

### 13.1.3 Proposed Universal Market Integrity Rules



#### *Universal Market Integrity Rules for Canadian Marketplaces*

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#### *Universal Market Integrity Rules for Canadian Marketplaces*

#### APPENDIX A

#### SUMMARY OF OBLIGATIONS OF MARKETPLACES AND PERSONS WITH ACCESS

UMIR	Rule Description	Marketplaces		Persons with Access		
		Exchange/ QTRS	ATS	PO/Member	Dealer Subscriber	Non-Dealer Subscriber
<b>Part 1</b>	<b>Definitions and Interpretation</b>					
1.1	Definitions – definition of terms used in the rules and any policy	%	%	%	%	%
1.2	Interpretation – adoption of definitions used in other applicable instruments and general rules to determining prices.	%	%	%	%	%
<b>Part 2</b>	<b>Manipulative or Deceptive Method of Trade</b>					
2.1	Just and Equitable Principles – requirement to conduct business on a marketplace openly and fairly			%	%	%
2.2	Manipulative or Deceptive Method of Trading – prohibition on certain practices when trading on a marketplace			%	%	%
<b>Part 3</b>	<b>Short Selling</b>					
3.1	Restrictions on Short Selling – restrictions on selling securities short at a price below the last sale price			%	%	%
<b>Part 4</b>	<b>Frontrunning</b>					
4.1	Frontrunning – prohibition on frontrunning client orders			%	%	

		Exchange/ QTRS	ATS	PO/Member	Dealer Subscriber	Non-Dealer Subscriber
<b>Part 5</b>	<b>Best Execution Obligation</b>					
5.1	Best Execution of Client Orders – general obligation to ensure a client order is executed on most advantageous terms			%	%	
5.2	Best Price Obligation – obligation to ensure a client order could not be executed on another marketplace at a better price			%	%	
5.3	Client Priority – priority for client orders over principal and non-client orders			%	%	
<b>Part 6</b>	<b>Order Entry and Exposure</b>					
6.1	Entry of Orders to a Marketplace – establishment of standard trading increments for orders and all orders to be subject to special trading rules issued by an exchange or recognized quotation and trade reporting system	%	%	%	%	%
6.2	Designations and Identifiers – requirement for standard designations and identifiers to be on each order entered on a marketplace	%	%	%	%	% 1
6.3	Exposure of Client Orders – requires client orders below specified size to be immediately entered on a marketplace			%	%	
6.4	Trades to be on a Marketplace – general requirement that trades by dealers and related entities be on a marketplace			%	%	
6.5	Reporting Market-on-Close Orders – requires the reporting of Market-on-Close Orders to the Market Regulator to ensure fair and orderly markets.			%	%	%
<b>Part 7</b>	<b>Trading in a Marketplace</b>					
7.1	Clearing Obligations – requirement that all persons with access to a marketplace have satisfactory clearing and settlement arrangements			%	%	%
7.2	Trading Supervision Obligations – requirement to have written trading policies and procedures, appointment of supervisory staff and review of orders prior to entry to a marketplace			%	%	
7.3	Proficiency Obligations – requirement that persons entering orders to a marketplace have demonstrated proficiency in trading rules and the ATS to have the obligation to ensure Non-Dealer Subscribers are trained in the rules		% 2	%	%	
7.4	Liability for Bids, Offers and Trades – provides that all bids and offers accepted on marketplace become binding contracts and the responsibility for the order and contracts by a Participant or ATS where the order has been entered on the ATS by a Non-Dealer Subscribers		% 3	%	%	
7.5	Contract Record and Official Transaction Record – contract record of marketplace to govern settlement and disputes – obligation of marketplace to provide information on trades to the data consolidator	%	%			
7.6	Recorded Prices – limits negative commissions on trade with clients			%	%	
7.7	Cancelled Trades – provides that a cancelled trade does not effect validity of subsequent trades	%	%	%	%	%
7.8	Restrictions on Trading by a Participant Involved in a Distribution – restricts trading in a listed security or quoted security on a marketplace by an underwriter			%	%	
7.9	Restrictions on Trading During a Securities Exchange Take-over Bid – restricts transactions by a dealer-manager on a marketplace in a security offered as consideration under a take-over bid			%	%	
7.10	Trading in Listed or Quoted Securities by Market Makers and Specialists – requires compliance with additional requirements of any exchange or recognized quotation and trade reporting system			%	%	
<b>Part 8</b>	<b>Principal Trading</b>					

		Exchange/ QTRS	ATS	PO/Member	Dealer Subscriber	Non-Dealer Subscriber
8.1	Client-Principal Trading – general obligation of a dealer when trading a client order against a principal or non-client order			%	%	
<b>Part 9</b>	<b>Trading Halts, Delays and Suspensions</b>					
9.1	Trading Halts, Delays and Suspensions – establishes uniform provisions for halts, delays and suspensions to be observed on all marketplaces	%	%	%	%	%
<b>Part 10</b>	<b>Compliance</b>					
10.1	Compliance Requirement – general requirement to comply with UMIR and framework for enforcement proceedings			%	%	%
10.2	Investigations – general power of the Market Regulator to require information in connection with an investigation	%	%	%	%	%
10.3	Extension of Responsibility – makes Participant and Non-Dealer Subscribers liable for conduct of their directors, officers, partners and employees and supervisors liable for actions of employees that they supervise			%	%	%
10.4	Extension of Restrictions – extends the application of certain rules to related entities of persons with market access and to directors, officers, partners and employees of the person with access and related entities			%	%	%
10.5	Powers and Remedies – sets out penalties and remedies which the Market Regulator may impose for a breach of UMIR	%	%	%	%	%
10.6	Exercise of Authority – establishes the power of Hearing Panels to impose the remedies and penalties and the ability to appeal orders of Hearing Panels to the governing body of the Market Regulator	%	%	%	%	%
10.7	Assessment of Expenses – power of the Market Regulator to assess expenses in connection with an order.	%	%	%	%	%
10.8	Practice and Procedure – provides the ability of the Market Regulator to adopt practice and procedures related to hearings and appeals	%	%	%	%	%
10.9	Power of Market Integrity Officials – provides the general power required to administer UMIR and regulate the marketplaces	%	%	%	%	%
10.10	Report of Short Positions – requirement to provide information on short positions to the Market Regulator			%	%	%
10.11	Audit Trail Requirements – requirement that each dealer record and provide information on each order entered to a marketplace to the Market Regulator and for each dealer and Non-Dealer Subscriber to provide such additional information as may be required regarding the trade or prior or subsequent orders for the same security or a related security			%	%	% <b>4</b>
10.12	Retention and Inspection of Records and Instructions – requirement that dealers retain records of orders and that dealers and Non-Dealer Subscriber allow an appropriate Market Regulator to inspect the records			%	%	% <b>5</b>
10.13	Exchange and Provision of Information by Market Regulators – requires Market Regulators to provide information and assistance to other regulatory entities for the administration and enforcement of the rules	%	%			
10.14	Synchronization of Clocks - requires all marketplaces and participants to synchronize clocks for the recording of data	%	%	%	%	
10.15	Assignment of Identifiers and Symbols - provides a mechanism for the assignment of unique identifiers to marketplaces and dealers and for unique symbols to securities which are eligible to trade on a marketplace	%	%	%	%	%
<b>Part 11</b>	<b>Administration of Rules</b>					
11.1	General Exemptive Relief - provides each Market Regulator with the power to exempt a particular person or transaction from the application of a rule	%	%	%	%	%

		Exchange/ QTRS	ATS	PO/Member	Dealer Subscriber	Non-Dealer Subscriber
11.2	General Prescriptive Power - provides each Market Regulator with the power to make a policy to aid in the administration of a rule	%	%	%	%	%
11.3	Review of Market Regulator Decisions - any decision of a Market Regulator or Market Integrity Official may be reviewed by a securities regulatory authority	%	%	%	%	%
11.4	Method of Giving Notice – general requirement for the provision of notice to any person	%	%	%	%	%
11.5	Computation of Time – general rule respecting the calculation of time periods	%	%	%	%	%
11.6	Waiver of Notice – ability to waive any notice requirement	%	%	%	%	%
11.7	Omissions or Errors in Giving Notice – saving provision when notice is improperly given	%	%	%	%	%
11.8	Transitional Provisions – provides a mechanism for the transition of marketplace rules and disciplinary proceedings to the Market Regulator retained by the marketplace as its regulation service provider.	%	%	%	%	%
11.9	Non-Application of Rules – limits application of rules	%	%	%	%	%

