it, or execute at the best price or book if it's not tradable (i.e. the cost of a filter is not just the impact on competition);
  - if the marketplace is not an ATS with active trading capability, it would be required to change its structure or make arrangements with a third party to route on its behalf creating an unlevel playing field;
  - if marketplaces choose to route directly, a new non-member, non-subscriber access would be required at some cost and the cost of connecting to all other venues would need to be factored in; and
  - there would be significant new costs of monitoring participants to the extent they maintain control over their orders.

- We question the cost savings for dealers for compliance costs referred to on page 10061 where it states that "...the proposed rule would reduce the burden on these [smaller] firms because they would no longer be subject to market monitoring and access requirements." First, as we have noted, these compliance costs have been greatly reduced due to the number of cost-effective solutions already in place. If any firm, small or large, chose to simply pick one marketplace and rely on it entirely to handle and route orders, it would, arguably, violate the best execution obligation. For example, a marketplace would only be required to route away to or execute at what appears to be the best price. If it routes regularly to a venue that has a poor fill rate, it is not in violation of any requirements. Further, it may be appropriate for a particular order for the dealer to seek price improvement or a marketplace with more depth if it is a larger order. We therefore do not understand how there can be an opt-out for market monitoring. Further, there is no current obligation to obtain direct access to all

marketplaces – so whether another dealer or a marketplace takes on routing responsibility, the need for access would not necessarily change.

- The issue of added latency due to checking displayed quotes and whether an order is marked ISO is not settled just because all markets would need to do it. There is a cost to latency itself and it is known with certainty that participants would seek ways to avoid such a filter. Marketplaces would need to find ways of accommodating this or it would impact the competitiveness of our markets.

- There is no analysis of the current usage by non-dealer subscribers of the various trading alternatives available to them and whether these services and venues could be adapted to help meet any new trade-through avoidance obligation that might be placed on the non-dealers.

- There is no data on the multi-market experience to date – e.g. use of routers, technology changes at dealers to meet the best price obligation, the differential cost between the changes made necessary by the arrival of multiple marketplaces to meet best execution obligations versus what is necessary to avoid trade-throughs, the cost of undoing solutions that have just been adopted, etc. As far as we can tell, a significant proportion of the costs have already been spent. The one area where there has been little adjustment for the new environment - clearing and settlement costs, separate from execution costs – has not been mentioned.

- We believe more data would need to be collected on the existing level of compliance with the UMIR best price obligation and additional analysis provided before being able to determine, as stated on page 10063 that: "The proposed rule would reduce the opportunity for trade-throughs to occur." With the added latency due to marketplace filters and routing by both dealers and marketplaces, subject to the jurisdiction of different regulators, the opportunity for trade-throughs could increase.

We have raised a number of questions but we also understand how difficult it is to anticipate and assess the costs and benefits of complying with a regime that is not yet in place. We therefore strongly encourage the CSA to assess the information that has been generated over the past few years before finalizing the Proposed Amendments.

Thank you again for presenting this comprehensive package for the industry's consideration and for providing us with the opportunity to provide our comments.

Yours truly,

Cindy Petlock
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Richard Carleton, Vice-President, Corporate Development, CNSX Markets
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