

Chapter 1

Notices / News Releases

1.1 Notices

1.1.1 CSA Staff Notice 21-324 Information Processor for Exchange-Traded Securities other than Options



CSA Staff Notice 21-324 *Information Processor for Exchange-Traded Securities other than Options*

June 28, 2018

Introduction

Canadian Securities Administrators (CSA) staff (CSA staff or we) are publishing this notice to inform the public that TMX Information Processor (TMX IP) will continue to act as an information processor (IP) for exchange-traded securities other than options¹ under National Instrument 21-101 *Marketplace Operation* (NI 21-101) until June 30, 2022. This notice discusses the role of the IP and the terms and conditions under which it will continue to operate.

In Ontario and Saskatchewan, TMX IP will be designated as an IP and subject to terms and conditions contained in a designation order. In Quebec, TMX IP will be recognized as an IP and subject to terms and conditions outlined in a Recognition Order. In all other jurisdictions, TMX IP will operate pursuant to a number of undertakings (which are similar to the terms and conditions to be set out in the Ontario, Saskatchewan and Quebec orders).

This notice is also available on websites of CSA jurisdictions, including:

www.lautorite.qc.ca
www.albertasecurities.com
www.bcsc.bc.ca
www.fcnb.ca
nssc.novascotia.ca
www.osc.gov.on.ca
www.fcaa.gov.sk.ca
www.mbsecurities.ca

Transparency Requirements and the Need for an IP

An IP supports the transparency requirements in Part 7 of NI 21-101.² It collects, consolidates and disseminates marketplace data and thus makes available at least one source of consolidated data to investors and market participants. The transparency requirements in Part 7 of NI 21-101 and in particular the availability of timely and accurate data are critical to the regulatory framework and support fair and efficient markets and confidence in those markets.

The provision of consolidated information by the IP facilitates compliance by marketplace participants with relevant regulatory requirements that apply in a multiple marketplace environment by ensuring the availability of consolidated data that meets regulatory standards and which users can use to demonstrate or evaluate compliance with these requirements.

¹ In Québec, options are derivatives under the *Derivatives Act* (Québec) and are excluded from the definition of “exchange-traded securities”.

² Subsection 7.1(1) requires a marketplace that displays orders of exchange-traded securities to a person or company to provide accurate and timely information regarding orders for the exchange-traded securities displayed by the marketplace to an IP or, in its absence, to an information vendor. Subsection 7.1(2) provides an exception for those marketplaces that only display orders to their employees or to persons or companies retained by the marketplaces to assist in the operation of the marketplace, if the orders posted on the marketplaces meet the size threshold set by a regulation services provider. Subsection 7.2(1) of NI 21-101 requires marketplaces to provide information about trades in exchange-traded securities to an IP or, in its absence, to an information vendor.

Part 14 of NI 21-101 provides for the operation and regulatory requirements applicable to an IP.³ They include:

- a requirement to provide prompt and accurate order and trade information and to not unreasonably restrict fair access to such information;
- a requirement to provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities;
- an obligation to maintain reasonable books and records; and
- certain system requirements, including an annual independent systems review.

In addition, the IP is required to establish, in a timely manner, an electronic connection to each marketplace that is required to provide information under NI 21-101, and also to enter into an agreement with each such marketplace. The agreement must set out that the marketplace will provide the IP information in accordance with Part 7 of NI 21-101 and that it will comply with any other reasonable requirements set by the IP.

In order to act as the IP, the CSA must determine that it is in the public interest for the entity to act as an IP for equity securities other than options. In addition, in Quebec, an IP needs to be recognized as an IP and subject to terms and conditions outlined in a Recognition Order. In Ontario and Saskatchewan, a Designation Order will be issued for an IP that also includes terms and conditions.

TMX IP

TMX IP has been the IP for exchange-traded securities other than options since July 1, 2009.⁴ TMX IP collects data from relevant marketplaces and is authorized to consolidate and disseminate this data in the form of the following products (together, the Consolidated Products):

- Consolidated Data Feed, which provides access to order and trade market data from each marketplace that contributes its data to the TMX IP (contributing marketplace);
- Consolidated Last Sale, which provides real-time trading data from all contributing marketplaces;
- Canadian Best Bid and Offer, which provides a consolidated best bid and offer for all Canadian exchange-traded securities other than options;
- Canadian Best Bid and Offer for Protected Only Markets, which provides a consolidated view of the order book only for those marketplaces that have protected bids and offers under Part 6 of National Instrument 23-101 – *Trading Rules (NI 23-101)*, Order Protection;
- Consolidated Depth of Book, which provides a single consolidated view of the order book from the contributing marketplaces; and
- Consolidated Depth of Book for Protected Only Markets, which provides a single consolidated view of the order book for those marketplaces that have protected bids and offers under Part 6 of NI 23-101.

To recover some of its operational costs, TMX IP uses a “pass-through” fee model, where the contributing marketplaces enter into contractual agreements with data vendors and subscribers directly, allowing each marketplace’s fees to be passed through to the clients. A monthly fee is charged by TMX IP for each of the Consolidated Products. The fees are published on the TMX IP’s website and reviewed by the CSA.

³ An IP is defined as a person or company that receives and provides information under NI 21-101 and has filed Form 21-101F5 *Initial Operation Report for Information Processor (Form 21-101F5)*.

⁴ CSA Staff Notice 21-309 *Information Processor for Exchange-Traded Securities other than Options (CSA Staff Notice 21-309)* was published in 2009 to inform the public that TMX IP would act as an IP between July 1, 2009 to June 30, 2014. In Québec, the Autorité des marchés financiers issued decision n° 2009-PDG-0047 on June 4, 2009.

TMX IP is subject to a number of undertakings⁵ under which it agreed to:

- establish policies and procedures to address conflicts of interest related to the operation of the IP by the TMX Group Limited; distribute only the Consolidated Products under the IP designation and to obtain approval from CSA staff to distribute additional products using the data provided to it by marketplaces; in addition, TMX IP acknowledged that it does not have exclusive rights to consolidate and disseminate order and trade information;
- conduct an annual self-assessment of its compliance with subsections 14.4(2), (4) and (5) of NI 21-101 and with its performance with respect to the undertakings;
- provide a report of the self-assessment to the IP Governance Committee and file the report and the views of the IP Governance Committee with the CSA; and
- ensure that all data contributors are given access to the IP on fair and reasonable terms.

These undertakings were included as terms and conditions in the Recognition Order issued in Quebec.

Local Matters

Certain jurisdictions are publishing other information required by local securities legislation. In Ontario, this information is contained in Appendix A to this notice and consists of TMX IP's Designation Order including terms and conditions to the order.

Questions

Please refer your questions to any of the following:

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⁵ CSA Staff Notice 21-309 includes the initial TMX IP undertakings, which were subsequently updated in CSA Staff Notice 21-313 *Information Processor for Exchange-Traded Securities other than Options*.

APPENDIX A

LOCAL MATTERS

In Ontario, under new provisions in the *Securities Act* (Ontario), specifically new section 21.2.3, the OSC will issue an order designating TMX as the IP for exchange-traded securities other than options (**Designation Order**). The undertakings given by TMX IP in connection with its operations as IP for exchange-traded securities will be converted to terms and conditions of the Designation Order. No material changes have been made to the undertakings to convert them to terms and conditions.

The Order and the terms and conditions applicable to TMX IP are published in Chapter 2.