**Notes:** Certain provisions of UMIR would have a limited application to either ATSs or Non-Dealer Subscribers. In particular:

1. Rule 6.2 - Certain order designations are applicable to dealers only (such as the requirement to mark a principal order, non-client order, jitney order etc.). Non-Dealer Subscribers would be required to mark orders as to type, including whether the order is a short sale, and whether the Non-Dealer Subscriber is an insider or significant shareholder of the security subject to the order.
2. Rule 7.3 - An ATS would be under an obligation to ensure that a Non-Dealer Subscriber has been trained in the Rules.
3. Rule 7.4 - An ATS would have responsibility for all trades arising from orders entered through the ATS subject to the obligation of a Non-Dealer Subscriber for compliance with the requirements of the Rules and each Policy. In marketplaces other than an ATS, this obligation is imposed on Participants, the registered intermediaries between the client and the marketplace.
4. Rule 10.11 - A Non-Dealer Subscriber is not required to maintain or to transmit an electronic record of an order to a Market Regulator. A Non-Dealer Subscriber is under an obligation to provide to the Market Regulator of the marketplace on which an order was entered or executed certain information respecting that order or trade or other prior or subsequent orders or trades in the same security or a related security.
5. Rule 10.12 - A Non-Dealer Subscriber is not required to maintain specific records of each order. However, the Market Regulator of the marketplace on which an order was entered or executed may inspect any records that are maintained by the Non-Dealer Subscriber regarding an order or trade.

**Universal Market Integrity Rules for Canadian Marketplaces**

**APPENDIX B**

**PART 1 – DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In these Rules, unless the subject matter or context otherwise requires:

**“arbitrage account”** means a principal account in which the holder makes a usual practice of buying and selling:

- (a) securities in different markets to take advantage of differences in prices available in each market; or
- (b) securities which are or may become convertible or exchangeable by the terms of the securities or operation of law into other securities in order to take advantage of differences in prices between the securities.

**“BDM”** means the Bourse de Montréal Inc.

**“best ask price”** means the lowest price of an order on any marketplace as displayed in a consolidated market display to sell a particular security, but does not include the price of any Special Terms Order.

**“best bid price”** means the highest price of an order on any marketplace as displayed in a consolidated market display to buy a particular security, but does not include the price of any Special Terms Order.

**“better price”** means, in respect of a particular security:

- (a) a price lower than the best ask price, in the case of a purchase; and
- (b) a price higher than the best bid price, in the case of a sale.

**“Board”** means the board of directors or other governing body of a Market Regulator.

**“CDNX”** means the Canadian Venture Exchange Inc.

**“Call Market Order”** means an order for the purchase or sale of one or more particular securities that is entered in a special facility operated by a marketplace to trade at a particular time or times during a trading day at a better price.

**“client order”** means an order for the purchase or sale of a security received or originated by a Participant for the account of a client of the Participant or a client of an affiliated entity of the Participant, but does not include a principal order or a non-client order.

**“consolidated market display”** means, in respect of a particular security:

- (a) the consolidated feed respecting orders and trades produced by an information processor in

accordance with section 7.3 of the Marketplace Operation Instrument provided such consolidated feed includes details of orders and trades from the principal market; or

- (b) information regarding all orders and trades on a marketplace produced by an information vendor for the purposes of the Marketplace Operation Instrument provided such information includes details of orders and trades from the principal market.

**“derivative market maker account”** means the account of a person who performs the function ordinarily associated with a market maker or specialist on the BDM in connection with a derivative instrument.

**“Exchange”** means:

- (a) the BDM;
- (b) the CDNX;
- (c) the TSE; and
- (d) a person recognized by the applicable securities regulatory authority under securities legislation to carry on business as an exchange.

**“hearing”** means a disciplinary and enforcement proceeding commenced by a Market Regulator to determine whether a person has contravened a Requirement or is liable for the contravention of a Requirement and includes any procedural applications or motions in relation to those proceedings.

**“Hearing Committee”** means a standing committee of a Market Regulator comprised of persons selected in accordance with the Policy made under Rule 10.8

**“Hearing Panel”** means the particular members of the Hearing Committee selected in accordance with the Policy made under Rule 10.8 to hear a particular disciplinary and enforcement proceeding.

**“hedge”** means the purchase or sale of a security by a person to offset, in whole or in part, the risk assumed on a prior purchase or sale or to be assumed on a subsequent purchase or sale of that security or a related security.

**“insider”** means a person who is an insider of an issuer for the purpose of applicable securities legislation.

**“intentional cross”** means a trade resulting from the entry by a Participant of both the order to purchase and the order to sell a security, but does not include a trade in which the Participant has entered one of the orders as a jitney order.

**“internal cross”** means an intentional cross between two client accounts of a Participant which are managed by a single firm acting as a portfolio manager with discretionary authority to manage the investment portfolio granted by each of the clients and includes a trade where the Participant is acting as a portfolio manager in authorizing the trade between the two client accounts.

“**jitney order**” means an order entered on a marketplace by a Participant acting for or on behalf of another Participant.

“**last sale price**” means the price of the last sale of at least one standard trading unit of a particular security displayed in a consolidated market display.

“**limit order**” means an order to:

- (a) buy a security to be executed at a specified maximum price; or
- (b) sell a security to be executed at a specified minimum price.

“**listed security**” means a security listed on an Exchange.

“**Market Operation Instrument**” means National Instrument 21-101 – Marketplace Operation as amended, supplemented and in effect from time to time;

“**market order**” means an order to:

- (a) buy a security to be executed upon entry to a marketplace at the best ask price; or
- (b) sell a security to be executed upon entry to a marketplace at the best bid price.

“**Market-on-Close Order**” means an order for the purchase or sale of a security:

- (a) received by a Participant to execute at the closing price of the listed security in the Regular Session on the Exchange on which the security is listed on that trading day; or
- (b) entered on a special facility operated by a marketplace for the purpose of calculating and executing at the closing price of the security on that marketplace.

“**Market Regulator**” means:

- (a) in respect of the TSE, RS Inc.;
- (b) in respect of the CDNX, RS Inc.;
- (c) in respect of the BDM, the Regulatory Division of BDM; and
- (d) in respect of any other marketplace, the regulation service provider with whom that marketplace has entered an agreement in accordance with the requirements of the Trading Rules.

“**Market Integrity Official**” means an employee of a Market Regulator designated by the Market Regulator to exercise the powers of the Market Regulator under these Rules.

“**marketplace**” means:

- (a) an Exchange;
- (b) a QTRS;

(c) an ATS.

“**Marketplace Rules**” means the rules, policies and other similar instruments adopted by an Exchange or a QTRS as filed in accordance with National Instrument 21-101 or as approved by the applicable securities regulatory authority in accordance with applicable securities legislation.

“**non-client order**” means an order for the purchase or sale of a security received or originated by a Participant for an account:

- (a) for a partner, director, officer or a person holding a similar position or acting in a similar capacity of the Participant or of a related entity of the Participant;
- (b) for an employee of the Participant or of a related entity of the Participant who holds approval from an Exchange or a self-regulatory entity; or
- (c) which is considered to be an employee account or a non-client account by a self-regulatory entity,

but does not include a principal account.

“**net cost**” means the amount by which the sum of the total cost of the trade on the purchase of securities based on the purchase price on the marketplace and any commission charged to the client by the Participant exceeds the amount of any allowance, discount, rebate and any other benefit with a monetary value that is allowed to the client on the trade by the Participant or any other person.

“**net proceeds**” means the amount by which the sum of the total proceeds of the trade on the sale of securities based on the sale price on the marketplace and the amount of any allowance, discount, rebate and other benefit with a monetary value that is allowed to the client on the trade by the Participant or any other person exceeds any commission charged to the client by the Participant.

“**Non-Dealer Subscriber**” means a subscriber who is not a Participant.

“**offered security**” means the security offered in a securities exchange take-over bid.

“**Opening Order**” means an order for the purchase or sale of a security:

- (a) entered by a Participant prior to a Regular Session of an Exchange to execute at the opening price of the listed security in the Regular Session on that Exchange on that trading day; or
- (b) entered on a special facility operated by a marketplace for the purpose of calculating and executing the opening price of the security on that marketplace.

