

5.1.2 NI 21-101, NI 23-101 and OSC Rule 23-501 - Regulation of Marketplaces and Trading

NOTICE OF FINAL RULES UNDER THE SECURITIES ACT THE REGULATION OF MARKETPLACES AND TRADING

NATIONAL INSTRUMENT 21-101 MARKETPLACE OPERATION NATIONAL INSTRUMENT 23-101 TRADING RULES OSC RULE 23-501 DESIGNATION AS MARKET PARTICIPANT and FORMS 21-101F1, 21-101F2, 21-101F3, 21-101F4, 21- 101F5 and 21-101F6

Introduction

On October 16, 2001, the Minister of Finance approved National Instrument 21-101 Marketplace Operation, National Instrument 23-101 Trading Rules and OSC Rule 23-501 Designation as Market Participant (the "ATS Rules"). The ATS Rules, Companion Policy 21-101CP and Companion Policy 23-101CP come into force on December 1, 2001.

Related amendments to subsection 152(e) of Regulation 1015 of the Revised Regulations of Ontario, 1990 made under the Securities Act were filed as O.Reg. 393/01 on October 17, 2001 and are expected to be published in the Ontario Gazette on November 3, 2001.

The ATS Rules are published in Chapter 5 of the Bulletin. A summary of the rules was published in the Notice on August 17, 2001 at (2001), 24 OSCB 87 (Supp).

ATS Rules and International Dealers

Historically, foreign ATSs have been allowed to access the Ontario market by registering as international dealers. Once the ATS Rules come into force on December 1st, a foreign ATS will not be allowed to carry on business as an ATS in Ontario under its international dealer license. Staff expect these entities to have begun the process to become registered as investment dealers and members of the IDA. Staff recognize that come December 1st, some of these entities may not have completed this process and we encourage entities that have concerns to contact us to discuss business continuity alternatives.

ATS Rules and the Fixed Income Market

The information processor will determine the information that is to be provided under Part 8 of National Instrument 21-101. The details will be finalized after discussions with the CSA. We anticipate that the information processor will initially receive the following information:

- for government debt securities and investment grade corporate debt securities, the actual volume if the total par value of the trade is \$2 million or less; for a trade with a par value above \$2 million, the volume will be disseminated at "\$2 million+" ("trade information"); and

- the trade information will be provided for a list of benchmark, liquid government and corporate debt securities set by the information processor in consultation with industry participants and according to transparent criteria established by the information processor.

Questions

Questions may be referred to any of:

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**NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION**

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FORM 21-101F5 INITIAL OPERATION REPORT FOR INFORMATION PROCESSOR

FORM 21-101F6 CESSATION OF OPERATIONS REPORT FOR INFORMATION PROCESSOR

**NATIONAL INSTRUMENT 21-101
 MARKETPLACE OPERATION**

PART 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions - In this Instrument

“alternative trading system” means a marketplace that

(a) is not a recognized quotation and trade reporting system or a recognized exchange, and

(b) does not

(i) require an issuer to enter into an agreement to have its securities traded on the marketplace,

(ii) provide, directly, or through one or more subscribers, a guarantee of a two-sided market for a security on a continuous or reasonably continuous basis,

(iii) set requirements governing the conduct of subscribers, other than conduct in respect of the trading by those subscribers on the marketplace, and

(iv) discipline subscribers other than by exclusion from participation in the marketplace;

“ATS” means an alternative trading system;

“corporate debt security” means a debt security issued in Canada by a company or corporation that is not listed on a recognized exchange or quoted on a recognized quotation and trade reporting system or listed on an exchange or quoted on a quotation and trade reporting system that has been recognized for the purposes of this Instrument and NI 23-101, and does not include a government debt security;

“exchange-traded security” means a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of this Instrument and NI 23-101;

“foreign exchange-traded security” means a security that is listed only on an exchange, or quoted only on a quotation and trade reporting system, outside of Canada that is regulated by an ordinary member of the International Organization of Securities Commissions;

“government debt security” means

(a) a debt security issued or guaranteed by the government of Canada, or any province or territory of Canada, the government of any foreign country or any political division thereof,

(b) a debt security of any municipal corporation in Canada, or

(c) a debt security of a crown corporation

that is not listed on a recognized exchange or quoted on a recognized quotation and trade reporting system or listed on an exchange or quoted on a quotation and trade reporting system that has been recognized for the purposes of this Instrument and NI 23-101;

“IDA” means the Investment Dealers Association of Canada;

“information processor” means any person or company that receives and provides information under this Instrument and has filed Form 21-101F5;

“inter-dealer bond broker” means a person or company that is approved by the IDA under IDA By-Law No. 36 Inter-Dealer Bond Brokerage Systems, as amended, and is subject to IDA By-law No. 36 and IDA Regulation 2100 Inter-Dealer Bond Brokerage Systems, as amended;

“market integrator” means a person or company that facilitates access to orders in accordance with Part 9;

“marketplace” means

(a) an exchange,

(b) a quotation and trade reporting system,

(c) a person or company not included in paragraph (a) or (b) that

(i) constitutes, maintains or provides a market or facility for bringing together buyers and sellers of securities,

(ii) brings together the orders for securities of multiple buyers and sellers, and

(iii) uses established, non-discretionary methods under which the orders interact with each other, and the buyers and sellers entering the orders agree to the terms of a trade, or

(d) a dealer that executes a trade of an exchange-traded security outside of a marketplace,

but does not include an inter-dealer bond broker;

“marketplace participant” means a member of an exchange, a user of a quotation and trade reporting system, or a subscriber of an ATS;

“member” means, for a recognized exchange,

(a) a person or company holding at least one seat on the exchange, or

(b) a registrant that has been granted direct trading access rights by the exchange and is subject to regulatory oversight by the exchange;

“NI 23-101” means National Instrument 23-101 Trading Rules;

“order” means a firm indication by a person or company, acting as either principal or agent, of a willingness to buy or sell a security;

“recognized exchange” means

(a) in Ontario, an exchange recognized by the securities regulatory authority to carry on business as a stock exchange,

(b) in Quebec, an exchange recognized by the securities regulatory authority as a self-regulatory organization, and

(c) in every other jurisdiction, an exchange recognized by the securities regulatory authority as an exchange, self-regulatory organization or self-regulatory body;

“recognized quotation and trade reporting system” means

(a) in every jurisdiction other than British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation to carry on business as a quotation and trade reporting system, and

(b) in British Columbia, a quotation and trade reporting system recognized by the securities regulatory authority under securities legislation as a quotation and trade reporting system or as an exchange;

“regulation services provider” means a person or company that provides regulation services and is

(a) a recognized exchange,

(b) a recognized quotation and trade reporting system, or

(c) a recognized self-regulatory entity;

“self-regulatory entity” means a self-regulatory body or self-regulatory organization that

(a) is not an exchange, and

(b) is recognized as a self-regulatory body or self-regulatory organization by the securities regulatory authority;

“subscriber” means, for an ATS, a person or company that has entered into a contractual agreement with the ATS to access the ATS for the purpose of effecting trades or submitting, disseminating or displaying orders on the ATS;

“trading volume” means the number of securities traded;

“transaction fee” means the fee that a marketplace charges for execution of a trade on that marketplace;

“unlisted debt security” means a government debt security or corporate debt security; and

“user” means, for a recognized quotation and trade reporting system, a person or company that quotes orders or reports trades on the recognized quotation and trade reporting system.

1.2 Interpretation - Marketplace - For the purpose of the definition of “marketplace” in section 1.1, a person or company is not considered to constitute, maintain or provide a market or facilities for bringing together buyers and sellers of securities, solely because the person or company routes orders to a marketplace or a dealer for execution.

1.3 Interpretation - Affiliated Entity, Controlled Entity and Subsidiary Entity

(1) In this Instrument, a person or company is considered to be an affiliated entity of another person or company if one is a subsidiary entity of the other or if both are subsidiary entities of the same person or company, or if each of them is a controlled entity of the same person or company.

(2) In this Instrument, a person or company is considered to be controlled by a person or company if

- (a) in the case of a person or company,
 - (i) voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company, and
 - (ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;

- (b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person or company holds more than 50 percent of the interests in the partnership; or
- (c) in the case of a limited partnership, the general partner is the second-mentioned person or company.

(3) In this Instrument, a person or company is considered to be a subsidiary entity of another person or company if

- (a) it is a controlled entity of,
 - (i) that other,
 - (ii) that other and one or more persons or companies each of which is a controlled entity of that other, or
 - (iii) two or more persons or companies, each of which is a controlled entity of that other; or
- (b) it is a subsidiary entity of a person or company that is the other's subsidiary entity.

1.4 Interpretation - Security

- (1) In Alberta and British Columbia, the term “security”, when used in this Instrument, includes an option that is an exchange contract but does not include a futures contract.
- (2) In Ontario, the term “security”, when used in this Instrument, does not include a commodity futures contract or a commodity futures option that is not traded on a commodity futures exchange registered with or recognized by the Commission under the Commodity Futures Act or the form of which is not accepted by the Director under the Commodity Futures Act.

PART 2 APPLICATION

2.1 Application - This Instrument does not apply to a marketplace that is a member of a recognized exchange or a member of an exchange that has been recognized for the purposes of this Instrument and NI 23-101.

PART 3 EXCHANGE - RECOGNITION

3.1 Application for Recognition

- (1) An applicant for recognition as an exchange shall file Form 21-101F1.
- (2) An applicant for recognition as an exchange shall inform in writing the securities regulatory authority immediately of any change to the information provided in Form 21-101F1, and the applicant shall file an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1 no later than seven days after the change takes place.

3.2 Change in Information After Recognition

- (1) At least 45 days before implementing a significant change to a matter set out in Form 21-101F1, a recognized exchange shall file

- (a) if the exchange was recognized before this Instrument came into force, the information describing the change in the manner set out in Form 21-101F1; or
 - (b) if the exchange is recognized after this Instrument comes into force, an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1.
- (2) If a recognized exchange implements a change involving a matter set out in Form 21-101F1, other than a change referred to in subsection (1), the recognized exchange shall, within 30 days after the end of the calendar quarter in which the change takes place, file
- (a) if the exchange was recognized before this Instrument came into force, the information describing the change in the manner set out in Form 21-101F1; or
 - (b) if the exchange is recognized after this Instrument comes into force, an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1.
- (3) Subsection (2) does not apply to a change to a matter set out in Exhibits F and O of Form 21-101F1.

PART 4 QUOTATION AND TRADE REPORTING SYSTEM - RECOGNITION

4.1 Application for Recognition

- (1) An applicant for recognition as a quotation and trade reporting system shall file Form 21-101F1.
- (2) An applicant for recognition as a quotation and trade reporting system shall inform in writing the securities regulatory authority immediately of any change to the information provided in Form 21-101F1 and the applicant shall file an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1 no later than seven days after the change takes place.

4.2 Change in Information After Recognition

- (1) At least 45 days before implementing a significant change to a matter set out in Form 21-101F1, a recognized quotation and trade reporting system shall file an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1.
- (2) If a recognized quotation and trade reporting system implements a change involving a matter set out in Form 21-101F1, other than a change referred to in subsection (1), the recognized

quotation and trade reporting system shall, within 30 days after the end of the calendar quarter in which the change takes place, file an amendment to the information provided in Form 21-101F1 in the manner set out in Form 21-101F1.

PART 5 REQUIREMENTS APPLICABLE ONLY TO RECOGNIZED EXCHANGES AND RECOGNIZED QUOTATION AND TRADE REPORTING SYSTEMS

5.1 Access Requirements - A recognized exchange and a recognized quotation and trade reporting system shall

- (a) establish written standards for granting access to trading on it;
- (b) not unreasonably prohibit, condition or limit access by a person or company to services offered by it; and
- (c) keep records of
 - (i) each grant of access including, for each member in the case of an exchange and for each user in the case of a quotation and trade reporting system, the reasons for granting access to an applicant, and
 - (ii) each denial or limitation of access, including the reasons for denying or limiting access to an applicant.

5.2 No Restrictions on Trading on Another Marketplace - A recognized exchange or recognized quotation and trade reporting system shall not prohibit, condition, or otherwise limit, directly or indirectly, a member or user from effecting a transaction on any marketplace.

5.3 Public Interest Rules

- (1) Rules, policies and other similar instruments adopted by a recognized exchange or a recognized quotation and trade reporting system
 - (a) shall not be contrary to the public interest; and
 - (b) shall be designed to
 - (i) ensure compliance with securities legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,
 - (iii) promote just and equitable principles of trade, and
 - (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling,

processing information with respect to, and facilitating, transactions in securities.

- (2) A recognized exchange or a recognized quotation and trade reporting system shall not
- (a) permit unreasonable discrimination among clients, issuers and members or among clients, issuers and users; or
 - (b) impose any burden on competition that is not reasonably necessary and appropriate.

5.4 Compliance Rules - A recognized exchange or a recognized quotation and trade reporting system shall have rules or other similar instruments that

- (a) require compliance with securities legislation; and
- (b) provide appropriate sanctions for violations of the rules or other similar instruments of the exchange or quotation and trade reporting system.

5.5 Filing of Rules - A recognized exchange or a recognized quotation and trade reporting system shall file all rules, policies and other similar instruments, and all amendments thereto.

5.6 Filing of Annual Audited Financial Statements - A recognized exchange or a recognized quotation and trade reporting system shall file annual audited financial statements within 90 days after the end of its latest financial year.

PART 6 REQUIREMENTS APPLICABLE ONLY TO ATSS

6.1 Registration - An ATS shall not carry on business as an ATS unless

- (a) it is registered as a dealer;
- (b) it is a member of a self-regulatory entity; and
- (c) it complies with the provisions of this Instrument and NI 23-101.

6.2 Registration Exemption Not Available - The registration exemptions listed in Appendix A are not available to an ATS.

6.3 Securities Permitted to be Traded on an ATS - An ATS shall not execute trades in securities other than

- (a) exchange-traded securities;
- (b) corporate debt securities;
- (c) government debt securities; or
- (d) foreign exchange-traded securities.

6.4 Reporting Requirements

- (1) An ATS shall file an initial operation report on Form 21-101F2 at least 30 days before the ATS begins to carry on business as an ATS.
- (2) At least 45 days before implementing a significant change to a matter set out in Form 21-101F2, an ATS shall file an amendment to the information provided in Form 21-101F2 in the manner set out in Form 21-101F2.
- (3) If an ATS implements a change involving a matter set out in Form 21-101F2, other than a change referred to in subsection (2), the ATS shall, within 30 days after the end of the calendar quarter in which the change takes place, file an amendment to the information provided in Form 21-101F2 in the manner set out in Form 21-101F2.
- (4) An ATS shall file Form 21-101F3 within 30 days after the end of each calendar quarter during any part of which the ATS has carried on business.

6.5 Ceasing to Carry on Business as an ATS

- (1) An ATS that intends to cease carrying on business as an ATS shall file a report on Form 21-101F4 at least 30 days before ceasing to carry on that business.
- (2) An ATS that involuntarily ceases to carry on business as an ATS shall file a report on Form 21-101F4 as soon as practicable after it ceases to carry on that business.

6.6 Notification of Intent to Carry on Exchange Activities - An ATS shall notify the securities regulatory authority in writing at least six months before it first

- (a) requires an issuer to enter into an agreement before the issuer's securities can trade on the ATS;
- (b) provides, directly, or through one or more subscribers, a guarantee of a two-sided market for a security on a continuous or reasonably continuous basis;
- (c) sets requirements governing the conduct of subscribers, other than conduct in respect of the trading by those subscribers on the ATS; or
- (d) establishes procedures for disciplining subscribers other than by exclusion from trading.