“**Participant**” means:

- (a) a dealer registered in accordance with securities legislation of any jurisdiction and who is:
  - (i) a member of an Exchange,

- (ii) a user of a QTRS, or
  - (iii) a subscriber of an ATS; or
- (b) a person who has been granted trading access to a marketplace and who performs the functions ordinarily associated with a market maker, specialist or restricted permit holder on the BDM.

**“Policy”** means a policy statement adopted by a Market Regulator in connection with the administration or application of these Rules as such policy statement is amended, supplemented and in effect from time to time.

**“principal account”** means an account in which a Participant or a related entity of the Participant holds a direct or indirect interest other than an interest in the commission charged on a transaction.

**“principal order”** means an order for the purchase or sale of a security received or originated by a Participant for a principal account.

**“QTRS”** means a recognized quotation and trade reporting system.

**“quoted security”** means a security quoted on a QTRS.

**“Regular Session”** means the time period during a trading day when an Exchange is ordinarily open for trading, but does not include any extended or special trading facility of the Exchange.

**“related entity”** means, in respect of a particular person:

- (a) an affiliated entity of the particular person which carries on business in Canada and is registered as a dealer or adviser in accordance with applicable securities legislation; and
- (b) a person who has been designated by a Market Regulator in accordance with subsection (3) of Rule 10.4 as a person who acts in conjunction with the particular person.

**“related security”** means, in respect of a particular security:

- (a) a security which is convertible or exchangeable into the particular security;
- (b) a security into which the particular security is convertible or exchangeable;
- (c) a derivative instrument for which the particular security is the underlying interest;
- (d) a derivative instrument for which the market price varies materially with the market price of the particular security; and
- (e) if the particular security is a derivative instrument, a security which is the underlying interest of the derivative instrument or a significant component of an index which is the underlying interest of the derivative instrument.

**“Requirements”** means, collectively:

- (a) these Rules;
- (b) the Policies;
- (c) the Trading Rules;
- (d) the Marketplace Rules; and
- (e) any direction, order or decision of the Market Regulator or a Market Integrity Official,

as amended, supplemented and in effect from time to time.

**“restricted person”** means, in respect of a securities exchange take-over bid:

- (a) the Participant appointed by the offeror to be dealer-manager or manager in respect of such securities exchange take-over bid;
- (b) a related entity of the Participant;
- (c) a partner, director, officer or a person holding a similar position or acting in a similar capacity, of the Participant or of a related entity of the Participant; or
- (d) an employee of the Participant or of a related entity of the Participant who has been granted approval from an Exchange or a self-regulatory entity.

**“Rules”** means these Universal Market Integrity Rules as amended, supplemented and in effect from time to time.

**“securities exchange take-over bid”** means a take-over bid where the consideration for the securities of the offeree is to be, in whole or in part, securities traded on a marketplace.

**“short sale”** means a sale of a security, other than a derivative instrument, which the seller does not own either directly or through an agent or trustee and, for this purpose, a seller shall be considered to own a security if the seller:

- (a) has purchased or has entered into an unconditional contract to purchase the security, but has not yet received delivery of the security;
- (b) has tendered such other security for conversion or exchange or has issued irrevocable instructions to convert or exchange such other security;
- (c) has an option to purchase the security and has exercised the option;
- (d) has a right or warrant to subscribe for the security and has exercised the right or warrant; or
- (e) is making a sale of a security that trades on a when issued basis and the seller has entered into a contract to purchase such security which is binding on both parties and subject only to the condition of issuance or distribution of the security,

but a seller shall be considered not to own a security if:

- (f) the seller has borrowed the security to be delivered on the settlement of the trade and the seller is not otherwise considered to own the security in accordance with this definition; or
- (g) the security held by the seller is subject to any restriction on sale imposed by applicable securities legislation or by an Exchange or QTRS as a condition of the listing or quoting of the security.

“**significant shareholder**” means any person holding separately, or in combination with other persons, more than 20 per cent of the outstanding voting securities of an issuer.

“**Special Terms Order**” means an order for the purchase or sale of a security:

- (a) for less than a standard trading unit;
- (b) the execution of which is subject to a condition other than as to price or date of settlement; or
- (c) that on execution would be settled on a date other than:
  - (i) the third business day following the date of the trade, or
  - (ii) any settlement date specified in a special rule or direction referred to in subsection (2) of Rule 6.1 that is issued by an Exchange or a QTRS.

“**standard trading unit**” means, in respect of:

- (a) a derivative instrument, 1 contract;
- (b) a debt security, \$1,000 in principal amount;
- (c) any equity or similar security:
  - (i) 1,000 units of a security trading at less than \$0.10 per unit,
  - (ii) 500 units of a security trading at \$0.10 or more per unit and less than \$1.00 per unit, and
  - (iii) 100 units of a security trading at \$1.00 or more per unit;
- (d) a particular listed security or class of listed securities, such other number of units of the security as may be specified from time to time by the Exchange on which such security is listed; or
- (e) a particular quoted security or class of quoted securities, such other number of units of the security as may be specified from time to time by the QTRS on which such security is quoted.

“**trades on a when issued basis**” means purchases or sales of a security to be issued pursuant to:

- (a) a prospectus offering where a receipt for the final prospectus for the offering has been issued by the applicable securities regulatory authority but the offering has not closed and settled;
- (b) a proposed plan of arrangement, an amalgamation or a take-over bid prior to the effective date of the

amalgamation or the arrangement or the expiry date of the take-over bid; or

- (c) any other transaction that is subject to the satisfaction of certain conditions,

and the trade is to be settled only if the security is issued and the trade in the security prior to the issuance would not contravene the applicable securities legislation.

“**trading day**” means a calendar day during which trades are executed on a marketplace.

“**Trading Rules**” means National Instrument 23-101 as amended, supplemented and in effect from time to time.

“**TSE**” means The Toronto Stock Exchange Inc.

“**Volume-Weighted Average Price Order**” means an order for the purchase or sale of a security:

- (a) entered by a Participant prior to a Regular Session of an Exchange to be executed at an average price of the listed security traded on that Exchange during that Regular Session weighted in accordance with the volume traded at each price increment; or
- (b) entered on a special facility operated by a marketplace for the purpose of executing trades at an average price of the security traded on that marketplace.

## 1.2 Interpretation

- (1) Unless otherwise defined or interpreted, every term used in these Rules that is:

- (a) defined in subsection 1.1(3) of National Instrument 14-101 – Definitions has the meaning ascribed to it in that subsection;

- (b) defined or interpreted in the Marketplace Operation Instrument has the meaning ascribed to it in that National Instrument; and

- (c) a reference to a requirement of an Exchange or a QTRS shall have the meaning ascribed to it in the applicable Marketplace Rule.

- (2) For the purposes of these Rules, the following terms shall be as defined by applicable securities legislation except that:

“**person**” includes any corporation, incorporated association, incorporated syndicate or other incorporated organization.

“**trade**” includes a purchase or acquisition of a security for valuable consideration.

- (3) In determining the value of an order for the purposes of Rule 6.3 and 8.1, the value shall be calculated as of the time of the receipt or origination of the order and shall be calculated by multiplying the number of units of the security to be bought or sold under the order by:



- (a) in the case of a limit order for the purchase of a security, the lesser of:
    - (i) the specified maximum price in the order, and
    - (ii) the best ask price;
  - (b) in the case of a limit order for the sale of a security, the greater of:
    - (i) the specified minimum price in the order, and
    - (ii) the best bid price;
  - (c) in the case of a market order for the purchase of a security, the best ask price; and
  - (d) in the case of a market order for the sale of a security, the best bid price.
- (4) For the purposes of determining the “last sale price”, if a sale of at least a standard trading unit of a particular security has not been previously displayed in a consolidated market display the last sale price shall be deemed to be the price:
- (a) of the last sale of the security on an Exchange, if the security is a listed security;
  - (b) of the last sale of the security on a QTRS, if the security is a quoted security;
  - (c) at which the security has been issued or distributed to the public, if the security has not previously traded on a marketplace;
  - (d) that has been accepted by a Market Regulator, in any other circumstance.
- (5) For the purposes of determining the price at which a security is trading for the purposes of the definition of a “standard trading unit”, the price shall be the last sale price of the particular security on the immediately preceding trading day.