6.7 Notification of Threshold

- (1) An ATS shall notify the securities regulatory authority in writing if,

- (a) during at least three of the preceding four calendar quarters, the average daily dollar value of the trading volume on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the average daily dollar value of the trading volume for the calendar quarter in that type of security on all marketplaces in Canada;
 - (b) during at least three of the preceding four calendar quarters, the total trading volume on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the total trading volume for the calendar quarter in that type of security on all marketplaces in Canada; or
 - (c) during at least three of the preceding four calendar quarters, the number of trades on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the number of trades for the calendar quarter in that type of security on all marketplaces in Canada.
- (2) An ATS shall provide the notice referred to in subsection (1) within 90 days after the threshold referred to in subsection (1) is met or exceeded.

6.8 Confidential Treatment of Trading Information

- (1) An ATS shall not release a subscriber's trading information to a person or company, other than the subscriber, unless
- (a) the subscriber has consented in writing to the release of the information;
 - (b) the release of the information is required by this Instrument or under applicable law; or
 - (c) the information has been publicly disclosed by another person or company, and the disclosure was lawful.
- (2) An ATS shall not carry on business as an ATS unless it has implemented reasonable safeguards and procedures to protect a subscriber's trading information, including
- (a) limiting access to the trading information of subscribers to
 - (i) employees of the ATS, or
 - (ii) persons or companies retained by the ATS to operate the system or to be responsible for compliance by the ATS with Canadian securities legislation; and
 - (b) implementing standards controlling trading by employees of the ATS for their own accounts.

- (3) An ATS shall not carry on business as an ATS unless it has implemented adequate oversight procedures to ensure that the safeguards and procedures established under subsection (2) are followed.

6.9 Name - An ATS shall not use in its name the word "exchange", the words "stock market", the word "bourse" or any derivations of those terms.

6.10 Risk Disclosure for Trades in Foreign Exchange-Traded Securities

- (1) When opening an account for a subscriber, an ATS that is trading foreign exchange-traded securities shall provide that subscriber with disclosure in substantially the following words:

The securities traded by or through [the ATS] are not listed on an exchange in Canada and may not be securities of a reporting issuer in Canada. As a result, there is no assurance that information concerning the issuer is available or, if the information is available, that it meets Canadian disclosure requirements.

- (2) Before the first order for a foreign exchange-traded security is entered onto the ATS by a subscriber, the ATS shall obtain an acknowledgement from the subscriber that the subscriber has received the disclosure required in subsection (1).

6.11 Risk Disclosure to Non-Registered Subscribers

- (1) When opening an account for a subscriber that is not registered as a dealer under securities legislation, an ATS shall provide that subscriber with disclosure in substantially the following words:

Although the ATS is registered as a dealer under securities legislation, it is a marketplace and therefore does not ensure best execution for its subscribers.

- (2) Before the first order submitted by a subscriber that is not registered as a dealer under securities legislation is entered onto the ATS by the subscriber, the ATS shall obtain an acknowledgement from that subscriber that the subscriber has received the disclosure required in subsection (1).

6.12 No Restrictions on Trading on Another Marketplace - An ATS shall not prohibit, condition, or otherwise limit, directly or indirectly, a subscriber from effecting a transaction on any marketplace.

PART 7 INFORMATION TRANSPARENCY REQUIREMENTS FOR MARKETPLACES DEALING IN EXCHANGE-TRADED SECURITIES AND FOREIGN EXCHANGE-TRADED SECURITIES

7.1 Pre-trade Information Transparency – Exchange-Traded Securities and Foreign Exchange-Traded Securities

- (1) A marketplace that displays orders of exchange-traded securities or foreign exchange-traded securities to a person or company shall provide to an information processor accurate and timely information regarding orders for the exchange-traded securities and orders for the foreign exchange-traded securities displayed on the marketplace as required by the information processor.
- (2) Subsection (1) does not apply if the marketplace only displays orders to its employees or to persons or companies retained by the marketplace to assist in the operation of the marketplace.

7.2 Post-trade Information Transparency – Exchange-Traded Securities and Foreign Exchange-Traded Securities - A marketplace shall provide to an information processor accurate and timely information regarding details of all trades of exchange-traded securities and foreign exchange-traded securities executed on the marketplace as required by the information processor.

7.3 Consolidated Feed – Exchange-Traded Securities and Foreign Exchange-Traded Securities - An information processor shall produce a consolidated feed in real-time showing the information provided to the information processor under subsection 7.1(1) and section 7.2.

7.4 Compliance with Requirements of an Information Processor - A marketplace that is subject to this Part shall comply with the reasonable requirements of the information processor to which it is required to provide information under this Part.

7.5 Exemption from Information Transparency Requirements for Marketplaces Trading Exchange-Traded Securities and Foreign Exchange-Traded Securities

- (1) Sections 7.1, 7.2 and 7.4 do not apply to a marketplace if the marketplace provides order and trade information to an information vendor.
- (2) Subsection (1) does not apply after December 31, 2003.

PART 8 INFORMATION TRANSPARENCY REQUIREMENTS FOR MARKETPLACES DEALING IN UNLISTED DEBT SECURITIES, INTER-DEALER BOND BROKERS AND DEALERS

8.1 Pre-trade Information Transparency – Unlisted Debt Securities Traded on a Marketplace

- (1) A marketplace that displays orders of unlisted debt securities to a person or company shall provide to an information processor accurate and timely information regarding orders for the unlisted debt securities displayed on the marketplace as required by the information processor.
- (2) Subsection (1) does not apply if the marketplace only displays orders to its own employees or to persons or companies retained by the marketplace to assist in its operations.

8.2 Post-trade Information Transparency – Unlisted Debt Securities Traded on a Marketplace - A marketplace shall provide to an information processor accurate and timely information regarding details of all trades of unlisted debt securities executed on the marketplace as required by the information processor.

8.3 Pre-trade Information Transparency – Government Debt Securities Traded Through an Inter-Dealer Bond Broker - An inter-dealer bond broker shall provide to an information processor accurate and timely information regarding orders for government debt securities traded through the inter-dealer bond broker as required by the information processor.

8.4 Post-trade Information Transparency – Unlisted Debt Securities Traded Through an Inter-Dealer Bond Broker - An inter-dealer bond broker shall provide to an information processor accurate and timely information regarding details of trades of unlisted debt securities executed through the inter-dealer bond broker as required by the information processor.

8.5 Post-trade Information Transparency – Corporate Debt Securities Traded By or Through a Dealer - A dealer executing trades of corporate debt securities outside of a marketplace shall provide to an information processor accurate and timely information regarding details of trades of corporate debt securities traded by or through the dealer as required by the information processor.

8.6 Consolidated Feed – Unlisted Debt Securities - An information processor shall produce a consolidated feed in real-time showing the information provided to the information processor under sections 8.1, 8.2, 8.3, 8.4 and 8.5.

8.7 Compliance with Requirements of an Information Processor - A marketplace, inter-dealer bond broker or dealer that is subject to this Part shall comply with

the reasonable requirements of the information processor to which it is required to provide information under this Part.

PART 9 MARKET INTEGRATION FUNCTION FOR MARKETPLACES

9.1 Definitions - In this Part,

“previous principal market” means the marketplace that was the principal market for the preceding calendar year;

“principal market” means, for a security, the marketplace most recently identified as the principal market for the security in

- (a) a notice of the securities regulatory authority; or
- (b) a publication of an information processor made under paragraph 9.3(1)(c).

9.2 Market Integration

(1) Before January 1, 2004, a marketplace that is subject to subsection 7.1(1) or subsection 8.1(1) shall not execute a trade of a security unless it has an electronic connection to the principal market for that security.

(2) On and after January 1, 2004, before executing a trade on its system, a marketplace that is subject to subsection 7.1(1) or subsection 8.1(1) shall

- (a) if a market integrator exists,
 - (i) enter into an agreement with a market integrator to comply with the requirements of the market integrator to provide access to orders displayed through an information processor, and
 - (ii) comply with the requirements set by the market integrator; or
- (b) if no market integrator exists, establish and maintain an electronic connection to all other marketplaces trading the same securities.

9.3 Determination of the Principal Market

(1) If, during a calendar year, an information processor receives information regarding a security traded on a marketplace, the information processor shall, within 30 days of the end of the calendar year,

- (a) identify the marketplace that had the largest trading volume for that security in that calendar year;

(b) notify in writing each marketplace that trades that security of the name of the marketplace determined under paragraph (a); and

(c) make the name of the marketplace determined to be the principal market under paragraph (a) publicly available.

(2) Subsection 9.2(1) does not apply if

(a) the principal market for the security is different from the previous principal market,

(b) the marketplace has an electronic connection to the previous principal market for the security, and

(c) the trade occurs within 30 days of the date the marketplace received written notification of the principal market from the information processor or the securities regulatory authority.

(3) Subsections (1) and (2) do not apply after December 31, 2003.

9.4 Requirements for Marketplaces

(1) When receiving an order from another marketplace, the marketplace receiving the order shall apply its own rules to the execution of that order.

(2) A marketplace shall provide to marketplace participants of any other marketplace access to the orders about which information is provided to an information processor that is equivalent to the access that the marketplace provides to its own marketplace participants.

PART 10 DISCLOSURE OF TRANSACTION FEES FOR MARKETPLACES

10.1 Disclosure of Transaction Fees for Marketplaces

- If a marketplace charges a transaction fee to participants of another marketplace to execute a trade by accessing an order on the first marketplace that is displayed through an information processor, the marketplace shall disclose a schedule of all transaction fees to the information processor.

10.2 Exemption

(1) Section 10.1 does not apply to a marketplace with respect to trades in exchange-traded securities and foreign exchange-traded securities if the marketplace makes its schedule of all transaction fees publicly available.

(2) Subsection (1) does not apply after December 31, 2003.

PART 11 RECORDKEEPING REQUIREMENTS FOR MARKETPLACES

11.1 Business Records - A marketplace shall keep such books, records and other documents as are reasonably necessary for the proper recording of its business.

11.2 Other Records

(1) In addition to the records required to be maintained under section 11.1, a marketplace shall keep the following information:

(a) a record of all marketplace participants who have been granted access to trading in the marketplace;

(b) daily trading summaries for the marketplace, in electronic form, including

(i) a list of securities traded,

(ii) transaction volumes

(A) for securities other than debt securities, expressed as the number of issues traded, number of trades, total unit volume and total dollar value of trades and, if the price of the securities traded is quoted in a currency other than Canadian dollars, the total value in that other currency, and

(B) for debt securities, expressed as the number of trades and total dollar value traded and, if the price of the securities traded is quoted in a currency other than Canadian dollars, the total value in that other currency,

(c) a record of each order which shall include

(i) the order identifier assigned to the order by the marketplace,

(ii) the marketplace participant identifier assigned to the marketplace participant transmitting the order,

(iii) the identifier assigned to the marketplace where the order is received or originated,

(iv) the type, issuer, class, series and symbol of the security,

(v) the number of securities to which the order applies,

(vi) the strike date and strike price, if applicable,

(vii) whether the order is a buy or sell order,

(viii) whether the order is a short sale order, if applicable,

(ix) whether the order is a market order, limit order or other type of order, and if the order is not a market order, the price at which the order is to trade,

(x) the date and time the order is first originated or received by the marketplace,

(xi) whether the account is a retail, wholesale, employee, proprietary or any other type of account,

(xii) the client account number or client identifier,

(xiii) the date and time the order expires,

(xiv) whether the order is an intentional cross,

(xv) whether the order is a jitney and if so, the identifier of the underlying broker,

(xvi) if the order is varied, corrected or cancelled, the date and time the order was varied, corrected or cancelled and whether the order was varied, corrected or cancelled on the instructions of the client or the dealer and if varied or corrected, any of the information required by this subsection that has been varied or corrected,

(xvii) the currency of the order,

(xviii) any client instructions or consents respecting the handling or trading of the order; and

(d) in addition to the record maintained in accordance with paragraph (c), all execution report details of orders, including

(i) the identifier assigned to the marketplace where the order was executed,

(ii) whether the order was fully or partially executed,

(iii) the number of securities bought or sold,

(iv) the date and time of the execution of the order,

(v) the price at which the order was executed,

- (vi) the identifier assigned to the marketplace participant on each side of the trade,
 - (vii) whether the transaction was a cross,
 - (viii) time-sequenced records of all messages sent to or received from an information processor, the market integrator or any other marketplace,
 - (ix) the marketplace transaction fee for each trade.
- (2) An ATS, a recognized exchange, or a recognized quotation and trade reporting system, that has entered into an agreement with a regulation services provider in accordance with NI 23-101 shall transmit in electronic form to a regulation services provider information required by the regulation services provider in the format and at the time required by the regulation services provider.

11.3 Record Preservation Requirements

- (1) For a period of not less than seven years from the creation of a record referred to in this section, and for the first two years in a readily accessible location, a marketplace shall keep
- (a) all records required to be made under sections 11.1 and 11.2;
 - (b) at least one copy of its standards for granting access to trading, if any, all records relevant to its decision to grant, deny or limit access to a person or company and, if applicable, all other records made or received by the marketplace in the course of complying with section 5.1;
 - (c) at least one copy of all records made or received by the marketplace in the course of complying with section 12.1, including all correspondence, memoranda, papers, books, notices, accounts, reports, test scripts, test results, and other similar records;
 - (d) all written notices provided by the marketplace to marketplace participants generally, including notices addressing hours of system operations, system malfunctions, changes to system procedures, maintenance of hardware and software, instructions pertaining to access to the marketplace and denials of, or limitation to, access to the marketplace;
 - (e) the acknowledgement obtained under subsection 6.10(2) or 6.11(2);
 - (f) a copy of the agreement referred to in section 8.4 of NI 23-101; and

- (g) a copy of any agreement referred to in subsections 13.1(2) and 13.1(3).
- (2) During the period in which a marketplace is in existence, the marketplace shall keep
- (a) all organizational documents, minute books and stock certificate books;
 - (b) in the case of a recognized exchange, copies of all forms filed under Part 3;
 - (c) in the case of a recognized quotation and trade reporting system, copies of all forms filed under Part 4; and
 - (d) in the case of an ATS, copies of all forms filed under sections 6.4 and 6.5 and notices given under sections 6.6 and 6.7.

11.4 Means of Record Preservation - A marketplace may keep all records, documents and forms referred to in this Part by means of mechanical, electronic or other devices, if

- (a) the method of recordkeeping is not prohibited under other applicable law;
- (b) the marketplace takes reasonable precautions, appropriate to the means used, to govern against the risk of falsification of the information recorded; and
- (c) the marketplace provides a means for making the information available in an accurate and intelligible form, capable of being printed, within a reasonable time to any person or company lawfully entitled to examine the records.

11.5 Synchronization of Clocks

- (1) A marketplace trading exchange-traded securities or foreign exchange-traded securities, an information processor receiving information about those securities, a dealer trading those securities and a regulation services provider monitoring the activities of marketplaces trading those securities shall synchronize the clocks used for recording or monitoring the time and date of any event that must be recorded under this Part and under NI 23-101.
- (2) A marketplace trading corporate debt securities or government debt securities, an information processor receiving information about those securities, a dealer trading those securities, an inter-dealer bond broker trading those securities and a regulation services provider monitoring the activities of marketplaces, inter-dealer bond brokers or dealers trading those securities shall synchronize the clocks used for recording or monitoring the time and date of any event that must be recorded under this Part and under NI 23-101.

PART 12 CAPACITY, INTEGRITY AND SECURITY OF MARKETPLACE SYSTEMS

12.1 System Requirements - Subject to section 12.2, a marketplace shall, for each of its systems that support order entry, order routing, execution, trade reporting and trade comparison,

- (a) on a reasonably frequent basis, and in any event, at least annually,
 - (i) make reasonable current and future capacity estimates,
 - (ii) conduct capacity stress tests of critical systems to determine the ability of those systems to process transactions in an accurate, timely and efficient manner,
 - (iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems,
 - (iv) review the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters, and
 - (v) establish reasonable contingency and business continuity plans;
- (b) annually, cause to be performed an independent review and prepare a report, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (a), and conduct a review by senior management of the report containing the recommendations and conclusions of the independent review; and
- (c) promptly notify the securities regulatory authority of any material systems failures.

12.2 Application – Paragraphs 12.1(b) and 12.1(c) do not apply to an ATS unless, during at least three of the preceding four calendar quarters, the total trading volume on the ATS for a calendar quarter in any type of security is equal to or greater than 20 percent of the total trading volume for the calendar quarter in that type of security on all marketplaces in Canada.

PART 13 CLEARING AND SETTLEMENT

13.1 Clearing and Settlement

- (1) All trades executed through an ATS shall be reported and settled through a clearing agency.
- (2) For a trade executed through an ATS by a subscriber that is registered as a dealer under securities legislation, the ATS and its subscriber shall enter into an agreement that specifies

whether the trade shall be reported and settled by

- (a) the ATS;
 - (b) the subscriber; or
 - (c) an agent for the subscriber that is a clearing member of a clearing agency.
- (3) For a trade executed through an ATS by a subscriber that is not registered as a dealer under securities legislation, an ATS and its subscriber shall enter into an agreement that specifies whether the trade shall be reported and settled by
- (a) the ATS; or
 - (b) an agent for the subscriber that is a clearing member of a clearing agency.

PART 14 REQUIREMENTS FOR AN INFORMATION PROCESSOR

14.1 Filing Requirements for an Information Processor

- (1) A person or company that intends to carry on business as an information processor shall file Form 21-101F5 at least 90 days before the information processor begins to carry on business as an information processor.
- (2) During the 90 day period referred to in subsection (1), a person or company that files Form 21-101F5 shall inform in writing the securities regulatory authority immediately of any change to the information provided in Form 21-101F5 and the person or company shall file an amendment to the information provided in Form 21-101F5 in the manner set out in Form 21-101F5 no later than seven days after a change takes place.

14.2 Change in Information

- (1) At least 45 days before implementing a significant change involving a matter set out in Form 21-101F5, an information processor shall file an amendment to the information provided in Form 21-101F5 in the manner set out in Form 21-101F5.
- (2) If an information processor implements a change involving a matter set out in Form 21-101F5, other than a change referred to in subsection (1), the information processor shall, within 30 days after the end of the calendar quarter in which the change takes place, file an amendment to the information provided in Form 21-101F5 in the manner set out in Form 21-101F5.

14.3 Ceasing to Carry on Business as an Information Processor

- (1) If an information processor intends to cease carrying on business as an information processor, the information processor shall file a report on Form 21-101F6 at least 30 days before ceasing to carry on that business.
- (2) If an information processor involuntarily ceases to carry on business as an information processor, the information processor shall file a report on Form 21-101F6 as soon as practicable after it ceases to carry on that business.

14.4 Requirements Applicable to an Information Processor

- (1) An information processor shall enter into an agreement with each marketplace, inter-dealer bond broker and dealer that is required to provide information to the information processor that the marketplace, inter-dealer bond broker or dealer will
 - (a) provide information to the information processor in accordance with Part 7 or 8, as applicable; and
 - (b) comply with any other reasonable requirements set by the information processor.
- (2) An information processor shall provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities.
- (3) An information processor shall keep such books, records and other documents as are reasonably necessary for the proper recording of its business.
- (4) An information processor shall establish in a timely manner an electronic connection to a marketplace, inter-dealer bond broker or dealer that is required to provide information to the information processor .
- (5) An information processor shall provide prompt and accurate order and trade information and shall not unreasonably restrict fair access to such information.

14.5 System Requirements – An information processor shall

- (a) on a reasonably frequent basis, and in any event, at least annually,
 - (i) make reasonable current and future capacity estimates for each of its systems,
 - (ii) conduct capacity stress tests of critical systems to determine the ability of those

systems to process information in an accurate, timely and efficient manner,

- (iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems,
- (iv) review the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters, and
- (v) establish reasonable contingency and business continuity plans;

- (b) annually, cause to be performed an independent review and prepare a report, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (a), and conduct a review by senior management of the report containing the recommendations and conclusions of the independent review; and
- (c) promptly notify the securities regulatory authority of any material systems failures.

PART 15 EXEMPTION

15.1 Exemption

- (1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

PART 16 EFFECTIVE DATE

16.1 Effective Date – This Instrument comes into force on December 1, 2001.

**APPENDIX A
TO
NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION**

Alberta - section 65(1)(j) of the Securities Act, S.A. 1981, c. S-6.1.

British Columbia - section 45(2)(7) of the Securities Act, R.S.B.C. 1996, c. 418.

Saskatchewan - section 39(1)(j) of the Securities Act, S.S. 1988, c. S-42.2.

Manitoba - section 19(1)(g) of the Securities Act, R.S.M. 1988, c. S50.

Ontario - paragraph 35(1)10 of the Securities Act, R.S.O. 1990, c. S-5.

Quebec - no applicable provision.

Nova Scotia - section 41(1)(j) of the Securities Act, R.S.N.S. 1989, c. 418.

Newfoundland - section 36(1)(j) of the Securities Act, R.S.N. 1990, c. S-13.

New Brunswick - no applicable provision.

Prince Edward Island - section 2(3)(h) of the Securities Act, R.S.P.E.I. 1988, c. S-3.

Yukon Territory - section 2(b) of the Securities Act, R.S.Y. 1986, c. 158.

Northwest Territories - section 2(b) of the Securities Act, R.S.N.W.T. 1988, c. S-5.

Nunavut - section 2(b) of the Securities Act, R.S.N.W.T. 1988, c. S-5.

NATIONAL INSTRUMENT 21-101
FORM 21-101F1
INFORMATION STATEMENT
EXCHANGE OR QUOTATION AND TRADE REPORTING SYSTEM

Filer: **EXCHANGE** **QUOTATION AND TRADE REPORTING SYSTEM**

Type of Filing: **INITIAL** **AMENDMENT**

1. Full name:

2. Main street address (do not use a P.O. box):

3. Mailing address (if different):

4. Address of head office (if different from address in item 2):

5. Business telephone and facsimile number:

(Telephone) (Facsimile)

6. Website address:

7. Contact employee:

(Name and Title) (Telephone Number) (Facsimile) (E-mail address)

8. Counsel:

(Firm Name) (Contact Name) (Telephone Number) (Facsimile) (E-mail address)

9. Date of financial year-end:

10. Legal status: Corporation Sole Proprietorship

Partnership Other (specify):

Except where the exchange or quotation and trade reporting system is a sole proprietorship, indicate the date and place where the exchange or quotation and trade reporting system obtained its legal status (e.g., place of incorporation, place where partnership agreement was filed or where exchange or quotation and trade reporting system entity was formed):

(a) Date (DD/MM/YYYY): _____ (b) Place of formation:

(c) Statute under which exchange or quotation and trade reporting system was organized:

11. Market Regulation is being conducted by:

- the exchange
- the quotation and trade reporting system
- regulation services provider other than the filer (see exhibit O)

THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Filing. For each Exhibit, include the name of the exchange or quotation and trade reporting system, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

If the filer, recognized exchange or recognized quotation and trade reporting system files an amendment to the information provided in its Filing and the information relates to an Exhibit filed with the Filing or a subsequent amendment, the filer, recognized exchange or recognized quotation and trade reporting system, must, in order to comply with subsection 3.1(2), section 3.2, subsection 4.1(2) or 4.2 of National Instrument 21-101, provide a description of the change and file a complete and updated Exhibit.

1. CORPORATE GOVERNANCE

Exhibit A A copy of the constating documents, including corporate by-laws and other similar documents, and all subsequent amendments.

Exhibit B For each affiliated entity of the exchange or quotation and trade reporting system, and for any person or company with whom the exchange or quotation and trade reporting system has a contractual or other agreement relating to the operation of an electronic trading system (the "System") to be used to effect transactions on the exchange or quotation and trade reporting system, provide the following information:

1. Name and address of person or company.
2. Form of organization (e.g., association, corporation, partnership, etc.).
3. Location and statute citation under which organized. Date of incorporation in present form.
4. Brief description of nature and extent of affiliation or contractual or other agreement with exchange or quotation and trade reporting system.
5. Brief description of business or functions. Description should include responsibilities with respect to operation of the System and/or execution, reporting, clearance, or settlement of transactions in connection with operation of the System.
6. If a person or company has ceased to be an affiliated entity of the exchange or quotation and trade reporting system during the previous year or ceased to have a contractual or other agreement relating to the operation of a System during the previous year, provide a brief statement of the reasons for termination of the relationship.

Exhibit C A list of partners, directors, officers, governors, members of all standing committees, or persons performing similar functions, who presently hold or have held their offices or positions during the previous year, indicating the following for each:

1. Name.
2. Title.
3. Dates of commencement and expiry of present term of office or position and length of time position held.
4. Type of business in which each is primarily engaged (e.g., sales, trading, market making, etc.) and current employer.
5. Type of business in which each was primarily engaged in the preceding five years, if different from that set out in item 4.
6. Whether the person is considered to be an independent director.

- Exhibit D** For each affiliated entity of the exchange or quotation and trade reporting system, provide the following information:
1. A copy of the constating documents, including corporate by-laws and other similar documents.
 2. A copy of existing by-laws or corresponding rules or instruments.
 3. The name and title of the present officers, governors, members of all standing committees or persons performing similar functions.
 4. For the latest financial year of the affiliated entity, unconsolidated financial statements, which may be unaudited. Such financial statements shall consist, at a minimum, of a balance sheet and an income statement prepared in accordance with, or if the affiliated entity is organized under the laws of a foreign jurisdiction, reconciled with Canadian GAAP. If the affiliated entity is required by securities legislation to file annual financial statements, a statement to that effect with a reference to the relevant securities legislation may be provided instead of the financial statements required here.

Exhibit E This Exhibit is applicable only to exchange or quotation and trade reporting systems that have one or more owners, shareholders, or partners that are not also marketplace participants. If the exchange or quotation and trade reporting system is a corporation, please provide a list of each shareholder that directly owns five percent or more of a class of a voting security of the exchange or quotation and trade reporting system. If the exchange or quotation and trade reporting system is a partnership, please provide a list of all general partners and those limited partners that have the right to receive upon dissolution, or have contributed, five percent or more of the partnership's capital. For each of the persons listed in this Exhibit, please provide the following:

1. Full legal name.
2. Title or status.
3. Date title or status was acquired.
4. Approximate ownership interest.
5. Whether the person has control (as interpreted in subsection 1.3(2) of National Instrument 21-101 Marketplace Operation).

2. RULES

Exhibit F A copy of all by-laws, rules, policies and other similar instruments of the exchange or quotation and trade reporting system that are not included in Exhibit A.

3. SYSTEMS AND OPERATIONS

- Exhibit G** Describe the manner of operation of the System. This description should include the following:
1. A detailed description of the market, including how orders will be entered and trades executed (e.g., call market, auction market, dealer market). If more than one method of order entry or trade execution is being used, please describe.
 2. The means of access to the System.
 3. Procedures governing entry and display of quotations and orders in the System.
 4. Detailed description of the procedures governing the execution, reporting, clearance and settlement of transactions in connection with the System.
 5. The hours of operation of the System, and the date on which the exchange or quotation and trade reporting system intends to commence operation of the System.
 6. If the exchange or quotation and trade reporting system proposes to hold funds or securities on a regular basis, a description of the controls that will be implemented to ensure the safety of those funds or securities.
 7. Description of training provided to users of the System and any materials provided to the users.
 8. Description of current and future capacity estimates, contingency and business continuity plans and the procedures to review and test methodology of the system and to perform stress testing.

Exhibit H Provide a schedule for each of the following:

1. The securities listed on the exchange or quoted on the quotation and trade reporting system, indicating for each the name of the issuer and a description of the security and whether or not the issuer is suspended from trading. After the initial filing of this form, please provide a list of the changes to the securities listed on the exchange or quoted on the quotation and trade reporting system on a quarterly basis.
2. Other securities traded on the marketplace including, for each, the name of the issuer and a description of the security.

4. ACCESS

Exhibit I¹ A complete set of all forms pertaining to:

1. Filing required for participation in the exchange or quotation and trade reporting system.
2. Any other similar materials.

Exhibit J² A complete set of all forms, reports or questionnaires required of marketplace participants relating to financial responsibility or minimum capital requirements or other eligibility requirements for such marketplace participants. Provide a table of contents listing the forms included in this Exhibit and a narrative of the requirements.

Exhibit K Describe the exchange's or quotation and trade reporting system's criteria for participation in the exchange or quotation and trade reporting system. Describe conditions under which marketplace participants may be subject to suspension or termination with regard to access to the exchange or quotation and trade reporting system. Describe any procedures that will be involved in the suspension or termination of a member.

Exhibit L Provide an alphabetical list of all marketplace participants, including the following information:

1. Name.
2. Date of becoming a marketplace participant.
3. Principal business address and telephone number.
4. If a marketplace participant is an individual, the name of the entity with which such individual is associated and the relationship of such individual to the entity (e.g., partner, officer, director, employee, etc.).
5. Describe the type of trading activities primarily engaged in by the marketplace participant (e.g., agency trader, proprietary trader, registered trader, market maker). A person shall be "primarily engaged" in an activity or function for purposes of this item when that activity or function is the one in which that person is engaged for the majority of their time. When more than one type of person at an entity engages in any of the activities or functions enumerated in this item, identify each type (e.g., agency trades, registered trader and market maker) and state the number of marketplace participants in each.
6. The class of participation or other access.

5. LISTING CRITERIA

Exhibit M³ A complete set of documents comprising the exchange's or quotation and trade reporting system's listing or quotation filings, including any agreements required to be executed in connection with listing or quotation and a schedule of listing or quotation fees. If the exchange or quotation and trade reporting system does not list securities, provide a brief description of the criteria used to determine what securities may be traded on the exchange or quotation and trade reporting system. Provide a table of contents listing the forms included in this Exhibit and a narrative description of the listing requirements.

¹Exhibit I is to be provided only if not otherwise provided with Exhibit F.

²Exhibit J is to be provided only if not otherwise provided with Exhibit F or Exhibit I.

³The forms described in Exhibit M are to be provided only if not otherwise provided with Exhibit F.

6. FEES

Exhibit N A description of all fees to be paid by members to the exchange, including fees relating to connection to the system, access, data, regulation (if applicable) and how such fees are set.

7. FINANCIAL VIABILITY

Exhibit O⁴ For the latest financial year of the exchange or quotation and trade reporting system, audited financial statements of the exchange or quotation and trade reporting system and a report prepared by an independent auditor.

8. REGULATION

Exhibit P A description of the regulation performed by the exchange or quotation and trade reporting system, including the structure of the department performing regulation, how the department is funded, policies and procedures in place to ensure confidentiality and policies and procedures relating to conducting an investigation.

Exhibit Q If market regulation is conducted by a regulation services provider other than the filer, provide the contract between the filer and the regulation services provider.

Exhibit R If more than one entity is performing regulation services for a type of security and if the filer is conducting market regulation for itself and its members, provide the contract between the filer and the regulation services provider providing for co-ordinated monitoring and enforcement under section 7.5 of National Instrument 23-101.

⁴For a new exchange, future oriented financial information should be provided instead of the information specified in Exhibit O.