## **PART 2 – MANIPULATIVE OR DECEPTIVE METHOD OF TRADING**

### **2.1 Just and Equitable Principles**

A Participant or Non-Dealer Subscriber shall transact business openly and fairly and in accordance with just and equitable principles of trade when:

- (a) trading on a marketplace; or
- (b) trading or otherwise dealing in securities which are eligible to be traded on a marketplace.

## 2.2 Manipulative or Deceptive Method of Trading

- (1) A Participant or Non-Dealer Subscriber shall not, directly or indirectly, use nor knowingly facilitate nor participate in the use of any manipulative or deceptive method of trading in connection with the entry of an order or orders to trade on a marketplace for the purchase or sale of any security which creates or which could reasonably be expected to create a false or misleading appearance of trading activity or an artificial price for the security or a related security.
  - (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; and
- (2) Without limiting the generality of subsection (1), the following activities when undertaken on a marketplace constitute deceptive and manipulative methods of trading:
  - (a) making a fictitious trade;
  - (b) effecting a trade in a security which involves no change in the beneficial or economic ownership;
  - (c) effecting trades by a single interest or group with the intent of limiting the supply of a security for settlement of trades made by other persons except at prices and on terms arbitrarily dictated by such interest or group; and
  - (d) purchasing a security with the intention of making a sale of the same or a different number of units of the security or a related security on a marketplace at a price which is below the price of the last sale of a standard trading unit of such security displayed in a consolidated market display.
- (3) Without limiting the generality of subsection (1), the following activities shall be considered deceptive and manipulative methods of trading when undertaken on a marketplace with the intention of creating a false or misleading appearance of trading activity or an artificial price for a security or a related security:
  - (a) entering an order or orders for the purchase of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the sale of that security, has been or will be entered by or for the same or different persons;
  - (b) entering an order or orders for the sale of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the purchase of that security, has been or will be entered;
  - (c) making purchases of, or offers to purchase, a security at successively higher prices;
  - (d) making sales of or offers to sell a security at successively lower prices;
  - (e) entering an order or orders for the purchase or sale of a security to:
    - (f) entering a series of orders for a security that are not intended to be executed.
- (4) A price will be considered artificial if the price is not justified by real demand or supply in a security.
- (5) For the purposes of subsection (4), a price in a security may be considered not justified by real demand or supply if:
  - (a) the price is higher or lower than the previous price and the market immediately returns to the previous price following the trade; and
  - (b) the bid price is raised or the ask price is lowered by an order which, at the time of entry, is the only order at that price and the order is cancelled prior to trading.

## PART 3 – SHORT SELLING

### 3.1 Restrictions on Short Selling

- (1) Except as otherwise provided, a Participant or Non-Dealer Subscriber shall not make a short sale of a security on a marketplace unless the price is at or above the last sale price.
- (2) A short sale of a security may be made on a marketplace at a price below the last sale price if the sale is:
  - (a) a program trade in accordance with the Marketplace Rules of an Exchange;
  - (b) for the account of the Responsible Registered Trader and made in furtherance of the market making obligations of the Responsible Registered Trader in accordance with the Marketplace Rules of the TSE;
  - (c) for the account of the Odd Lot Member and made in accordance with the Marketplace Rules of CDNX;
  - (d) for the account of market maker for the security on a QTRS and is made in accordance with the Marketplace Rules of that QTRS;
  - (e) for an arbitrage account and the seller knows or has reasonable grounds to believe that an offer enabling the seller to cover the sale is then available and the seller intends to accept such offer immediately;
  - (f) for a derivative market maker account and is made:
    - (i) in accordance with the market making obligations of the seller in connection

- with the security or a related security, and
- (ii) to hedge a pre-existing position in the security or a related security;
- (g) the first sale of the security on any marketplace made on an ex-dividend, ex-rights or ex-distribution basis and the price of the sale is not less than the last sale price reduced by the cash value of the dividend, right or other distribution; or
- (h) the result of:
  - (i) a Call Market Order,
  - (ii) a Market-on-Close Order, or
  - (iii) a Volume-Weighted Average Price Order.

## PART 4 - FRONTRUNNING

### 4.1 Frontrunning

- (1) A Participant with knowledge of a client order that on entry could reasonably be expected to affect the market price of a security, shall not, prior to the entry of such client order,
  - (a) enter a principal order or a non-client order on a marketplace, stock exchange or market, including any over-the-counter market, for the purchase or sale of the security or any related security;
  - (b) solicit an order from any other person for the purchase or sale of the security or any related security; or
  - (c) inform any other person, other than in the necessary course of business, of the client order.
- (2) A Participant does not contravene subsection (1) if:
  - (a) no director, officer, partner, employee or agent of the Participant who made or participated in making the decision to enter a principal order or non-client order or to solicit an order had actual knowledge of the client order;
  - (b) an order is entered or trade made for the benefit of the client for whose account the order is to be made;
  - (c) an order is solicited to facilitate the trade of the client order;
  - (d) a principal order is entered to hedge a position that the Participant had assumed or agreed to assume before having actual knowledge of the client order provided the hedge is:
    - (i) commensurate with the risk assumed by the Participant, and
    - (ii) entered into in accordance with the ordinary practice of the Participant when

assuming or agreeing to assume a position in the security;

- (e) a principal order is made to fulfil a legally binding obligation entered into by the Participant before having actual knowledge of the client order; or
- (f) the order is entered for an arbitrage account.

## PART 5 – BEST EXECUTION OBLIGATION

### 5.1 Best Execution of Client Orders

A Participant shall diligently pursue the execution of each client order on the most advantageous terms for the client as expeditiously as practicable under prevailing market conditions.

### 5.2 Best Price Obligation

(1) A Participant shall make reasonable efforts prior to the execution of a client order to ensure that:

- (a) in the case of an offer by the client, the order is executed at the best bid price; and
- (b) in the case of a bid by the client, the order is executed at the best ask price.

(2) Subsection (1) does not apply to the execution of an order which is:

- (a) required or permitted by a Market Regulator to be executed other than on a marketplace in order to maintain a fair or orderly market;
- (b) a Special Terms Order unless:
  - (i) the security is a listed security or quoted security and the Marketplace Rules of the Exchange or QTRS governing the trading of a Special Terms Order provide otherwise, or
  - (ii) the order could be executed in whole, according to the terms of the order, on a marketplace or with a market maker displayed in a consolidated market display;

- (c) a Call Market Order;
- (d) a Volume-Weighted Average Price Order;
- (e) a Market-on-Close Order; or
- (f) an Opening Order.

(3) For the purposes of subsection (1), the Participant may take into account any transaction fees that would be payable to the marketplace in connection with the execution of the order as set out in the schedule of transaction fees disclosed in accordance with Marketplace Operation Instrument.

### 5.3 Client Priority

- (1) A Participant shall give priority to a client order of the Participant over all principal orders and non-client orders of the Participant that are received, originated or entered on a marketplace after the receipt of the client order for the same security at the same price on the same side of the market on the same settlement terms.
- (2) Despite subsection (1) but subject to Rule 4.1, a Participant is not required to give priority to a client order if:
  - (a) the client specifically has consented to the Participant entering principal orders and non-client orders for the same security at the same price on the same side of the market on the same settlement terms; or
  - (b) the client order has not been entered on a marketplace as a result of:
    - (i) the client specifically instructing the Participant to deal otherwise with the particular order,
    - (ii) the client specifically granting discretion to the Participant with respect to entry of the order, or
    - (iii) the Participant determining, based on market conditions, that entering the order would not be in the best interests of the client,
- (d) a Market Integrity Official requires or permits the principal order or non-client order to be executed in priority to a client order.
- (3) For the purposes of clause (2)(a), a client shall be deemed to have consented to the Participant entering principal orders and non-client orders for the same security at the same price on the same side of the market on the same settlement terms if the client order, in accordance with the specific instructions of the client, is to be executed in part at various times during the trading day or at various prices during the trading day.

## **PART 6 – ORDER ENTRY AND EXPOSURE**

### **6.1 Entry of Orders to a Marketplace**

- (1) No order to purchase or sell a security shall be entered to trade on a marketplace at a price that includes a fraction or a part of a cent.
- (2) Each order to purchase or sell a listed security or a quoted security entered to trade on a marketplace shall be subject to any special rule or direction issued by the Exchange on which the security is listed or by the QTRS on which the security is quoted with respect to:
  - (a) clearing and settlement; and
  - (b) entitlement of the purchaser to receive a dividend, interest or any other distribution made or right given to holders of that security.