**CERTIFICATE OF EXCHANGE OR QUOTATION AND
TRADE REPORTING SYSTEM**

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this _____ day of _____ 20__

(Name of exchange or quotation and trade reporting system)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

NATIONAL INSTRUMENT 21-101
FORM 21-101F2
INITIAL OPERATION REPORT
ALTERNATIVE TRADING SYSTEM

TYPE OF FILING:

- INITIAL OPERATION REPORT** **AMENDMENT**

Identification:

- A. Full name of alternative trading system (if sole proprietor, last, first and middle name):
- B. Name(s) under which business is conducted, if different from item A:
- C. If this filing makes a name change on behalf of the alternative trading system in respect of the name set out in Item A or Item B, enter the previous name and the new name.
Previous name:
New name:
- D. Alternative trading system's main street address:
- E. Mailing address (if different):
- F. Address of head office (if different from address in item D):
- G. Business telephone and facsimile number:
(Telephone) (Facsimile)
- H. Website address:
- I. Contact Employee:
(Name and Title) (Telephone Number) (Facsimile) (E-mail address)

Rules and Policies

- J. The ATS is
- a member of _____
name of the recognized self-regulatory entity
 - a registered dealer
- K. If this is an initial operation report, the date the alternative trading system expects to commence operation:
- L. The ATS has contracted with [regulation services provider] to perform market regulation for the ATS and its subscribers.
- THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Initial Operation Report. For each Exhibit, include the name of the ATS, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

If the ATS files an amendment to the information provided in its Initial Operation Report and the information relates to an Exhibit filed with the Initial Operation Report or a subsequent amendment, the ATS must, in order to comply with subsection 6.4(2) or 6.4(3) of National Instrument 21-101, provide a description of the change and file a complete and updated Exhibit.

Exhibit A A description of classes of subscribers (e.g., dealer, institution, or retail). Also describe any differences in access to the services offered by the alternative trading system to different groups or classes of subscribers.

Exhibit B:

1. A list of the types of securities the alternative trading system trades (e.g., equity, debt) or if this is an initial operation report, the types of securities it expects to trade.
2. A list of each of the securities the alternative trading system trades, or if this is an initial operation report, the securities it expects to trade.

Exhibit C A detailed description of the market structure of the alternative trading system (e.g., call market, auction market, dealer market).

Exhibit D The name, address, telephone number, facsimile number and e-mail address of counsel for the alternative trading system.

Exhibit E A copy of the constating documents, including corporate by-laws and other similar documents, and all subsequent amendments.

Exhibit F The name of any person or company, other than the alternative trading system, that will be involved in the operation of the alternative trading system, including the execution, trading, clearing and settling of transactions on behalf of the alternative trading system. Provide a description of the role and responsibilities of each person or company.

Exhibit G The following information:

1. The manner of operation of the alternative trading system.
2. Procedures governing entry of orders into the alternative trading system.
3. The means of access to the alternative trading system.
4. Fees charged by the alternative trading system.
5. The procedures governing execution, reporting, clearance and settlement of transactions effected through the alternative trading system.
6. Procedures for ensuring subscriber compliance with requirements of the alternative trading system.

Rules and Policies

- 7. A description of safeguards and procedures implemented by the alternative trading system to protect subscribers' trading information.
- 8. Description of the training to be provided to users of the System and a copy of any materials provided.

Exhibit H A brief description of the alternative trading system's procedures for reviewing system capacity, security and contingency planning procedures.

Exhibit I If any other person or company, other than the alternative trading system, will hold or safeguard subscriber funds or securities on a regular basis, attach the name of the person or company and a brief description of the controls that will be implemented to ensure the safety of the funds and securities.

Exhibit J A list of the full legal name of registered holders and beneficial owners of securities of the alternative trading system.

Exhibit K A description of all material contracts executed by the alternative trading system.

Exhibit L A copy of the contract executed between the ATS and the regulation services provider.

Exhibit M The form of contract executed between the ATS and its subscribers.

Exhibit N The form of acknowledgement required by subsections 6.10(2) and 6.11(2) of National Instrument 21-101.

Exhibit O Description of the training to be provided to subscribers relating to the requirements set by the regulation services provider and a copy of any materials provided.

CERTIFICATE OF ALTERNATIVE TRADING SYSTEM

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this _____ day of _____ 20__

(Name of alternative trading system)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

NATIONAL INSTRUMENT 21-101
FORM 21-101F3
QUARTERLY REPORT OF ALTERNATIVE TRADING SYSTEM ACTIVITIES

Alternative Trading System Name: _____

Period covered by this report: _____ to _____

THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

1. Identification:

A. Full name of alternative trading system (if sole proprietor, last, first and middle name):

B. Name(s) under which business is conducted, if different from item 1A:

C. Alternative trading system's main street address:

2. Attach as Exhibit A, a list of all subscribers at any time during the period covered by this report.

3. Attach as Exhibit B, a list of all securities that were traded on the alternative trading system at any time during the period covered by this report.

4. (a) Provide the details requested in the form set out in the chart below for each type of security traded on the alternative trading system for transactions during regular trading hours during the quarter. Enter "None", "N/A" or "0" where appropriate.

(b) Provide the details requested in the form set out in the chart below for each type of security traded on the alternative trading system for transactions during after hours trading sessions during the quarter. Enter "None", "N/A" or "0" where appropriate.

Category of Securities	Average Daily Dollar Value of Trading Volume	Total Trading Volume	Total Number of Trades
A. Exchange-traded securities Equity securities Preferred securities Debt securities Options			
B. Unlisted debt securities - Government debt securities Domestic Foreign			
C. Unlisted debt securities - Corporate debt securities			

Rules and Policies

Category of Securities	Average Daily Dollar Value of Trading Volume	Total Trading Volume	Total Number of Trades
Domestic			
D. Foreign Exchange-Traded Securities Equity securities Preferred securities Debt securities Options			
E. Other Specify types of securities			

5. Provide the total trading volume for each security traded on the alternative trading system in the form set out in the chart below. Enter "None", "N/A" or "0" where appropriate.

Category of Securities	Total Trading Volume for Each Security
A. Exchange-traded securities Equity securities [name of securities] Preferred securities [name of securities] Debt securities [name of securities] Options [name of securities]	
B. Unlisted debt securities – Government debt securities Domestic [by issuer and maturity] Foreign [by issuer and maturity]	
C. Unlisted debt securities – Corporate debt securities Domestic [by issuer and maturity]	
D. Foreign Exchange-Traded Securities Equity securities [name of securities] Preferred securities [name of securities] Debt securities [name of securities] Options [name of securities]	
E. Other Specify securities	

6. Attach as Exhibit C, a list of all persons granted, denied, or limited access to the alternative trading system during the period covered by this report, designating for each person (a) whether they were granted, denied, or limited access; (b) the date the alternative trading system took such action; (c) the effective date of such action; and (d) the nature of any denial or limitation of access.

CERTIFICATE OF ALTERNATIVE TRADING SYSTEM

The undersigned certifies that the information given in this report relating to the alternative trading system is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of alternative trading system)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

NATIONAL INSTRUMENT 21-101
FORM 21-101F4
CESSATION OF OPERATIONS REPORT FOR
ALTERNATIVE TRADING SYSTEM

1. Identification:
 - A. Full name of alternative trading system (if sole proprietor, last, first and middle name):
 - B. Name(s) under which business is conducted, if different from item 1A:
 2. Date alternative trading system proposes to cease carrying on business as an ATS:
 3. If cessation of business was involuntary, date alternative trading system has ceased to carry on business as an ATS:
 4. Please check the appropriate box:
 - the ATS intends to carry on business as an exchange and has filed Form 21-101F1.
 - the ATS intends to cease to carry on business.
 - the ATS intends to become a member of an exchange.
- THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Cessation of Operations Report. For each exhibit, include the name of the ATS, the date of filing of the exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

Exhibit A The reasons for the alternative trading system ceasing to carry on business as an ATS.

Exhibit B A list of each of the securities the alternative trading system trades.

Exhibit C The amount of funds and securities, if any, held for subscribers by the alternative trading system, or another person or company retained by the alternative trading system to hold funds and securities for subscribers and the procedures in place to transfer or to return all funds and securities to subscribers.

CERTIFICATE OF ALTERNATIVE TRADING SYSTEM

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this _____ day of _____ 20__

(Name of alternative trading system)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

NATIONAL INSTRUMENT 21-101
FORM 21-101F5
INITIAL OPERATION REPORT FOR INFORMATION PROCESSOR

TYPE OF FILING:

- INITIAL FORM AMENDMENT

GENERAL INFORMATION

1. Full name of information processor:
2. Main street address (do not use a P.O. box):
3. Mailing address (if different):
4. Address of head office (if different from address in item 2):
5. Business telephone and facsimile number:

(Telephone) (Facsimile)
6. Website address:
7. Contact employee:

(Name and Title) (Telephone Number) (Facsimile) (E-mail address)
8. Counsel:

(Firm Name) (Contact Name) (Telephone Number) (Facsimile) (E-mail address)
9. Date of financial year-end:
10. List of all marketplaces, dealers or other parties for which the information processor is acting or for which it proposes to act as an information processor. For each marketplace, dealer or other party, provide a description of the function(s) which the information processor performs or proposes to perform.
11. List all types of securities for which information will be collected, processed, distributed or published by the information processor. For each such marketplace, dealer or other party, provide a list of all securities for which information with respect to quotations for, or transactions in, is or is proposed to be collected, processed, distributed or published.

BUSINESS ORGANIZATION

12. Legal status: Corporation Sole Proprietorship
 Partnership Other (specify):

Rules and Policies

Except where the information processor is a sole proprietorship, indicate the date and place where the information processor obtained its legal status (e.g., place of incorporation, place where partnership agreement was filed or where information processor was formed):

(a) Date (DD/MM/YYYY): _____ (b) Place of formation:

THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Initial Form. For each Exhibit, include the name of the information processor, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

If the information processor files an amendment to the information provided in its Initial Form, and the information relates to an Exhibit filed with the Initial Form or a subsequent amendment, the information processor must, in order to comply with sections 14.1 and 14.2 of National Instrument 21-101 provide a description of the change and file a complete and updated Exhibit.

1. CORPORATE GOVERNANCE

Exhibit A A copy of the constating documents, including corporate by-laws and other similar documents, and all subsequent amendments.

Exhibit B List any person or company who owns 10 percent or more of the information processor's stock or who, either directly or indirectly, through agreement or otherwise, in any other manner, may control or direct the management or policies of the information processor. Provide the full name and address of each such person and attach a copy of the agreement or, if there is none written, describe the agreement or basis through which such person exercises or may exercise such control or direction.

Exhibit C A list of the partners, officers, directors, governors, members of all standing committees or persons performing similar functions who presently hold or have held their offices or positions during the previous year, indicating the following for each:

1. Name.
2. Title.
3. Dates of commencement and expiry of present term of office or position and length of time the office or position held.
4. Type of business in which each is primarily engaged and current employer.
5. Type of business in which each was primarily engaged in the preceding five years, if different from that set out in item 4.
6. Whether the person is considered to be an independent director.

Exhibit D A narrative or graphic description of the organizational structure of the information processor.

Exhibit E A description of the personnel qualifications for each category of professional, non-professional and supervisory employee employed by the information processor. Detail whether the personnel are employed by the information processor or a third party.

Exhibit F For each affiliated entity of the information processor, and for any person or company with whom the information processor has a contractual or other agreement relating to the operations of the information processor, provide the following information:

1. Name and address of person or company.
2. Form of organization (e.g., association, corporation, partnership, etc.)

3. Name of location and statute citation under which organized. Date of incorporation in present form.
4. Brief description of nature and extent of affiliation or contractual or other agreement with the information processor.
5. Brief description of business or functions.
6. If a person or company has ceased to be an affiliated entity of the information processor during the previous year or ceased to have a contractual or other agreement relating to the operation of the information processor during the previous year, provide a brief statement of the reasons for termination of the relationship.

2. SYSTEMS AND OPERATIONS

Exhibit G Describe the manner of operation of the system (the "System") of the information processor that collects, processes, distributes and publishes information in accordance with National Instruments 21-101 and 23-101. This description should include the following:

1. The means of access to the System.
2. Procedures governing entry and display of quotations and orders in the System.
3. The hours of operation of the System.
4. Description of the training provided to users of the System and any materials provided to the users.
5. Description of current and future capacity estimates, contingency and business continuity plans and the procedures to review and test methodology of the system and to perform stress testing.

Exhibit H A description in narrative form of each service or function listed in Item 10 and performed by the information processor. Include a description of all procedures utilized for the collection, processing, distribution and publication of information with respect to quotations for, and transactions in, securities.

Exhibit I A list of all computer hardware utilized by the information processor to perform the services or functions listed in Item 10, indicating:

1. Manufacturer, and manufacturer's equipment and identification number.
2. Whether purchased or leased (if leased, duration of lease and any provisions for purchase or renewal).
3. Where such equipment (exclusive of terminals and other access devices) is physically located.

Exhibit J A description of the measures or procedures implemented by the information processor to provide for the security of any system employed to perform the functions of an information processor. Include a general description of any physical and operational safeguards designed to prevent unauthorized access to the system. Describe any measures used to verify the accuracy of information received or disseminated by the system.

Exhibit K Where the functions of an information processor are performed by automated facilities or systems, attach a description of:

1. All backup systems which are designed to prevent interruptions in the performance of any information providing functions as a result of technical malfunctions or otherwise in the system itself, in any permitted input or output system connection or as a result of any independent source,
2. Business continuity and contingency plans for the ongoing operations of the facilities or systems in the event of a catastrophe,
3. Each type of interruption which has lasted for more than two minutes and has occurred within the six (6) months preceding the date of the filing, including the date of each interruption, the cause and duration, and
4. The total number of interruptions which have lasted two minutes or less.

Exhibit L For each service or function listed in Item 10,

1. Quantify in appropriate units of measure the limits on the information processor's capacity to retrieve, collect, process, store or display the data elements included within each function.

2. Identify the factors (mechanical, electronic or other) which account for the current limitations reported in answer to 1. on the capacity to receive, collect, process, store or display the data elements included within each function.

3. FINANCIAL VIABILITY

Exhibit M Audited financial statements for the latest financial year of the information processor and a report prepared by an independent auditor. Please discuss the financial viability of the information processor in the context of having sufficient financial resources to properly perform its functions.

Exhibit N A business plan with pro forma financial statements and estimates of revenue.

4. FEES

Exhibit O A complete list of all fees and other charges imposed, or to be imposed, by or on behalf of the information processor for its information services, including the cost of establishing a connection that will provide information to the information processor.

5. ACCESS

Exhibit P Attach the following:

1. State the number of persons who presently subscribe or who have notified the information processor of their intention to subscribe to the services of the information processor.
2. For each instance during the past year in which any person has been prohibited or limited in respect of access to services offered by the information processor, indicate the name of each such person and the reason for the prohibition or limitation.

Exhibit Q The form of contract governing the terms by which persons may subscribe to the services of an information processor.

Exhibit R A description of any specifications, qualifications or other criteria which limit, are interpreted to limit or have the effect of limiting access to or use of any services provided by the information processor and state the reasons for imposing such specifications, qualifications or other criteria. This applies to limits relating to providing information to the information processor and the limits relating to accessing the consolidated feed distributed by the information processor.

Exhibit S Attach any specifications, qualifications or other criteria required of participants who supply securities information to the information processor for collection, processing for distribution or publication by the information processor.

CERTIFICATE OF INFORMATION PROCESSOR

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this ____ day of _____ 20__

(Name of information processor)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

NATIONAL INSTRUMENT 21-101
FORM 21-101F6
CESSATION OF OPERATIONS REPORT FOR
INFORMATION PROCESSOR

1. Identification:
 - A. Full name of information processor:

 - B. Name(s) under which business is conducted, if different from item 1A:

2. Date information processor proposes to cease carrying on business:

3. If cessation of business was involuntary, date information processor ceased to carry on business:
 THE FILER CONSENTS TO HAVING THE INFORMATION ON THIS FORM AND ATTACHED EXHIBITS PUBLICLY AVAILABLE.

EXHIBITS

File all Exhibits with the Cessation of Operations Report. For each Exhibit, include the name of the information processor, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect shall be furnished instead of such Exhibit.

Exhibit A The reasons for the information processor ceasing to carry on business.

Exhibit B A list of each of the securities the information processor displays.

CERTIFICATE OF INFORMATION PROCESSOR

The undersigned certifies that the information given in this report is true and correct.

DATED at _____ this _____ day of _____ 20__

(Name of information processor)

(Name of director, officer or partner - please type or print)

(Signature of director, officer or partner)

(Official capacity - please type or print)

**COMPANION POLICY 21-101CP
TO NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION**

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**COMPANION POLICY 21-101CP
TO NATIONAL INSTRUMENT 21-101
MARKETPLACE OPERATION**

PART 1 INTRODUCTION

1.1 Introduction - Traditionally, the Canadian securities regulatory authorities have regulated securities markets by regulating dealers, exchanges and, in some jurisdictions, quotation and trade reporting systems. In recent years, particularly in the United States, new types of markets have emerged that take different forms and trade securities in a different manner than on those markets. These entities are referred to as alternative trading systems. While the existing regulatory system will generally apply to the activities of these markets, there are instances where the existing regulatory system needs to be supplemented. Accordingly, the Canadian securities regulatory authorities have adopted National Instrument 21-101 Marketplace Operation (the "Instrument") to create an appropriate regulatory regime to deal with these new types of markets and to supplement the regime applicable to exchanges and quotation and trade reporting systems.

The purpose of this Companion Policy is to state the views of the Canadian securities regulatory authorities on various matters related to the Instrument, including:

- (a) a discussion of the general approach taken by the Canadian securities regulatory authorities in, and the general regulatory purpose for, the Instrument; and
- (b) the interpretation of various terms and provisions in the Instrument.

1.2 Definition of Exchange-Traded Security – Section 1.1 of the Instrument defines an "exchange-traded security" as a security that is listed on a recognized exchange or is quoted on a recognized quotation and trade reporting system or is listed on an exchange or quoted on a quotation and trade reporting system that is recognized for the purposes of NI 21-101 and NI 23-101. A security that is inter-listed would be considered to be an exchange-traded security. A security that is listed only on a foreign exchange or quoted only on a foreign quotation and trade reporting system falls within the definition of "foreign exchange-traded security".

1.3 Definition of Foreign Exchange-Traded Security – The definition of foreign exchange-traded security includes a reference to ordinary members of the International Organization of Securities Commissions (IOSCO). To determine the current list of ordinary members, reference should be made to the IOSCO website at www.iosco.org.

PART 2 MARKETPLACE

2.1 Marketplace

- (1) The Instrument uses the term "marketplace" to encompass the different types of trading systems that match trades.
- (2) Two of the characteristics of a "marketplace" are
 - (a) that it brings together orders for securities of multiple buyers and sellers; and
 - (b) that it uses established, non-discretionary methods under which the orders interact with each other.
- (3) The Canadian securities regulatory authorities consider that a person or company brings together orders for securities if it
 - (a) displays, or otherwise represents to marketplace participants, trading interests entered on the system; or
 - (b) receives orders centrally for processing and execution (regardless of the level of automation used).
- (4) The Canadian securities regulatory authorities are of the view that "established, non-discretionary methods" include any methods that dictate the terms of trading among the multiple buyers and sellers entering orders on the system. Such methods include providing a trading facility or setting rules governing trading among marketplace participants. Common examples include a traditional exchange and a computer system, whether comprised of software, hardware, protocols, or any combination thereof, through which orders interact, or any other trading mechanism that provides a means or location for the bringing together and execution of orders. Rules imposing execution priorities, such as time and price priority rules, would be "established, non-discretionary methods."
- (5) The Canadian securities regulatory authorities do not consider the following systems to be marketplaces for purposes of the Instrument:
 1. A system operated by a person or company that only permits one seller to sell its securities, such as a system that permits issuers to sell their own securities to investors.
 2. A system that merely routes orders for execution to a facility where the orders are executed.
 3. A system that posts information about trading interests, without facilities for execution.

In the first two cases, the criteria of multiple buyers and sellers would not be met. In the last two cases, routing systems and bulletin boards do not establish non-discretionary methods under which parties entering orders interact with each other.

- (6) A person or company operating any of the systems described in subsection (5) should consider whether the person or company is trading for the purposes of securities legislation and is required to be registered as a dealer under securities legislation.
- (7) Inter-dealer bond brokers have a choice as to how to be regulated under the Instrument and NI 23-101. Each inter-dealer bond broker can choose to be subject to IDA By-law No. 36 and IDA Regulation 2100, fall within the definition of inter-dealer bond broker in the Instrument and be subject to the transparency requirements of Part 8 of the Instrument. Alternatively, the inter-dealer bond broker can choose to be an ATS and comply with the provisions of the Instrument and NI 23-101 applicable to a marketplace and an ATS. An inter-dealer bond broker that chooses to be an ATS will not be subject to By-law No. 36 or IDA Regulation 2100, but will be subject to all other IDA requirements applicable to a dealer.

principal such as registered traders, specialists or market makers;

- (c) sets requirements governing the conduct of marketplace participants, in addition to those requirements set by the marketplace in respect of the method of trading or algorithm used by those marketplace participants to execute trades on the system (see subsection (3)); or
 - (d) disciplines marketplace participants, in addition to discipline by exclusion from trading, *i.e.*, the marketplace can levy fines or take enforcement action.
- (3) An ATS that requires a subscriber to agree to comply with the requirements of a regulation services provider as part of its contract with that subscriber is not setting "requirements governing the conduct of subscribers". In addition, marketplaces are not precluded from imposing credit conditions on subscribers or requiring subscribers to submit financial information to the marketplace.
 - (4) The criteria in subsection 3.1(2) are not exclusive and there may be other instances in which the Canadian securities regulatory authorities will consider a marketplace to be an exchange.

PART 3 CHARACTERISTICS OF EXCHANGES, QUOTATION AND TRADE REPORTING SYSTEMS AND ATSs

3.1 Exchange

- (1) Canadian securities legislation of most jurisdictions does not define the term "exchange".
- (2) The Canadian securities regulatory authorities generally consider a marketplace, other than a quotation and trade reporting system, to be an exchange for purposes of securities legislation, if the marketplace
 - (a) requires an issuer to enter into an agreement in order for the issuer's securities to trade on the marketplace, *i.e.*, the marketplace provides a listing function;
 - (b) provides, directly, or through one or more marketplace participants, a guarantee of a two-sided market for a security on a continuous or reasonably continuous basis, *i.e.*, the marketplace has one or more marketplace participants that guarantee that a bid and an ask will be posted for a security on a continuous or reasonably continuous basis. For example, this type of liquidity guarantee can be carried out on exchanges through traders acting as

3.2 Quotation and Trade Reporting System

- (1) Canadian securities legislation in certain jurisdictions contains the concept of a quotation and trade reporting system. A quotation and trade reporting system is defined under Canadian securities legislation in those jurisdictions as a person or company, other than an exchange or registered dealer, that operates facilities that permit the dissemination of price quotations for the purchase and sale of securities and reports of completed transactions in securities for the exclusive use of registered dealers. A person or company that carries on business as a vendor of market data or a bulletin board with no execution facilities would not normally be considered to be a quotation and trade reporting system.
- (2) A quotation and trade reporting system is considered to have "quoted" a security if
 - (a) the security has been subject to a listing or quoting process, and
 - (b) the issuer issuing the security or the dealer trading the security has entered into an agreement with the quotation and trade reporting system to list or quote the security.

3.3 Definition of an ATS

- (1) In order to be an ATS for the purposes of the Instrument, a marketplace cannot engage in certain activities or meet certain criteria such as
 - (a) requiring listing agreements,
 - (b) having one or more marketplace participants that guarantee that a two-sided market will be posted for a security on a continuous or reasonably continuous basis,
 - (c) setting requirements governing the conduct of subscribers, in addition to those requirements set by the marketplace in respect of the method of trading or algorithm used by those subscribers to execute trades on the system, and
 - (d) disciplining subscribers.

A marketplace, other than a quotation and trade reporting system, that engages in any of these activities or meets these criteria would, in the view of the Canadian securities regulatory authorities, be an exchange and would have to be recognized as such in order to carry on business, unless exempted from this requirement by the securities regulatory authorities.

- (2) An ATS can establish trading algorithms that provide that a trade takes place if certain events occur. These algorithms are not considered to be "requirements governing the conduct of subscribers".
- (3) A marketplace that would otherwise meet the definition of an ATS in the Instrument may apply to the Canadian securities regulatory authorities for recognition as an exchange.

3.4 Requirements Applicable to ATSs

- (1) Part 6 of the Instrument applies only to an ATS that is not a recognized exchange or a member of a recognized exchange or an exchange recognized for the purposes of the Instrument and NI 23-101. If an ATS is recognized as an exchange, the provisions of the Instrument relating to marketplaces and recognized exchanges apply.
- (2) If the ATS is a member of an exchange, the rules, policies and other similar instruments of the exchange apply to the ATS.
- (3) Under subsection 6.1(a) of the Instrument, an ATS that is not a member of a recognized exchange or an exchange recognized for the purposes of the Instrument and NI 23-101 must register as a dealer if it wishes to carry on business. Unless otherwise specified, an ATS registered as a dealer is subject to all of the

requirements applicable to dealers under Canadian securities legislation, including the requirements imposed by the Instrument and NI 23-101. An ATS will be carrying on business in a local jurisdiction if it provides direct access to subscribers located in that jurisdiction.

- (4) If an ATS registered as a dealer in one jurisdiction in Canada provides access in another jurisdiction in Canada to subscribers who are not registered dealers under securities legislation, the ATS must be registered in that other jurisdiction. However, if all of the ATS's subscribers in the other jurisdiction are registered as dealers in that other jurisdiction, the securities regulatory authority in the other jurisdiction may consider granting the ATS an exemption from the requirement to register as a dealer under subsection 6.1(a) of the Instrument and from the registration requirements of securities legislation. In determining if the exemption is in the public interest, a securities regulatory authority will consider a number of factors, including whether the ATS is registered in another jurisdiction and whether the ATS deals only with registered dealers in that jurisdiction.
- (5) Subsection 6.1(b) of the Instrument prohibits an ATS to which the provisions of the Instrument apply from carrying on business unless it is a member of a self-regulatory entity. Membership in a self-regulatory entity is required for purposes of membership in the Canadian Investor Protection Fund, capital requirements and clearing and settlement procedures. At this time, the IDA is the only entity that would come within the definition.
- (6) Subsection 6.7(1) of the Instrument requires an ATS to notify the securities regulatory authority if one of three thresholds is met or exceeded. Upon being informed that one of the thresholds is met or exceeded, the securities regulatory authority intends to review the ATS, its structure and operations in order to consider whether the person or company operating the ATS should be considered to be an exchange for purposes of securities legislation. The securities regulatory authority intends to conduct this review because each of these thresholds may be indicative of an ATS having market dominance over a type of security, such that it would be more appropriate that the ATS be regulated as an exchange. If more than one Canadian securities regulatory authority is conducting this review, the reviewing jurisdictions intend to coordinate their review. The volume thresholds referred to in subsection 6.7(1) and section 12.2 of the Instrument are based on the type of security. The Canadian securities regulatory authorities consider a type of security to refer to a distinctive category of security such as equity securities, preferred securities, debt securities or options.

- (7) The securities regulatory authorities will calculate and publish the calculation for the average daily dollar value of trading volume, the total trading volume and the total number of trades on all marketplaces for each calendar quarter for each type of security.
- (8) Subsections 6.10(2) and 6.11(2) of the Instrument require an ATS to obtain an acknowledgement from its subscribers. The acknowledgement may be obtained in a number of ways, including requesting the subscriber's signature or requesting that the subscriber initial an initial box or check a check-off box. This may be done electronically. The acknowledgement must be specific to the information required to be disclosed under the relevant subsection and must confirm that the subscriber has received the required disclosure. The Canadian securities regulatory authorities are of the view that it is the responsibility of the ATS to ensure that an acknowledgement is obtained from the subscriber in a timely manner.

PART 4 RECOGNITION AS AN EXCHANGE OR QUOTATION AND TRADE REPORTING SYSTEM

4.1 Recognition as an Exchange or Quotation and Trade Reporting System

- (1) In determining whether to recognize an exchange or quotation and trade reporting system, the Canadian securities regulatory authorities must determine whether it is in the public interest to do so.
- (2) In exercising this discretion, the Canadian securities regulatory authorities will look at a number of factors, including
 - (a) the manner in which the exchange or quotation and trade reporting system proposes to comply with the Instrument;
 - (b) whether the exchange or quotation and trade reporting system has fair and meaningful representation on its governing body, in the context of the nature and structure of the exchange or quotation and trade reporting system;
 - (c) whether the exchange or quotation and trade reporting system has sufficient financial resources for the proper performance of its functions; and
 - (d) whether the rules, policies and other similar instruments of the exchange or quotation and trade reporting system ensure that its business is conducted in an orderly manner so as to afford protection to investors.

PART 5 ORDERS

5.1 Orders

- (1) The term "order" is defined in section 1.1 of the Instrument as a firm indication by a person or company, acting as either principal or agent, of a willingness to buy or sell a security. By virtue of this definition, a marketplace that displays good faith, non-firm indications of interest, including, but not limited to, indications of interest to buy or sell a particular security without either prices or quantities associated with those indications, is not displaying "orders".
- (2) The label put on a transaction is not determinative of whether the transaction constitutes an order. Instead, whether or not an indication is "firm" will depend on what actually takes place between the buyer and seller. At a minimum, the Canadian securities regulatory authorities will consider an indication to be firm if it can be executed without further discussion between the person or company entering the indication and the counterparty. Even if the person or company must give its subsequent agreement to an execution, the Canadian securities regulatory authorities will still consider the indication to be firm if this subsequent agreement is always, or almost always, granted so that the agreement is largely a formality. For instance, an indication where there is a clear or prevailing presumption that a trade will take place at the indicated price, based on understandings or past dealings, will be viewed as an order.
- (3) A firm indication of a willingness to buy or sell a security includes bid or offer quotations, market orders, limit orders and any other priced orders. For the purpose of sections 7.1, 8.1 and 8.3 of the Instrument, the Canadian securities regulatory authorities do not consider special term orders such as all or none, minimum fill or cash or delay delivery to be firm indications.
- (4) The determination of whether an order has been placed does not turn on the level of automation used. Orders can be given over the telephone, as well as electronically.

PART 6 FORMS FILED BY MARKETPLACES

6.1 Forms Filed by Marketplaces

- (1) Subsection 3.1(1) of the Instrument requires an applicant for recognition as an exchange to file Form 21-101F1. This subsection does not apply to an exchange that was recognized before the Instrument came into force.
- (2) The forms filed by a marketplace under the Instrument will be open for public inspection unless the person or company filing the form

applies to the securities regulatory authority to keep the form confidential and the securities regulatory authority agrees to do so. In determining whether to keep a form confidential, the securities regulatory authority will look at the type of information on the form and determine whether the desirability of avoiding disclosure outweighs the desirability of public disclosure.

- (3) Under subsection 3.2(1) of the Instrument, at least 45 days prior to implementing a significant change to a matter set out in Form 21-101F1, a recognized exchange must file information describing the change or an amendment to the information provided in Form 21-101F1, in each case, in the manner set out in Form 21-101F1. In the view of the Canadian securities regulatory authorities, a significant change includes a change to the information contained in Exhibits A, B, G, I, J, K, M, N, P and Q of Form 21-101F1. This is also applicable to recognized quotation and trade reporting systems under subsection 4.2(1) of the Instrument.
- (4) A recognized exchange or recognized quotation and trade reporting system that files amendments to the information provided in Form 21-101F1 should number each filing consecutively.
- (5) Securities legislation or the terms and conditions of the recognition of the exchange or quotation and trade reporting system may require that a recognized exchange or recognized quotation and trade reporting system that is voluntarily surrendering its recognition file a notice or application with the securities regulatory authority.
- (6) Under subsection 6.4(2) of the Instrument, at least 45 days prior to implementing a significant change to a matter set out in Form 21-101F2, an ATS is required to file an amendment to the information provided in Form 21-101F2 in the manner set out in Form 21-101F2. The Canadian securities regulatory authorities consider that a significant change includes any change to the operating platform of an ATS, the types of securities traded, or the types of subscribers.
- (7) Subsection 6.4(4) of the Instrument requires an ATS to file Form 21-101F3 by the following dates: April 30 (for the quarter ending March 31), July 30 (for the quarter ending June 30), October 30 (for the quarter ending September 30) and January 30 (for the quarter ending December 31).
- (8) If an ATS files notice of its intention to carry on exchange activities pursuant to section 6.6 of the Instrument, and the ATS intends to begin to carry on business as an exchange, the ATS is required to file Form 21-101F1.