### **6.2 Designations and Identifiers**

- (1) Each order entered on a marketplace shall contain:
  - (a) the identifier of:
    - (i) the Participant entering the order as assigned to the Participant in accordance with Rule 10.15, or
    - (ii) the ATS on which the order is entered as assigned to the ATS in accordance with Rule 10.15, if the order has been entered by a Non-Dealer Subscriber;
  - (b) a designation acceptable to the Market Regulator for the marketplace on which the order is entered, if the order is:
    - (i) a Call Market Order,
    - (ii) an Opening Order,
    - (iii) a Market-on-Close Order,
    - (iv) a Special Terms Order,
    - (v) a Volume-Weighted Average Price Order,
    - (vi) a short sale,
    - (vii) part of a program trade in accordance with the Marketplace Rules of an Exchange,
    - (viii) a non-client order,
    - (ix) a principal order,
    - (x) a jitney order,
    - (xi) part of an intentional cross or internal cross,

- and no director, officer, partner, employee or agent of the Participant with knowledge that the client order has not been entered on a marketplace enters a principal order or a non-client order for the same security on the same side of the market on the same settlement terms; or
- (c) the principal order or non-client order is:
  - (i) for the account of the Responsible Registered Trader and has been automatically generated by the trading system in accordance with the Marketplace Rules of the TSE in respect of the obligations of the Responsible Registered Trader for the Minimum Guaranteed Fill facility and orders for less than a board lot,
  - (ii) for the account of the Odd Lot Member and has been automatically generated by the trading system in accordance with the Marketplace Rules of CDNX in respect of the obligations of the Odd Lot Member for order for less than a board lot,
  - (iii) a Call Market Order, Opening Order, Volume-Weighted Average Price Order or a Market-on-Close Order that is entered into a special facility of a marketplace that uses established, non-discretionary methods to execute trades, or
  - (iv) part of a program trade, a switch transaction, an exchange for physicals or a contingent option trade made in accordance with the Marketplace Rules of the TSE.

- (xii) for a derivative market maker account,
  - (xiii) for the account of a person who is an insider of the issuer of the security which is the subject of the order,
  - (xiv) for the account of a person who is a significant shareholder of the issuer of the security which is the subject of the order, or
  - (xv) of a type for which the Market Regulator may from time to time require a specific or particular designation.
- (2) If the order entered on a marketplace is a Special Terms Order, the order shall contain, in addition to all designations and identifiers required by subsection (1), information in such form as is acceptable to the Market Regulator of the marketplace on which the order is entered respecting:
- (a) any condition on the execution of the order; and
  - (b) the settlement date.
- (3) If following the entry of an order on a marketplace for the sale of security that has not been designated as a short sale such order would become a short sale on execution, the order shall be modified to include the short sale designation required by subsection (1).
- (4) Each order entered on a marketplace including all designations and identifiers required by subsection (1) shall be disclosed to each Market Regulator.
- (5) The marketplace on which the order is entered shall determine if the identifier of the Participant or the ATS shall be displayed in a consolidated market display.
- (6) Unless otherwise permitted or directed by the Market Regulator, a marketplace shall not disclose for display in a consolidated market display any designation attached to an order other than the designation that the order is a Special Terms Order.
- (7) Unless otherwise permitted or directed by the Market Regulator, a marketplace shall not disclose for display in a consolidated market display:
- (a) the size of:
    - (i) a Call Market Order,
    - (ii) a Market-on-Close Order, or
    - (iii) a Volume-Weighted Average Price Order; and
  - (b) the price of an Opening Order other than the price which has been calculated by the marketplace as the opening price of the security.
- (a) the client has specifically instructed the Participant to deal otherwise with the particular order;
  - (b) the Participant executes the order upon receipt at a better price;
  - (c) the Participant returns the order for confirmation of the terms of the order;
  - (d) the Participant withholds the order pending confirmation that the order complies with applicable securities requirements or, if applicable, the Marketplace Rules of any Exchange on which the security is listed or of any QTRS on which the security is quoted;
  - (e) the Participant determines based on market conditions that entering the order would not be in the best interests of the client;
  - (f) the order has a value of more than \$100,000;
  - (g) the order is part of a trade to be made in accordance with Rule 6.4 by means other than entry on a marketplace; or
  - (h) the order is:
    - (i) a Call Market Order,
    - (ii) an Opening Order,
    - (iii) a Special Terms Order,
    - (iv) a Volume-Weighted Average Price Order,
    - (v) a Market-on-Close Order, or
    - (vi) part of a wide distribution made in accordance with the Marketplace Rules of the TSE.
- (2) If a Participant withholds a client order from entry based on market conditions in accordance with clause (1)(e), the Participant may enter the order in parts over a period of time or adjust the terms of the order prior to entry but the Participant must guarantee that the client receives:
- (a) a price at least as good as the price the client would have received if the client order had been executed on receipt by the Participant; and
  - (b) if the Participant executes the client order against a principal order or non-client order, a better price than the price the client would have received if the client order had been executed on receipt by the Participant.

### 6.3 Exposure of Client Orders

- (1) A Participant shall immediately enter on a marketplace a client order to purchase or sell 50 standard trading units or less of a security unless:

### 6.4 Trades to be on a Marketplace

A Participant acting as principal or agent may not trade nor participate in a trade in a security by means other than the entry of an order on a marketplace unless the trade is:

- (a) Unlisted or Non-Quoted Security - in a security which is not a listed security or a quoted security;
- (b) Regulatory Exemption – required or permitted by a Market Regulator to be executed other than on a marketplace in order to maintain a fair or orderly

market and provided, in the case of a listed security or quoted security, the Market Regulator requiring or permitting the order to be executed other than on a marketplace shall be the Market Regulator of the Exchange on which the security is listed or of the QTRS on which the security is quoted;

- (c) Error Adjustment - to adjust by a journal entry an error in connection with a client order;
- (d) On Another Market – on another exchange or organized regulated market that publicly disseminates details of trades in that market;
- (e) Outside of Canada – as principal with a non-Canadian account or as agent if both the purchaser and seller are non-Canadian accounts provided such trade is reported to a marketplace or to a stock exchange or organized regulated market that publicly disseminates details of trades in that market;
- (f) Term of Securities – as a result of a redemption, retraction, exchange or conversion of a security in accordance with the terms attaching to the security;
- (g) Options – as a result of the exercise of an option, right, warrant or similar pre-existing contractual arrangement;
- (h) Prospectus and Exempt Distributions – pursuant to a prospectus, take-over bid, issuer bid, amalgamation, arrangement or similar transaction including any distribution of previously unissued securities by an issuer.

## 6.5 Reporting Market-on-Close Orders

- (1) A Participant that has received a Market-on-Close Order for a listed security and a Non-Dealer Subscriber that intends to enter on a marketplace a Market-on-Close Order for a listed security shall report the Market-on-Close Order to the Market Regulator in such form and manner as may be required by Market Regulator if:
  - (a) the order is to be executed on a marketplace during the Regular Session of the Exchange on which the security is listed; or
  - (b) the Participant may undertake hedging activity on a marketplace in connection with the order during the 5 minutes prior to the close of the Regular Session of the Exchange on which the security is listed.
- (2) For the purposes of subsection (1), if the number of units of a listed security to be purchased or sold under an order is not known or cannot be determined at the time the report is required, the Participant or Non-Dealer Subscriber shall make a reasonable estimate.
- (3) For the purposes of subsection (1), the Participant or Non-Dealer Subscriber shall report to the Market Regulator:
  - (a) not earlier than 45 minutes and not later than 30 minutes prior to close of the Regular

Session, the aggregate volume of Market-on-Close Orders to purchase and the aggregate volume of Market-on-Close Orders to sell in respect of each listed security then received by a Participant or intended to be entered by a Non-Dealer Subscriber;

- (b) as soon as practicable, any change in the volume of Market-on-Close Orders for a particular security from that volume provided in the report made under clause (a) including any Market-on-Close Order for a listed security that was not included in the report made under clause (a).
- (4) The Market Regulator may provide from time to time by a notice to Participants and Non-Dealer Subscribers that a report of Market-on-Close Order for a listed security is not required if:
    - (a) the aggregate volume of Market-on-Close Orders otherwise to be reported for a particular security;
    - (b) the difference between the aggregate volume of Market-on-Close Orders to purchase and sell a particular security; or
    - (c) the change in the volume of Market-on-Close Orders for a particular security from that volume provided in the report under clause 3(a),is less than a number of units established by the Market Regulator.
  - (5) Based on the reports received of Market-on-Close Orders, the Market Regulator may provide, if the Market Regulator is of the opinion that it is in the interest of a fair and orderly market, a public notice of the listed securities for which there may be significant price volatility at or near the close of the Regular Session of the Exchange.