6.2 Forms Filed in Electronic Format – The Canadian securities regulatory authorities request that all forms and exhibits required to be filed under the Instrument be filed in electronic format, where possible.

PART 7 CERTAIN REQUIREMENTS APPLICABLE ONLY TO EXCHANGES AND QUOTATION AND TRADE REPORTING SYSTEMS

7.1 Access Requirements - Section 5.1 of the Instrument sets out access requirements that apply to a recognized exchange and a recognized quotation and trade reporting system. The Canadian securities regulatory authorities note that the requirements regarding access for members do not, however, restrict the authority of an exchange or quotation and trade reporting system to maintain reasonable standards for access.

7.2 Compliance Rules - Section 5.4 of the Instrument requires a recognized exchange and recognized quotation and trade reporting system to have appropriate procedures to deal with violations of rules, policies or other similar instruments of the exchange or quotation and trade reporting system. This section does not preclude enforcement action by any other person or company, including the Canadian securities regulatory authorities or the regulation services provider.

7.3 Filing of Rules - Section 5.5 of the Instrument requires a recognized exchange and recognized quotation and trade reporting system to file all rules, policies and other similar instruments and amendments as required by the securities regulatory authority. Initially, all rules, policies and other similar instruments will be reviewed before implementation by the exchange or quotation and trade reporting system. It is the intention of the securities regulatory authority to develop and implement a protocol that will set out the procedures to be followed with respect to the review and approval of rules, policies and other similar instruments and amendments.

PART 8 CONFIDENTIAL TREATMENT OF TRADING INFORMATION BY ATSS

8.1 Confidential Treatment of Trading Information by ATSS

- (1) Subsection 6.8(2) of the Instrument provides that an ATS shall not carry on business as an ATS unless it has implemented reasonable safeguards and procedures to protect a subscriber's trading information. These include
 - (a) limiting access to the trading information of subscribers, such as the identity of subscribers and their orders, to those employees of, or persons or companies retained by, the ATS to operate the system or to be responsible for its compliance with Canadian securities legislation; and

- (b) having in place procedures to ensure that employees of the ATS cannot use such information for trading in their own accounts.
- (2) The procedures referred to in subsection (1) should be clear and unambiguous and presented to all employees and agents of the ATS, whether or not they have direct responsibility for the operation of the ATS.
- (3) Nothing in section 6.8 of the Instrument prohibits an ATS from complying with National Policy 41 Shareholder Communication, or its successor instrument. This statement is necessary because an investment dealer that operates an ATS may be an intermediary for the purposes of National Policy 41, or its successor instrument, and may be required to disclose information under that Instrument.

PART 9 INFORMATION TRANSPARENCY REQUIREMENTS FOR MARKETPLACES DEALING IN EXCHANGE-TRADED SECURITIES AND FOREIGN EXCHANGE-TRADED SECURITIES

9.1 Information Transparency Requirements for Marketplaces Dealing in Exchange-Traded Securities and Foreign Exchange-Traded Securities

- (1) Subsection 7.1(1) of the Instrument requires a marketplace that displays orders of exchange-traded securities or foreign exchange-traded securities to any person or company to provide to an information processor information regarding such orders as required by the information processor. It is expected that, initially, an information processor will receive information regarding the type, the issuer, the class, the symbol and the series of the security, the five best bid prices and the five best ask prices for each exchange-traded security or foreign exchange-traded security other than an option and the total disclosed volume at each of those prices. In addition, an information processor will receive information regarding the underlying interest, the expiry month, the strike price, the best bid price and the best ask price for each option traded and the total disclosed volume at each of those prices. The "best bid price" refers to the highest price of an order to buy a particular security. The "best ask price" for a security refers to the lowest price of an order to sell a particular security. The term "total disclosed volume" refers to the amount of the orders that is displayed in the marketplace. Volumes that are not disclosed or that are "reserve" or hidden volumes are not required to be displayed. An information processor may determine that additional or different information should be received and displayed.

- (2) The Canadian securities regulatory authorities are of the view that the requirements in sections 7.1 and 7.2 are a means to provide an accurate and timely representation of the Canadian securities market, including order and trade information for foreign exchange-traded securities traded on Canadian marketplaces.
- (3) The Canadian securities regulatory authorities expect that information required to be provided to an information processor under the Instrument will be provided in real-time or as close to real-time as possible.
- (4) Section 7.2 of the Instrument requires the marketplace to provide accurate and timely information regarding details of all trades of exchange-traded securities or foreign exchange-traded securities to an information processor as required by the information processor. For each exchange-traded security or foreign exchange-traded security other than an option, this information includes details as to the type, issuer, class and series of the security, the volume traded, the symbol, the price and time of the trade and any other information required by the information processor. For an option, this information includes details as to the underlying interest, the expiry month, whether the option is a put or a call, the strike price, the volume traded, the price and the time of the trade and any other information required by the information processor.

- 9.2 Consolidated Feed** - Section 7.3 of the Instrument requires an information processor to produce a consolidated feed in real-time showing the information provided to the information processor. The consolidated feed will consist of the best five bid prices and the best five ask prices transmitted to it for each security and all of the trade information provided by marketplaces pursuant to Part 7 of the Instrument. Special terms orders will not be included in the consolidated feed. It is up to the marketplace to determine whether broker identification numbers will be provided to the information processor for inclusion in the consolidated feed.

PART 10 INFORMATION TRANSPARENCY REQUIREMENTS FOR UNLISTED DEBT SECURITIES

10.1 Information Transparency Requirements for Marketplaces Dealing in Unlisted Debt Securities

- (1) Subsection 8.1(1) of the Instrument requires marketplaces that display orders of unlisted debt securities to provide to an information processor information regarding such orders as required by the information processor. It is intended that marketplaces will provide information to the information processor relating to all orders of unlisted debt securities that are displayed on the marketplace.

- (2) Initially, the Canadian securities regulatory authorities expect that the information processor will require a marketplace to provide order information for all unlisted debt securities traded on the marketplace, including details as to the type, the issuer, the coupon, and the maturity of security, the best bid price, the best ask price and the total disclosed volume at those prices. The "best bid price" refers to the highest price of an order to buy a particular security. The "best ask price" for a security refers to the lowest price of an order to sell a particular security. The term "total disclosed volume" refers to the amount of the orders that is displayed in the marketplace. Volumes that are not disclosed or that are "reserve" or hidden volumes are not required to be displayed. The information processor may determine that additional or different information should be received and displayed. It is up to the marketplace to determine whether broker identification numbers will be provided to the information processor for inclusion in the consolidated feed.
- (3) Section 8.2 of the Instrument requires the marketplace to provide to the information processor accurate and timely information regarding details of all trades of unlisted debt securities as required by the information processor. This information includes details as to the type, issuer, class and series of the security, the volume traded, the price and the time of the trade and any additional information required by the information processor.
- (4) The Canadian securities regulatory authorities expect that information required to be provided to an information processor under sections 8.1 and 8.2 of the Instrument will be provided in real-time or as close to real-time as possible.

10.2 Information Transparency Requirements for Inter-Dealer Bond Brokers and Dealers Trading Unlisted Debt Securities

- (1) Section 8.3 of the Instrument requires an inter-dealer bond broker to provide to an information processor accurate and timely information regarding orders for government debt securities traded through the inter-dealer bond broker as required by the information processor.
- (2) Initially, the information processor will require an inter-dealer bond broker to provide order information for certain benchmark and designated government debt securities traded through the inter-dealer bond broker, including details as to the type, the issuer, the coupon, and the maturity of security, the best bid price, the best ask price and the total disclosed volume at those prices. The discussion of the meaning of these terms is in subsection 10.1(2).
- (3) Section 8.4 of the Instrument requires an inter-dealer bond broker to provide to an information

processor accurate and timely information regarding details of trades of unlisted debt securities executed through the inter-dealer bond broker as required by the information processor. This requirement applies to both government debt securities and corporate debt securities.

- (4) Section 8.5 requires a dealer executing trades of corporate debt securities outside of a marketplace to provide to an information processor accurate and timely information regarding details of trades of corporate debt securities executed by or through the dealer as required by the information processor.
- (5) Initially, inter-dealer bond brokers will have to provide information regarding details of trades of certain benchmark and designated government debt securities including details as to the type, the issuer, the series, the coupon and the maturity of the security, the volume traded, the price and time of the trade and any additional information required by the information processor.
- (6) Initially, inter-dealer bond brokers and dealers will have to provide information regarding details of trades of certain designated corporate debt securities. This will include details as to the type, the issuer, the class, the series, the coupon and the maturity, the price and time of the trade and any additional information required by the information processor. The price of the security will include any mark-up or mark-down.
- (7) For investment grade corporate debt securities, inter-dealer bond brokers and dealers will have to provide the actual quantity of bonds traded if the total par value of the trade is \$2 million or less. For a trade with a par value above \$2 million, the volume will be disseminated as "\$2million+". An "investment grade corporate debt security" is a corporate debt security that is rated by one of the listed rating organizations at or above one of the following rating categories or a rating category that preceded or replaces a category listed below:

Rating Organization	Long Term Debt	Short Term Debt
Fitch, Inc.	BBB	F3
Dominion Bond Rating Service Limited	BBB	R-2
Moody's Investors Service, Inc.	Baa	Prime-3
Standard & Poors Corporation	BBB	A-3

- (8) For non-investment grade corporate debt securities, inter-dealer bond brokers and dealers will have to provide the actual quantity of bonds traded if the total par value of the trade is \$200,000 or less. For a trade with a par value above \$200,000, the volume will be

disseminated as "\$200,000+". A "non-investment grade corporate debt security" is a corporate debt security that is not an investment grade corporate debt security.

- (9) The information processor will publish the list of benchmark and designated government debt securities and the list of corporate debt securities.
- (10) Order and trade information regarding government debt securities traded through an inter-dealer bond broker will be provided to the information processor in real-time or as close to real-time as possible. Initially, trade information regarding corporate debt securities traded through an inter-dealer bond broker or by or through a dealer will be provided within one hour of the trade.

10.3 Consolidated Feed - Section 8.6 of the Instrument requires the information processor to produce a consolidated feed in real-time showing the information provided to the information processor.

PART 11 MARKET INTEGRATION

11.1 Phased Implementation

- (1) As market integration is a complex task and raises some significant technology challenges, the Canadian securities regulatory authorities believe that a phased approach to market integration is preferable. Accordingly, subsection 9.2(1) and section 9.3 of the Instrument provide the requirements for the first phase of market integration ("Phase 1 Integration"). The Phase 1 Integration requirements will be in place before January 1, 2004. On and after January 1, 2004, a marketplace must either enter into an agreement with a market integrator or, if there is no market integrator, a marketplace must establish an electronic connection to all other marketplaces ("Phase 2 Integration").
- (2) Phase 1 Integration will require any marketplace that wishes to operate in Canada to establish an electronic connection to the principal market for each security being traded on its system before executing a trade of that security.
- (3) Following the enactment of the Instrument and each year, an information processor that receives information regarding a security will determine the marketplace that had the largest trading volume for that security in that calendar year, notify in writing each marketplace that trades that security of the marketplace determined to be the principal market and publish the name of that marketplace. If there is no information processor, the Canadian securities regulatory authorities will determine the principal market for each security and will make that determination publicly available.

- (4) Section 9.3(2) of the Instrument provides that a marketplace does not have to be connected to the principal market if the principal market for a security as determined is different from the previous principal market, the marketplace is connected to the previous principal market and the trade occurs within 30 days of the date the marketplace receives written notice of the principal market from the information processor or securities regulatory authorities. This is a transition provision that gives a marketplace thirty days to connect to the principal market.
- (5) Phase 2 Integration will establish more complete market integration and order routing between all marketplaces in order to ensure that there will be price protection for all orders between all competing marketplaces. Market integration may be achieved by establishing a market integrator or extending the requirement to link to the principal market by requiring all marketplaces to link with each other. Each marketplace will send orders to other systems by way of a direct connection or through a market integrator. Each system will maintain control over its own orders and will have responsibility for managing order execution.

11.2

Execution of Orders - Subsection 9.4(1) of the Instrument requires a marketplace, when receiving an order from another marketplace, to apply its own rules to the execution of that order. This requirement applies during both Phase 1 Integration and Phase 2 Integration. This requires a marketplace that displays orders through an information processor to provide access to its passive booked orders. When an active order is routed to the system in which the passive order is booked, then execution will be completed according to the rules of the system in which the passive order is booked. A passive order is an order that has been placed in the order book because it was not executable at time of entry and is now waiting to be executed. An active order is an order that comes into the market seeking a counterparty that is either a market order or an executable limit order (a buy order with a limit at or above the present ask price or a sell order with a limit at or below the present bid price).

11.3

Equivalent Access

- (1) The Canadian securities regulatory authorities believe that a marketplace participant should be able to execute against another marketplace's order that is provided to an information processor to the same extent as if that order had been reflected in the marketplace in which the marketplace participant is a member, a user or a subscriber. Accordingly, subsection 9.4(2) of the Instrument requires a marketplace to be able to receive from or send orders to other marketplaces to which it is linked.
- (2) Examples of where the Canadian securities regulatory authorities would consider a

marketplace not to be in compliance with subsection 9.4(2) of the Instrument include

- (a) the marketplace responding to orders entered by a person or company that is not a marketplace participant in that marketplace more slowly than it responds to orders by a marketplace participant in that marketplace;
- (b) the marketplace using different technology to execute orders entered by a person or company that is not a marketplace participant in that marketplace, if that technology would not provide an equivalent service to orders entered by a marketplace participant in that marketplace; or
- (c) the marketplace charging fees that have the effect of creating barriers to access for a person or company that is not a marketplace participant in that marketplace.

(3) The Canadian securities regulatory authorities will not consider a marketplace to be in breach of subsection 9.4(2) of the Instrument merely because it has a different fee structure for persons or companies that are not marketplace participants in the marketplace. Instead the Canadian securities regulatory authorities will look at whether the different fee structure can be justified or whether it has only been implemented in order to create a barrier to access for those persons or companies.

11.4 Establishing a Market Integrator – When choosing a market integrator, the Canadian securities regulatory authorities will look at a number of factors, including,

- (a) the performance capability, standards and procedures for providing access to orders in various marketplaces;
- (b) whether all marketplaces may obtain access to the market integrator on fair and reasonable terms which are not unreasonably discriminatory;
- (c) personnel qualifications; and
- (d) whether the market integrator has sufficient financial resources for the proper performance of its functions.

PART 12 DISCLOSURE OF TRANSACTION FEES FOR MARKETPLACES

12.1 Disclosure of Transaction Fees for Marketplaces - Section 10.1 of the Instrument requires that each marketplace disclose the schedule of transaction fees to an information processor. It is not the intention of the Canadian securities regulatory authorities that a commission fee charged by a

dealer for dealer services be disclosed to an information processor. Each marketplace is required to publicly post with an information processor a schedule of all trading fees that are applicable to outside marketplace participants that are accessing an order and executing a trade displayed through an information processor. The requirement to disclose transaction fees does not require a combined price calculation by each marketplace.

PART 13 RECORDKEEPING REQUIREMENTS FOR MARKETPLACES

13.1 Recordkeeping Requirements for Marketplaces - Part 11 of the Instrument requires a marketplace to maintain certain records. Generally, under provisions of Canadian securities legislation, the Canadian securities regulatory authorities can require a marketplace to deliver to them any of the records required to be kept by them under securities legislation, including the records required to be maintained under Part 11.

13.2 Synchronization of Clocks – Subsection 11.5(1) requires a marketplace trading exchange-traded securities or foreign exchange-traded securities, an information processor receiving information about those securities, a dealer trading those securities and a regulation services provider monitoring the activities of marketplaces trading those securities shall synchronize their clocks. Subsection 11.5(2) requires a marketplace trading corporate debt securities or government debt securities, an information processor receiving information about those securities, a dealer trading those securities, an inter-dealer bond broker trading those securities and a regulation services provider monitoring the activities of marketplaces, inter-dealer bond brokers or dealers trading those securities shall synchronize their clocks. The Canadian securities regulatory authorities are of the view that synchronization means that in most circumstances, the clocks will be within 2 seconds of each other. The clocks should be checked at least daily for synchronization and should be adjusted on a weekly basis. For exchange-traded securities and foreign exchange-traded securities, the marketplaces, information processor, dealers and regulation services provider should select an appropriate national time standard to be used by all parties to synchronize the clocks. For unlisted debt securities, the marketplaces, information processor, dealers and regulation services provider should select an appropriate national time standard to be used by all parties to synchronize the clocks.

PART 14 CAPACITY, INTEGRITY AND SECURITY OF MARKETPLACE SYSTEMS

14.1 Capacity, Integrity and Security of Marketplace Systems

- (1) Subsection (a) of section 12.1 of the Instrument requires a marketplace to meet certain systems,

capacity, integrity and security standards. Subsections (b) and (c) of section 12.1 of the Instrument require a recognized exchange, a recognized quotation and trade reporting system and an ATS that exceeds the threshold in section 12.2 of the Instrument to meet certain additional systems, capacity, integrity and security standards.

- (2) The activities in subsection (a) of section 12.1 of the Instrument must be carried out at least once a year. The Canadian securities regulatory authorities would expect these activities to be carried out even more frequently if there is a change to the marketplace that is material either in terms of structure or volume of trading that necessitates that these functions be carried out more frequently in order to ensure that the marketplace can appropriately service its marketplace participants.
- (3) The independent review contemplated by subsection (b) of section 12.1 of the Instrument should be performed by competent, independent audit personnel following established audit procedures and standards.
- (4) An ATS becomes subject to subsections (b) and (c) of section 12.1 of the Instrument after it first satisfies the trading volume test in section 12.2 of the Instrument. It remains subject to subsections (b) and (c) of section 12.1 even if, thereafter, it no longer satisfies the trading volume test, unless it is successful in obtaining relief under section 15.1 of the Instrument.

PART 15 CLEARING AND SETTLEMENT

15.1 Clearing and Settlement - Subsection 13.1(1) of the Instrument requires that all trades executed through an ATS shall be reported and settled through a clearing agency. Subsections 13.1(2) and (3) of the Instrument require that an ATS and its subscriber enter into an agreement that specifies which entity will report and settle the trades of securities. If the subscriber is registered as a dealer under securities legislation, either the ATS, the subscriber or an agent for the subscriber that is a member of a clearing agency may report and settle trades. If the subscriber is not registered as a dealer under securities legislation, either the ATS or an agent for the subscriber that is a clearing member of a clearing agency may report and settle trades. The ATS is responsible for ensuring that an agreement with the subscriber is in place before any trade is executed for the subscriber. If the agreement is not in place at the time of the execution of the trade, the ATS is responsible for clearing and settling that trade if a default occurs.

PART 16 INFORMATION PROCESSOR

16.1 Information Processor

- (1) The Canadian securities regulatory authorities believe that it is important for those who trade to have access to accurate information on the prices at which trades in particular securities are taking place (i.e., last sale reports) and the prices at which others have expressed their willingness to buy or sell (i.e., orders).
- (2) The purpose of an information processor is to ensure the availability of prompt and accurate order and trade information and to guarantee fair access to the information.

16.2 Selection of an Information Processor

- (1) The Canadian securities regulatory authorities will review Form 21-101F5 to determine whether it is contrary to the public interest for the person or company who filed the form to act as an information processor. The Canadian securities regulatory authorities will look at a number of factors when reviewing the form filed, including,
 - (a) the performance capability, standards and procedures for the collection, processing, distribution, and publication of information with respect to orders for, and trades in, securities;
 - (b) whether all marketplaces may obtain access to the information processor on fair and reasonable terms which are not unreasonably discriminatory;
 - (c) personnel qualifications;
 - (d) whether the information processor has sufficient financial resources for the proper performance of its functions;
 - (e) the existence of another entity performing the proposed function for the same type of security;
 - (f) the systems report referred to in subsection 14.5(b) of the Instrument.
- (2) The Canadian securities regulatory authorities request that the forms and exhibits be filed in electronic format, where possible.

16.3 Change to Information - Under subsection 14.2(1) of the Instrument, an information processor is required to file an amendment to the information provided in Form 21-101F5 at least 45 days before implementing a significant change involving a matter set out in Form 21-101F5, in the manner set out in Form 21-101F5. In the view of the Canadian securities regulatory authorities, a significant change includes a change to the information contained in Exhibits A, B, F, G, H, O, P, Q, R and S and Item 10 of Form 21-101F5.

**NATIONAL INSTRUMENT 23-101
TRADING RULES**

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- 12.1 Exemption

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- 13.1 Effective Date

**NATIONAL INSTRUMENT 23-101
TRADING RULES**

PART 1 DEFINITION AND INTERPRETATION

1.1 Definition - In this Instrument

"NI 21-101" means National Instrument 21-101 Marketplace Operation;

1.2 Interpretation - NI 21-101 – Terms defined or interpreted in NI 21-101 and used in this Instrument have the respective meanings ascribed to them in NI 21-101.

PART 2 APPLICATION OF THIS INSTRUMENT

2.1 Application of this Instrument – A person or company is exempt from subsection 3.1(1) and Parts 4 and 5 if the person or company complies with the rules, policies and other similar instruments established by

- (a) a recognized exchange that monitors and enforces the requirements set under subsection 7.1(1) directly;
- (b) a recognized quotation and trade reporting system that monitors and enforces requirements set under subsection 7.3(1) directly; or
- (c) a regulation services provider.

PART 3 MANIPULATION AND FRAUD

3.1 Manipulation and Fraud

- (1) A person or company shall not, directly or indirectly, engage in, or participate in any transaction or series of transactions, or method of trading relating to a trade in or acquisition of a security or any act, practice or course of conduct, if the person or company knows, or ought reasonably to know, that the transaction or series of transactions, or method of trading or act, practice or course of conduct
 - (a) results in or contributes to a misleading appearance of trading activity in, or an artificial price for, a security or a derivative of that security; or
 - (b) perpetrates a fraud on any person or company.
- (2) In Alberta, British Columbia and Saskatchewan, instead of subsection (1), the provisions of the *Securities Act* (Alberta), the *Securities Act* (British Columbia) and *The Securities Act, 1988* (Saskatchewan), respectively, relating to manipulation and fraud apply.

PART 4 BEST EXECUTION

4.1 Application of this Part - This Part does not apply to a dealer that is carrying on business as an ATS in compliance with section 6.1 of NI 21-101.

4.2 Best Execution

- (1) A dealer acting as agent for a client shall make reasonable efforts to ensure that the client receives the best execution price on a purchase or sale of securities by the client.
- (2) Without limiting the generality of subsection (1), a dealer acting as agent for a client shall not execute a transaction on a marketplace that could be filled at a better price on another marketplace or with another dealer.
- (3) In order to satisfy the requirements in subsections (1) and (2), a dealer shall make reasonable efforts to use facilities providing information regarding orders.

PART 5 REGULATORY HALTS

5.1 Regulatory Halts - If a regulation services provider, a recognized exchange, recognized quotation and trade reporting system or an exchange or quotation and trade reporting system that has been recognized for the purposes of this Instrument and NI 21-101 makes a decision to prohibit trading in a particular security, no person or company shall execute a trade for the purchase or sale of that security during the period in which the prohibition is in place.

PART 6 TRADING HOURS

6.1 Trading Hours - Each marketplace shall set requirements in respect of the hours of trading to be observed by marketplace participants.

PART 7 MONITORING AND ENFORCEMENT OF REQUIREMENTS SET BY A RECOGNIZED EXCHANGE AND A RECOGNIZED QUOTATION AND TRADE REPORTING SYSTEM

7.1 Requirements for a Recognized Exchange

- (1) A recognized exchange shall set requirements governing the conduct of its members, including requirements that the members will conduct trading activities in compliance with this Instrument.
- (2) A recognized exchange shall monitor the conduct of its members and enforce the requirements set under subsection (1), either
 - (a) directly, or

- (b) indirectly through a regulation services provider.

7.2 Agreement between a Recognized Exchange and a Regulation Services Provider – A recognized exchange that monitors the conduct of its members indirectly through a regulation services provider shall enter into a written agreement with the regulation services provider that provides

- (a) that the regulation services provider will monitor the conduct of the recognized exchange and its members;
- (b) that the regulation services provider will enforce the requirements set under subsection 7.1(1);
- (c) that the recognized exchange will transmit the information required by Part 11 of NI 21-101 to the regulation services provider; and
- (d) that the recognized exchange will comply with all orders or directions made by the regulation services provider.

7.3 Requirements for a Recognized Quotation and Trade Reporting System

- (1) A recognized quotation and trade reporting system shall set requirements governing the conduct of its users, including requirements that the users will conduct trading activities in compliance with this Instrument.
- (2) A recognized quotation and trade reporting system shall monitor the conduct of its users and enforce the requirements set under subsection (1) either
 - (a) directly; or
 - (b) indirectly through a regulation services provider.

7.4 Agreement between a Recognized Quotation and Trade Reporting System and a Regulation Services Provider – A recognized quotation and trade reporting system that monitors the conduct of its users indirectly through a regulation services provider shall enter into a written agreement with the regulation services provider that provides

- (a) that the regulation services provider will monitor the conduct of the recognized quotation and trade reporting system and its users;
- (b) that the regulation services provider will enforce the requirements set under subsection 7.3(1);
- (c) that the recognized quotation and trade reporting system will transmit the information required by Part 11 of NI 21-101 to the regulation services provider; and

- (d) that the recognized quotation and trade reporting system will comply with all orders or directions made by the regulation services provider.

7.5 Co-ordination of Monitoring and Enforcement – A regulation services provider, recognized exchange, or recognized quotation and trade reporting system shall enter into a written agreement with all other regulation services providers, recognized exchanges, and recognized quotation and trade reporting systems to coordinate monitoring and enforcement of the requirements set under this Part.

PART 8 MONITORING AND ENFORCEMENT REQUIREMENTS FOR AN ATS

8.1 Pre-condition to Trading on an ATS - An ATS shall not execute a subscriber's order to buy or sell securities unless the ATS has executed and is subject to the written agreements required by sections 8.3 and 8.4.

8.2 Requirements Set by a Regulation Services Provider for an ATS

- (1) A regulation services provider shall set requirements governing an ATS and its subscribers, including requirements that the ATS and its subscribers will conduct trading activities in compliance with this Instrument.
- (2) A regulation services provider shall monitor the conduct of an ATS and its subscribers and shall enforce the requirements set under subsection (1).

8.3 Agreement between an ATS and a Regulation Services Provider - An ATS and a regulation services provider shall enter into a written agreement that provides

- (a) that the ATS will conduct its trading activities in compliance with the requirements set under subsection 8.2(1);
- (b) that the regulation services provider will monitor the conduct of the ATS and its subscribers;
- (c) that the regulation services provider will enforce the requirements set under subsection 8.2(1);
- (d) that the ATS will transmit the information required by Part 11 of NI 21-101 to the regulation services provider; and
- (e) that the ATS will comply with all orders or directions made by the regulation services provider.

8.4 Agreement between an ATS and its Subscriber - An ATS and its subscriber shall enter into a written agreement that provides

- (a) that the subscriber will conduct its trading activities in compliance with the requirements set under subsection 8.2(1);
- (b) that the subscriber acknowledges that the regulation services provider will monitor the conduct of the subscriber and enforce the requirements set under subsection 8.2(1);
- (c) that the subscriber will comply with all orders or directions made by the regulation services provider, including orders excluding the subscriber from trading on any marketplace.

8.5 Exemption for an ATS Executing Trades in Unlisted Debt Securities

- (1) Sections 8.1, 8.2, 8.3 and 8.4 do not apply to an ATS executing trades in unlisted debt securities, if the ATS complies with the requirements of IDA Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets, as amended.
- (2) Subsection (1) does not apply after December 31, 2003.

PART 9 MONITORING AND ENFORCEMENT REQUIREMENTS FOR AN INTER-DEALER BOND BROKER

9.1 Requirements Set by a Regulation Services Provider for an Inter-Dealer Bond Broker

- (1) A regulation services provider shall set requirements governing an inter-dealer bond broker, including requirements that the inter-dealer bond broker will conduct trading activities in compliance with this Instrument.
- (2) A regulation services provider shall monitor the conduct of an inter-dealer bond broker and shall enforce the requirements set under subsection (1).

9.2 Agreement between an Inter-Dealer Bond Broker and a Regulation Services Provider - An inter-dealer bond broker and a regulation services provider shall enter into a written agreement that provides

- (a) that the inter-dealer bond broker will conduct its trading activities in compliance with the requirements set under subsection 9.1(1);
- (b) that the regulation services provider will monitor the conduct of the inter-dealer bond broker;
- (c) that the regulation services provider will enforce the requirements set under subsection 9.1(1); and
- (d) that the inter-dealer bond broker will comply with all orders or directions made by the regulation services provider.

9.3 Exemption for an Inter-Dealer Bond Broker

- (1) Sections 9.1 and 9.2 do not apply to an inter-dealer bond broker, if the inter-dealer bond broker complies with the requirements of IDA Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets, as amended.
- (2) Subsection (1) does not apply after December 31, 2003.

PART 10 MONITORING AND ENFORCEMENT REQUIREMENTS FOR A DEALER EXECUTING TRADES OF UNLISTED DEBT SECURITIES OUTSIDE OF A MARKETPLACE

10.1 Requirements Set by a Regulation Services Provider for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace

- (1) A regulation services provider shall set requirements governing a dealer executing trades of unlisted debt securities outside of a marketplace, including requirements that the dealer will conduct trading activities in compliance with this Instrument.
- (2) A regulation services provider shall monitor the conduct of a dealer executing trades of unlisted debt securities outside of a marketplace and shall enforce the requirements set under subsection (1).

10.2 Agreement between a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace and a Regulation Services Provider - A dealer executing trades of unlisted debt securities outside of a marketplace shall enter into an agreement with a regulation services provider that provides

- (a) that the dealer will conduct its trading activities in compliance with the requirements set under subsection 10.1(1);
- (b) that the regulation services provider will monitor the conduct of the dealer;
- (c) that the regulation services provider will enforce the requirements set under subsection 10.1(1); and
- (d) that the dealer will comply with all orders or directions made by the regulation services provider.

10.3 Exemption for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace

- (1) Sections 10.1 and 10.2 do not apply to a dealer executing trades of unlisted debt securities outside of a marketplace, if the dealer complies with the requirements of IDA Policy No. 5 Code

of Conduct for IDA Member Firms Trading in Domestic Debt Markets, as amended.

- (2) Subsection (1) does not apply after December 31, 2003.

PART 11 AUDIT TRAIL REQUIREMENTS

11.1 Application of this Part - This Part does not apply to a dealer that is carrying on business as an ATS in compliance with section 6.1 of NI 21-101.