## PART 7 – TRADING IN A MARKETPLACE

### 7.1 Clearing Obligations

- (1) Each Participant and Non-Dealer Subscriber shall:
  - (a) at the time of the entry to a marketplace of an order for the purchase or sale of a security other than a derivative instrument:
    - (i) be a participant of Canadian Depository for Securities Limited, or
    - (ii) have entered into an arrangement for the clearing and settlement of trades with a person which is a participant of the Canadian Depository for Securities Limited and such arrangement shall be in a form which is satisfactory to the Canadian Depository for Securities Limited; and
  - (b) at the time of the entry to a marketplace of an order for the purchase or sale of a derivative instrument:

- (i) be a member of Canadian Derivatives Clearing Corporation, or
- (ii) have entered into an arrangement for the clearing and settlement of trades with a person which is a member of the Canadian Derivatives Clearing Corporation and such arrangement shall be in a form which is satisfactory to the Canadian Derivatives Clearing Corporation.

- (2) A marketplace shall not permit a Participant or Non-Dealer Subscriber to enter an order for the purchase or sale of a security on that marketplace, if the Participant or Non-Dealer Subscriber is not in compliance with the requirements of subsection (1).

## 7.2 Trading Supervision Obligations

- (1) Each Participant shall adopt written policies and procedures to be followed by directors, officers, partners and employees of the Participant that are adequate, taking into account the business and affairs of the Participant, to ensure compliance with these Rules and each Policy.
- (2) Prior to the entry of an order on a marketplace by a Participant, the Participant shall comply with:
  - (a) applicable regulatory standards with respect to the review and approval of orders;
  - (b) the policies and procedures adopted in accordance with subsection (1);
  - (c) all requirements of these Rules and each Policy.
- (3) Each Participant shall appoint a head of trading who shall be responsible to supervise the trading activities of the Participant in a marketplace.
- (4) The head of trading together with each person who has authority or supervision over or responsibility to the Participant for an employee of the Participant shall fully and properly supervise such employee as necessary to ensure the compliance of the employee with these Rules and each Policy.

## 7.3 Proficiency Obligations

- (1) No order to purchase or sell a security shall be entered by a Participant on a marketplace unless the Participant or the director, officer, partner or employee of the Participant entering the order or responsible for the order has:
  - (a) completed the Trader Training Course of the Canadian Securities Institute;
  - (b) received approval of an Exchange for the entry of orders to the trading system of the Exchange; or
  - (c) completed such course, examination or other means of demonstrating proficiency in these Rules and Policies as may be acceptable to the Market Regulator of the marketplace on

which the order is entered or the applicable securities regulatory authority.

- (2) An ATS shall ensure that each Non-Dealer Subscriber of the ATS is trained in these Rules and Policies.
- (3) The Market Regulator of the ATS shall approve the training materials that an ATS proposes to use for the purposes of subsection (2).

## 7.4 Liability for Bids, Offers and Trades

- (1) All bids and offers for securities made and accepted on a marketplace shall be binding and all contracts thereby effected shall be subject to the exercise by the marketplace on which the trade is executed of the powers vested in the marketplace and the Market Regulator of that marketplace.
- (2) A Participant shall be responsible for all bids and offers that are entered into, or arise by operation of the trading system of a marketplace and that originate from any terminal or computer system allowing access to trading on the marketplace that is operated by or is under the control of that Participant whether or not the Participant has authorized the entry of the order.
- (3) Subject to the obligation of a Non-Dealer Subscriber for compliance with these Rules and each Policy, an ATS shall be responsible for all bids and offers that are entered into, or arise by operation of the trading system of the ATS and that originate from any terminal or computer system allowing access to trading on the ATS that is operated by or is under the control of the Non-Dealer Subscriber of that ATS whether or not the Non-Dealer Subscriber has authorized the entry of the order.

## 7.5 Contract Record and Official Transaction Record

- (1) The electronic record of a trade in a security as provided by a marketplace to an information processor and information vendor in accordance with the Marketplace Operation Instrument is the official transaction record for the purpose of determining:
  - (a) best ask price;
  - (b) best bid price; and
  - (c) last sale price.
- (2) Despite subsection (1), the electronic record of a trade in a security as maintained by the marketplace on which the trade occurred shall be the record of the contract made on that trade and in the event of a dispute between parties to the contract or discrepancy with the records of the clearing agency effect shall be given to the record of the marketplace.
- (3) Each marketplace shall provide to the information processor or information vendor information respecting each cancellation, variation or correction of a trade as soon as practicable after the cancellation, variation or correction has been

made to the record of the contract as maintained by the marketplace and the information processor or information vendor shall amend the transaction record accordingly.

## 7.6 Recorded Prices

- (1) No Participant acting as agent shall execute a transaction through a marketplace in which the price recorded on the marketplace is:
  - (a) in the case of a purchase by a client, higher than the net cost to the client; or
  - (b) in the case of a sale by a client, lower than the net proceeds to the client.
- (2) No Participant acting as principal shall execute a transaction through a marketplace in which the price recorded on the marketplace is:
  - (a) in the case of a sale to a client, lower than the net cost to the client by more than the usual agency commission that would be charged by that Participant to that client for an order of the same size; and
  - (b) in the case of a purchase from a client, higher than the net proceeds to the client by more than the usual agency commission that would be charged by that Participant to that client for an order of the same size.

## 7.7 Cancelled Trades

If a trade is cancelled, a subsequent trade on any marketplace which was:

- (a) executed as a result of the price of the cancelled trade; or
- (b) permitted only as a result of the price of the cancelled trade,

shall stand unless cancelled by the consent of the buyer and the seller or by a Market Integrity Official who is of the opinion that the cancellation of the subsequent trade is appropriate under the circumstances.

## 7.8 Restrictions on Trading by a Participant Involved in a Distribution

### (1) Definitions

In this Rule:

**“basket trade”** means a simultaneous purchase of at least 20 listed securities or quoted securities, provided that any restricted security comprises not more than 10% of the total value of the transaction.

**“distribution”** means a distribution of any security pursuant to:

- (a) a prospectus;
- (b) a wide distribution in accordance with Marketplace Rules of the TSE; or
- (c) an offering of special warrants.

**“distributed security”** means the listed security or quoted security of the class that is the subject of the distribution.

**“equity security”** means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding up of the issuer, in its assets;

**“exempt security”** means a listed security or quoted security that:

- (a) has traded in total on one or more marketplaces as reported on a consolidated data feed during a 60-day period ending not earlier than 30 days prior to the commencement of the restricted period:
  - (i) an average of at least 100 times per trading day, and
  - (ii) with an average trading value of \$1,000,000 per trading day; or
- (b) is an Index Participation Unit in accordance with the Marketplace Rules of the TSE.

**“independent bid”** means an order, other than a Special Terms Order, to buy entered on a marketplace by or on behalf of a person who is not involved in the distribution.

**“independent trade”** means a trade on a marketplace of at least one standard trading unit made by or on behalf of a person who is not involved in the distribution.

**“maximum permitted stabilization price”** means:

- (a) for the distributed security:
  - (i) the price at which the distributed security will be issued, if that price has been determined, and
  - (ii) the price of the last independent trade, if the price at which the distributed security will be issued has not been determined; and
- (b) for a related security, the highest price of an independent bid for that security at the commencement of the restricted period.

**“related security”** means, in respect of a distributed security:

- (a) a listed security or quoted security into which the distributed security is immediately convertible, exchangeable or exercisable unless the price at which the security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the listed security at the commencement of the restricted period;
- (b) a listed security or quoted security that, according to the terms of the distributed security, may significantly determine the value of the distributed security;



- (c) if the distributed security is a special warrant, a listed security which would be issued on the exercise of the special warrant; and
- (d) if the distributed security is an equity security, any other equity security of the issuer that is a listed security or quoted security.