11.2 Audit Trail Requirements for Dealers and Inter-Dealer Bond Brokers

(1) **Recording Requirements for Receipt or Origination of an Order** - Immediately following the receipt or origination of an order for securities, a dealer and inter-dealer bond broker shall record specific information relating to that order including,

- (a) the order identifier;
- (b) the dealer or inter-dealer bond broker identifier;
- (c) the type, issuer, class, series and symbol of the security;
- (d) the face amount or unit price of the order, if applicable;
- (e) the number of securities to which the order applies;
- (f) the strike date and strike price, if applicable;
- (g) whether the order is a buy or sell order;
- (h) whether the order is a short sale order, if applicable;
- (i) whether the order is a market order, limit order or other type of order, and if the order is not a market order, the price at which the order is to trade;
- (j) the date and time the order is first originated or received by the dealer or inter-dealer bond broker;
- (k) whether the account is a retail, wholesale, employee, proprietary or any other type of account;
- (l) the client account number or client identifier;
- (m) the date and time that the order expires;
- (n) whether the order is an intentional cross;
- (o) whether the order is a jitney and if so, the underlying broker identifier;

(p) any client instructions or consents respecting the handling or trading of the order, if applicable; and

(q) the currency of the order.

(2) **Recording Requirements for Transmission of an Order** - Immediately following the transmission of an order for securities to a dealer, inter-dealer bond broker or a marketplace, a dealer or inter-dealer bond broker transmitting the order shall add to the record of the order maintained in accordance with this section specific information relating to that order including,

- (a) the dealer or inter-dealer bond broker identifier assigned to the dealer or inter-dealer bond broker transmitting the order and the identifier assigned to the dealer, inter-dealer bond broker or marketplace to which the order is transmitted; and
- (b) the date and time the order is transmitted.

(3) **Recording Requirements for Variation, Correction or Cancellation of an Order** - Immediately following the variation, correction or cancellation of an order for securities, a dealer or inter-dealer bond broker shall add to the record of the order maintained in accordance with this section specific information relating to that order including,

- (a) the date and time the variation, correction or cancellation was originated or received;
- (b) whether the order was varied, corrected or cancelled on the instructions of the client, the dealer or the inter-dealer bond broker;
- (c) in the case of variation or correction, any of the information required by subsection (1) which has been changed; and
- (d) the date and time the variation, correction or cancellation of the order is entered.

(4) **Recording Requirements for Execution of an Order** - Immediately following the execution of an order for securities, the dealer or inter-dealer bond broker shall add to the record maintained in accordance with this section specific information relating to that order including,

- (a) the identifier of the marketplace where the order was executed or the identifier of the dealer or inter-dealer bond broker executing the order if the order was not executed on a marketplace;
- (b) the date and time of the execution of the order;
- (c) whether the order was fully or partially executed;
- (d) the number of securities bought or sold;
- (e) whether the transaction was a cross;

- (f) whether the dealer has executed the order as principal;
 - (g) the commission charged and all other transaction fees; and
 - (h) the price at which the order was executed, including mark-up or mark-down.
- (5) **Transmittal of Order Information** – A dealer and inter-dealer bond broker shall transmit to a regulation services provider the information required by the regulation services provider in the format and at the time required by the regulation services provider.
- (6) **Electronic Form** - After December 31, 2003, the record kept by the dealer or inter-dealer bond broker under subsections (1) through (4) and the transmission of information to a regulation services provider under subsection (5) shall be in electronic form.

PART 12 EXEMPTION

12.1 Exemption

- (1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario, only the regulator may grant such an exemption.

PART 13 EFFECTIVE DATE

- 13.1 Effective Date** – This Instrument comes into force on December 1, 2001.

**COMPANION POLICY 23-101CP
TO NATIONAL INSTRUMENT 23-101
TRADING RULES**

**COMPANION POLICY 23-101CP
TO NATIONAL INSTRUMENT 23-101
TRADING RULES**

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PART 1 INTRODUCTION

- 1.1 Introduction** - The purpose of this Companion Policy is to state the views of the Canadian securities regulatory authorities on various matters related to National Instrument 23-101 Trading Rules (the "Instrument"), including
- (a) a discussion of the general approach taken by the Canadian securities regulatory authorities in, and the general regulatory purpose for, the Instrument; and
 - (b) the interpretation of various terms and provisions in the Instrument.
- 1.2 Just and Equitable Principles of Trade** - While the Instrument deals with specific trading practices, as a general matter, the Canadian securities regulatory authorities expect marketplace participants to transact business openly and fairly, and in accordance with just and equitable principles of trade.

PART 2 APPLICATION OF THE INSTRUMENT

- 2.1 Application of the Instrument** – Section 2.1 of the Instrument provides an exemption from subsection 3.1(1) and Parts 4 and 5 if a person or company complies with rules, policies or other similar instruments established by a recognized exchange that monitors and enforces the requirements set under subsection 7.1(1) of the Instrument directly, a recognized quotation and trade reporting system that monitors and enforces requirements set under subsection 7.3(1) of the Instrument directly or a regulation services provider. The rules, policies or other similar instruments are filed by the recognized exchange, recognized quotation and trade reporting system or regulation services provider and approved by a securities regulatory authority. If a person or company is not in compliance with the requirements of the recognized exchange, recognized quotation and trade reporting system or the regulation services provider, then the exemption does not apply and that person or company is subject to subsection 3.1(1) and Parts 4 and 5 of the Instrument. The exemption from subsection 3.1(1) does not apply in Alberta, British Columbia and Saskatchewan and the relevant provisions of securities legislation apply.

PART 3 MANIPULATION AND FRAUD

- 3.1 Manipulation and Fraud**
- (1) Subsection 3.1(1) of the Instrument prohibits the practices of manipulation and deceptive trading, as these may create misleading price and trade

activity, which are detrimental to investors and the integrity of the market.

(2) Subsection 3.1(2) of the Instrument provides that despite subsection 3.1(1) of the Instrument, the provisions of the *Securities Act* (Alberta), the *Securities Act* (British Columbia) and *The Securities Act, 1988* (Saskatchewan), respectively, relating to manipulation and fraud apply in Alberta, British Columbia and Saskatchewan. The jurisdictions listed have provisions in their legislation that deal with manipulation and fraud.

(3) For the purposes of subsection 3.1(1) of the Instrument, and without limiting the generality of those provisions, the Canadian securities regulatory authorities, depending on the circumstances, would normally consider the following to result in, contribute to or create a misleading appearance of trading activity in, or an artificial price for, a security:

(a) Executing transactions in a security if the transactions do not involve a change in beneficial or economic ownership. This includes activities such as wash-trading.

(b) Effecting transactions that have the effect of artificially raising, lowering or maintaining the price of the security. For example, making purchases of or offers to purchase securities at successively higher prices or making sales of or offers to sell a security at successively lower prices or entering an order or orders for the purchase or sale of a security to:

(i) establish a predetermined price or quotation,

(ii) effect a high or low closing price or closing quotation, or

(iii) maintain the trading price, ask price or bid price within a predetermined range.

(c) Entering orders that could reasonably be expected to create an artificial appearance of investor participation in the market. For example, entering an order for the purchase or sale of a security with the knowledge that an order of substantially the same size, at substantially the same time, at substantially the same price for the sale or purchase, respectively, of that security has been or will be entered by or for the same or different persons.

(d) Executing prearranged transactions that have the effect of creating a misleading appearance of active public trading or that have the effect of improperly excluding other marketplace participants from the transaction.

(e) Effecting transactions if the purpose of the transactions is to defer payment for the securities traded.

(f) Entering orders to purchase or sell securities without the ability and the intention to

(i) make the payment necessary to properly settle the transaction, in the case of a purchase; or

(ii) deliver the securities necessary to properly settle the transaction, in the case of a sale.

This includes activities known as free-riding, kiting or debit kiting, in which a person or company avoids having to make payment or deliver securities to settle a trade.

(g) Engaging in any transaction, practice or scheme that unduly interferes with the normal forces of demand for or supply of a security or that artificially restricts or reduces the public float of a security in a way that could reasonably be expected to result in an artificial price for the security.

(h) Engaging in manipulative trading activity designed to increase the value of a derivative position.

(i) Entering a series of orders for a security that are not intended to be executed.

(4) The Canadian securities regulatory authorities do not consider market stabilization activities carried out in connection with a distribution to be activities in breach of subsection 3.1(1) of the Instrument, if the market stabilization activities are carried out in compliance with the rules of the marketplace on which the securities trade or with provisions of securities legislation that permit market stabilization by a person or company in connection with a distribution.

(5) Section 3.1 of the Instrument applies to transactions both on and off a marketplace. In determining whether a transaction results in, contributes to or creates a misleading appearance of trading activity in, or an artificial price for a security, it may be relevant whether the transaction takes place on or off a marketplace. For example, a transfer of securities to a holding company for *bona fide* purposes that takes place off a marketplace would not normally violate section 3.1 even though it is a transfer with no change in beneficial ownership.

(6) The Canadian securities regulatory authorities are of the view that section 3.1 of the Instrument does not create a private right of action.

- (7) In the view of the Canadian securities regulatory authorities, section 3.1 includes attempting to create a misleading appearance of trading activity in or an artificial price for, a security or attempting to perpetrate a fraud.

sales of foreign exchange-traded securities. To meet this obligation, dealers should look to the foreign markets upon which the securities trade to ensure that the client receives the best execution price on that purchase or sale of securities.

PART 4 BEST EXECUTION

4.1 Best Execution

- (1) The best execution obligation in Part 4 of the Instrument does not apply to an ATS that is registered as a dealer. However, the best execution obligation does apply to a dealer acting in its role as an intermediary for its client.
- (2) Subsection 4.2(1) of the Instrument requires a dealer acting as agent for a client to make reasonable efforts to ensure that the client receives the best execution price on a purchase or sale of securities by the client.
- (3) For inter-listed securities, the Canadian securities regulatory authorities are of the view that in making reasonable efforts, a dealer should also consider whether it would be appropriate in the particular circumstances to look at markets outside of Canada.
- (4) Subsection 4.2(2) of the Instrument prohibits a dealer acting as agent for a client in any marketplace from "trading through" a better-priced order on another marketplace or with another dealer. In an environment where there are multiple competing marketplaces, it is important that all investors have access to the best price for their orders at time of execution. Without consolidation of these markets, fragmentation may occur if investors are not given information about the best price available or if they are unable to access the best price. In order to mitigate possible negative effects of fragmenting the markets, it is important for these markets to be integrated to prevent trading through a better price existing in another marketplace.
- (5) The Canadian securities regulatory authorities are of the view that in satisfying its fiduciary obligations to its client, a dealer should make reasonable efforts to obtain a lower price on an order to buy or a higher price on an order to sell than is currently available by posting a better bid or offer. In order to achieve this price improvement for a client, the dealer should have an order management system that has the capability of providing price improvement. In addition, the dealer should make reasonable efforts by using facilities providing information regarding orders.
- (6) The Canadian securities regulatory authorities are of the view that dealers should ensure best execution price to clients for their purchases or

- (7) Subsection 4.2(3) of the Instrument requires that a dealer make reasonable efforts to use facilities providing information regarding orders. These reasonable efforts refer to the use of the information displayed by the information processor.

PART 5 REGULATORY HALTS

- 5.1 Regulatory Halts** – In the view of the Canadian securities regulatory authorities, an order may trade on a marketplace despite the fact that trading of the security has been suspended because the issuer of the security has ceased to meet minimum listing or quotation requirements, or has failed to pay to the recognized exchange, the recognized quotation and trading system or the exchange or quotation and trade reporting system recognized for the purposes of the Instrument and NI 21-101 any fees in respect of the listing or quotation of securities of the issuer. Similarly, an order may trade on a marketplace despite the fact that trading of the security has been delayed or halted because of technical problems affecting only the trading system of the recognized exchange, recognized quotation and trading system or exchange or quotation and trade reporting system recognized for the purposes of the Instrument and NI 21-101.

PART 6 TRADING HOURS

6.1 Trading Hours

- (1) Section 6.1 of the Instrument provides that each marketplace shall set requirements in respect of the hours of trading to be observed by marketplace participants. A marketplace may have after hours trading at any prices.
- (2) An ATS can trade after hours at prices outside of the closing bid price and ask price of a security set by the marketplace where that security is listed or quoted.

PART 7 MONITORING AND ENFORCEMENT

- 7.1 Monitoring and Enforcement of Requirements Set By a Recognized Exchange or Recognized Quotation and Trade Reporting System** - Under section 7.1 of the Instrument, a recognized exchange will set its own requirements governing the conduct of its members. Under section 7.3 of the Instrument, a recognized quotation and trade reporting system will set its own requirements governing the conduct of its users. The recognized exchange or recognized quotation and trade reporting system can monitor

and enforce these requirements either directly or indirectly through a regulation services provider. A regulation services provider is a person or company that provides regulation services and is either a recognized exchange, recognized quotation and trade reporting system or a recognized self-regulatory entity. Sections 7.2 and 7.4 of the Instrument require the recognized exchange or recognized quotation and trade reporting system that chooses to have the monitoring and enforcement performed by the regulation services provider to enter into an agreement with the regulation services provider in which the regulation services provider agrees to enforce the requirements of the recognized exchange or recognized quotation and trade reporting system.

- 7.2 Monitoring and Enforcement Requirements for an ATS** - Section 8.2 of the Instrument requires the regulation services provider to set requirements that govern an ATS and its subscribers. Before executing a trade for a subscriber, the ATS must enter into an agreement with a regulation services provider and an agreement with each subscriber. These agreements form the basis upon which a regulation services provider will monitor the trading activities of the ATS and its subscribers and enforce its requirements. The requirements set by a regulation services provider must include requirements that the ATS and its subscribers will conduct trading activities in compliance with the Instrument. The ATS and its subscribers are considered to be in compliance with the Instrument and are exempt from the application of most of its provisions if the ATS and the subscriber are in compliance with the requirements set by a regulation services provider.
- 7.3 Monitoring and Enforcement Requirements for an Inter-Dealer Bond Broker** - Section 9.1 of the Instrument requires that a regulation services provider set requirements governing the conduct of an inter-dealer bond broker. Under section 9.2 of the Instrument, the inter-dealer bond broker must enter into an agreement with the regulation services provider providing that the regulation services provider monitor the activities of the inter-dealer bond broker and enforce the requirements set by the regulation services provider.
- 7.4 Monitoring and Enforcement Requirements for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace** - Section 10.1 of the Instrument requires that a regulation services provider set requirements governing the conduct of a dealer executing trades of unlisted debt securities outside of a marketplace. Under section 10.2 of the Instrument, the dealer must also enter into an agreement with the regulation services provider providing that the regulation services provider monitor the activities of the dealer and enforce the requirements set by the regulation services provider.

PART 8 AUDIT TRAIL REQUIREMENTS

- 8.1 Audit Trail Requirements** - Section 11.2 of the Instrument imposes obligations on dealers and inter-dealer bond brokers to record in electronic form and to report certain items of information with respect to orders and trades. The purpose of the obligations set out in Part 11 is to enable the entity performing the monitoring and surveillance functions to construct an audit trail of order, quotation and transaction data which will enhance its surveillance and examination capabilities.
- 8.2 Transmission of Information to a Regulation Services Provider** - Subsection 11.2(5) of the Instrument requires that a dealer and an inter-dealer bond broker provide to the regulation services provider information as required by the information services provider in the format and at the time required by the regulation services provider. This requirement is triggered only when the regulation services provider sets requirements to transmit information.

ONTARIO SECURITIES COMMISSION RULE 23-501

DESIGNATION AS MARKET PARTICIPANT

- 1.1 **Alternative Trading System** - An alternative trading system is designated as a market participant for the purposes of the Act.
- 1.2 **Information Processor** - An information processor is designated as a market participant for the purposes of the Act.