“**restricted period**” means the period:

- (a) commencing on the earlier of the date:
  - (i) the Participant enters into an underwriting agreement in respect of the distribution of the distributed securities, and
  - (ii) two trading days prior to the day:
    - (A) the receipt is issued for the final prospectus for the distribution of the distributed securities in the case of a distribution pursuant to a prospectus,
    - (B) the TSE consents to the distribution in the case of a wide distribution pursuant to the Marketplace Rules of the TSE, and
    - (C) the offering price of the special warrant is determined in the case of a distribution of special warrants; and
- (b) ending on the earlier of the date:
  - (i) the Participant has sold all of the distributed securities allotted to the Participant, including all restricted securities acquired by the Participant in connection with the distribution, and all stabilization arrangements to which the Participant is a party terminate, and
  - (ii) the distribution terminates pursuant to applicable securities law or the Marketplace Rules of the TSE.

“**restricted security**” means:

- (a) the distributed security; and
- (b) any related security

but does not include an exempt security or a related security of an exempt security.

“**underwriter**” means a Participant involved in a distribution but does not include a Participant which has agreed to sell part of the distribution but is not obligated to purchase any of the distributed securities.

## (2) **Prohibited Trading**

Except as permitted, an underwriter shall not at any time during the restricted period:

- (a) bid for or purchase for its own account a restricted security on a marketplace; or
- (b) solicit purchase orders from clients for a restricted security.

## (3) **Restricted Trading**

Despite subsection (2), an underwriter involved in a distribution, other than a distribution pursuant to an at-the-market offering as permitted by National Instrument 44-101 or any successor instrument, may, at any time during the restricted period, bid for or purchase a restricted security at a price which does not exceed the maximum permitted stabilization price provided such price also does not exceed:

- (a) if the underwriter has either a long position or no position in the restricted security, the highest independent bid then entered on a marketplace;
- (b) if the underwriter enters the bid prior to the commencement of trading on a trading day, the last sale price of the restricted security on the previous trading day; and
- (c) if the restricted security has not previously traded on a marketplace, the price of the last independent trade of the security on another stock exchange or organized over-the-counter market.

## (4) **Exemptions**

Subsections (2) and (3) do not apply to:

- (a) an order which, if executed, would be:
  - (i) a basket trade, or
  - (ii) a program trade in accordance with the Marketplace Rules of the TSE;
- (b) a Must-Be-Filled Order in accordance with the Marketplace Rules of the TSE; and
- (c) an order entered solely for the purpose of rebalancing a portfolio, the composition of which is based on an Index as defined in accordance with the Marketplace Rules of the TSE, to reflect an adjustment made in the composition of the Index.

## (5) **Deemed Commencement of a Restricted Period**

If an underwriter receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the distributed securities allotted to or acquired by the underwriter in connection with the distribution then a restricted period shall be deemed to have commenced upon receipt of such notice or notices.

## (6) **Transactions by the Responsible Registered Trader**

A Responsible Registered Trader in accordance with the Marketplace Rules of the TSE who is employed by an underwriter may, for their registered trading account:

- (a) with the prior approval of a Market Integrity Official, enter a bid to move the calculated

opening price of a restricted security to a more reasonable level;

- (b) purchase a restricted security pursuant to the responsibility of the Responsible Registered Trader to provide a MGF for a sell order but not including a purchase pursuant to the right of the Responsible Registered Trader to participate in trades with MGF-eligible orders; and
- (c) bid for or purchase a restricted security:
  - (i) that is traded on another market for the purpose of matching a higher-priced bid posted on such market,
  - (ii) that is convertible, exchangeable or exercisable into another listed security for the purpose of maintaining an appropriate conversion, exchange or exercise ratio, and
  - (iii) to cover a short position resulting from sales made under the market making obligations of the Responsible Registered Trader.

**(7) Transactions by the Options Specialist**

An options specialist in accordance with the Marketplace Rules of the BDM who employed by an underwriter may, for their specialist account, bid for or purchase a restricted security if:

- (a) the restricted security is the underlying security of the option for which the person is the specialist;
- (b) there is not otherwise a suitable derivative hedge available; and
- (c) such bid or purchase is:
  - (i) for the purpose of hedging a pre-existing options position,
  - (ii) reasonably contemporaneous with the trade in the option, andconsistent with normal market-making practice.

**7.9 Restrictions on Trading During a Securities Exchange Take-over Bid**

- (1) A restricted person shall not bid for nor purchase the offered security at any time from the first public announcement of a securities exchange take-over bid until the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the bid is withdrawn.
- (2) Despite subsection (1), a restricted person may bid for or purchase the offered security as agent for an unsolicited client order provided the client is not:
  - (a) the offeror;
  - (b) an insider of the offeror; or

- (c) an associate or affiliated entity of the offeror.

**7.10 Trading in Listed or Quoted Securities by Market Makers and Specialists**

A Participant who performs the function ordinarily associated with a market maker, specialist or restricted permit holder on the BDM shall comply when trading on any marketplace with such additional requirements as may be required by:

- (a) an Exchange when trading on that Exchange in listed securities; and
- (b) a QTRS when trading on that QTRS in quoted securities.

**PART 8 – PRINCIPAL TRADING**

**8.1 Client-Principal Trading**

- (1) A Participant that receives a client order for 50 standard trading units or less of a security with a value of \$100,000 or less may execute the client order against a principal order or non-client order at a better price provided the Participant has taken reasonable steps to ensure that the price is the best available price for the client taking into account the condition of the market at that time.
- (2) Subsection (1) does not apply if the client order is:
  - (a) a Call Market Order;
  - (b) an Opening Order;
  - (c) a Market-on-Close Order; or
  - (d) a Volume-Weighted Average Price Order.

**PART 9 – TRADING HALTS, DELAYS AND SUSPENSIONS**

**9.1 Trading Halts, Delays and Suspensions**

- (1) No order for the purchase or sale of a security shall be entered on a marketplace or executed on a marketplace or over-the-counter, at any time while:
  - (a) an order of a securities regulatory authority to cease trading in the security remains in effect;
  - (b) in the case of a listed security, the Market Regulator of the Exchange on which the security is listed has delayed, halted or suspended trading in the security while such delay, halt or suspension remains in effect;
  - (c) in the case of a quoted security, the Market Regulator of the QTRS has delayed, halted or suspended trading in the security while such delay, halt or suspension remains in effect; and
  - (d) in the case of any security other than a listed security or a quoted security, a Market Regulator of an ATS on which such security may trade has halted trading for the purposes

- of the public dissemination of material information respecting such security or the issuer of such security.
- (2) Despite subsection (1), an order may trade on a marketplace, if the Exchange or QTRS has:
    - (a) suspended trading in the security by reason only that the issuer of the security has:
      - (i) ceased to meet minimum listing or quotation requirements established by Marketplace Rules, or
      - (ii) failed to pay to the Exchange or QTRS any fees in respect of the listing or quotation of securities of the issuer; or
    - (b) delayed or halted trading in the security as a result of:
      - (i) technical problems affecting only the trading system of the Exchange or QTRS, or
      - (ii) the application of a Marketplace Rule.
  - (3) If trading in a security has been prohibited on a marketplace in accordance with clauses (1)(b), (c) or (d), a Participant may execute a trade in the security, if permitted by applicable securities legislation, outside of Canada on an exchange or organized regulated market that publicly disseminates details of trades in that market.
- (c) any person to whom responsibility for compliance with the Rules by other persons are extended in accordance with Rule 10.3 or to whom responsibility had been extended at the time of the conduct; and
  - (d) any person to whom the application of the Rules are extended in accordance with Rule 10.4 or to whom the Rules had been extended at the time of the conduct.
- (2) Upon the request of the Market Regulator, any person described in subsection (1) shall forthwith:
    - (a) provide any information or records in the possession or control of the person that the Market Regulator determines may be relevant to a matter under investigation and such information or records shall be provided in such manner and form, including electronically, as may be required by the Market Regulator;
    - (b) allow the inspection of, and permit copies to be taken of, any information or records in the possession or control of the person that the Market Regulator determines may be relevant to a matter under investigation; and
    - (c) provide a statement, under oath or otherwise, at a time and place specified by the Market Regulator on such issues as the Market Regulator determines may be relevant to a matter under investigation provided that in the case of a person other than an individual, the statement shall be made by an appropriate officer, director, partner or employee or other individual associated with the person as is acceptable to the Market Regulator.

## **PART 10 – COMPLIANCE**

### **10.1 Compliance Requirement**

- (1) Each Participant and Non-Dealer Subscriber shall comply with the Requirements.
- (2) For the purposes of subsection (1), a Participant or Non-Dealer Subscriber shall, with respect to a particular order, comply with the Marketplace Rules of:
  - (a) the marketplace on which the particular order is entered; and
  - (b) the marketplace on which the particular order is executed.

### **10.2 Investigations**

- (1) In connection with compliance with the Requirements, the Market Regulator may, at any time, whether or not on the basis of a complaint or other communication in the nature of a complaint, investigate the conduct of:
  - (a) any marketplace for which the Market Regulator is the regulation service provider or was the regulation service provider at the time of the conduct;
  - (b) any Participant or Non-Dealer Subscriber of a marketplace for which the Market Regulator is the regulation service provider or was the regulation service provider at the time of the conduct;

### **10.3 Extension of Responsibility**

- (1) A Participant or Non-Dealer Subscriber may be found liable by the Market Regulator for the conduct of any director, officer, partner, employee or individual holding a similar position with the Participant or Non-Dealer Subscriber and be subject to any penalty or remedy as if the Participant or Non-Dealer Subscriber had engaged in that conduct.
- (2) Any partner or director of a Participant or Non-Dealer Subscriber may be found liable by the Market Regulator for the conduct of the Participant or Non-Dealer Subscriber and be subject to any penalty or remedy as if such person had engaged in that conduct.
- (3) Any officer or employee of a Participant or Non-Dealer Subscriber who has authority over, supervises or is responsible for an employee may be found liable by the Market Regulator for the conduct of the supervised employee and be subject to any penalty or remedy as if such person had engaged in that conduct.
- (4) The imposition of any penalty or remedy against any person who engaged in conduct that contravened a Requirement or against any person to whom responsibility for the conduct has been

extended by this section does not prevent or limit in any manner the imposition by the Market Regulator of any penalty or remedy against any other person who engaged in the conduct or to whom responsibility for the conduct has been extended by this section.

#### 10.4 Extension of Restrictions

- (1) A related entity of a Participant and a director, officer, partner or employee of the Participant or a related entity of the Participant shall:
  - (a) comply with the provisions of these Rules and any Policies with respect to just and equitable principles of trade, manipulative and deceptive method of trading, short sales and frontrunning as if references to "Participant" in Rules 2.1, 2.2, 3.1 and 4.1 included reference to such person; and
  - (b) in respect of the failure to comply with the Rules and Policies referred to in clause (a), be subject to the practice and procedures and to penalties and remedies set out in this Part.
- (2) A related entity of a Non-Dealer Subscriber and a director, officer, partner or employee of the Non-Dealer Subscriber or a related entity of the Non-Dealer Subscriber shall in respect of trading on a marketplace on behalf of the Non-Dealer Subscriber or related entity of the Non-Dealer Subscriber:
  - (a) comply with the provisions of these rules and any Policies with respect to just and equitable principles of trade, manipulative and deceptive method of trading and short sales as if references to "Non-Dealer Subscriber" in Rules 2.1, 2.2 and 3.1 included reference to such person; and
  - (b) in respect of the failure to comply with the Rules and Policies referred to in clause (a), be subject to the practice and procedures and to the penalties and remedies set out in this Part.
- (3) If, in the opinion of a Market Regulator, a particular person to whom these Rules apply, including any particular person to whom these Rules have been extended in accordance with subsection (1) and (2), has organized their business and affairs for the purpose of avoiding the application of any provision of these Rules, the Market Regulator may designate any person involved in such business and affairs as a person acting in conjunction with the particular person.
- (4) Upon a Market Regulator making a designation in accordance with subsection (3), the Market Regulator shall provide notice of such designation to:
  - (a) the particular person;
  - (b) the designated person;
  - (c) each Market Regulator; and

(d) each applicable securities regulatory authority.

#### 10.5 Powers and Remedies

- (1) The Market Regulator may, following a hearing and a determination that a person described in subsection (1) of Rule 10.2 has contravened a Requirement or is liable for the contravention of a Requirement in accordance with Rule 10.3, by an order impose on such person one or more of the following penalties or remedies as the Market Regulator considers appropriate in the circumstances:
  - (a) a reprimand;
  - (b) a fine not to exceed the greater of:
    - (i) \$1,000,000, and
    - (ii) an amount equal to triple the financial benefit which accrued to the person as a result of committing the contravention;
  - (c) the restriction of access to the marketplace for such period and upon such terms and conditions, if any, considered appropriate;
  - (d) the suspension of access to the marketplace for such period and upon such terms and conditions, if any, considered appropriate; and
  - (e) the revocation of access to the marketplace.
- (2) If the Market Regulator has determined that a person described in subsection (1) of Rule 10.2 has engaged in, or may engage in, any course of conduct detrimental to the public interest, the Market Regulator may, if the Market Regulator considers it is necessary for the protection of the public interest by an interim order without notice or hearing, order the restriction or suspension of access to the marketplace upon such terms and conditions, if any, considered appropriate provided such interim order shall expire 15 days after the date on which the interim order is made unless:
  - (a) a hearing is commenced within that period of time to confirm or set aside the interim order;
  - (b) the person against which the interim order is made consents to an extension of the interim order until a hearing of the matter is held; or
  - (c) an applicable securities regulatory authority directs that the interim order be rescinded or extended.
- (3) For the purposes of this section, the restriction, suspension or revocation of access of a person to a marketplace may be imposed directly on the person and, if the person is an individual, in their capacity as a director, officer, partner, employee or associate of a person with access to a marketplace.
- (4) For greater certainty, any enforcement or disciplinary proceeding or any order or interim order as against a person by a Market Regulator for contravention of a Requirement shall not affect

or limit any enforcement or disciplinary action as against the person by any securities regulatory authority, self-regulatory entity or other Market Regulator with jurisdiction over the person.

- (5) If a Market Regulator restricts, suspends or revokes the access of any person to a marketplace in accordance with this section, such person shall be denied access to any other marketplace and shall have any access to any other marketplace automatically restricted, suspended or revoked unless the applicable securities regulatory authority otherwise determines in a review of the decision of the Market Regulator undertaken in accordance with Rule 11.3.
- (6) If a Market Regulator restricts, suspends or revokes the access of any person to a marketplace, the Market Regulator shall provide notice forthwith of such suspension or revocation to:
  - (a) the person whose access has been restricted, suspended or revoked;
  - (b) each marketplace;
  - (c) each Market Regulator; and
  - (d) each applicable securities regulatory authority.

#### **10.6 Exercise of Authority**

- (1) A Hearing Panel shall make any determination, hold any hearing and make any order or interim order required or permitted of a Market Regulator under this Part.
- (2) A member of the Hearing Committee shall not be a member of any Hearing Panel with respect to any matter if the member:
  - (a) is an officer, partner, director, employee or an associate of any person that is a subject of the hearing, order or interim order;
  - (b) has such other relationship to the person or matter as may be reasonably considered to give rise to a potential conflict of interest.
- (3) Subject to any limitations, restrictions, conditions and requirements that the Board may impose or which may be imposed by applicable securities legislation or any recognition order or registration in respect of the particular marketplace for which the Market Regulator is the regulation service provider, any determination, order or interim order made by a Hearing Panel may be appealed to the Board by a party to the hearing.
- (4) The Board may delegate the power of the Board to hear an appeal to a committee of the Board comprised of not less than three members of the Board.
- (5) On an appeal, the Board may:

- (a) confirm, reject or vary any determination, order, interim order made by a Hearing Panel; and

- (b) assess costs of the appeal to any party to the appeal based on the expenses set out in subsection (1) of Rule 10.7.

- (6) If the powers of the Board have been delegated to a committee of the Board in accordance with subsection (3), the committee shall report to the Board at the next meeting of the Board with respect to any exercise of such powers by the committee.

- (7) A member of the Board shall not participate in the consideration of an appeal by the Board or any committee of the Board with respect to any matter if the member:

- (a) is an officer, partner, director, employee or an associate of any person that is a subject of the hearing, order or interim order;

- (b) has such other relationship to the person or matter as may be reasonably considered to give rise to a potential conflict of interest.

#### **10.7 Assessment of Expenses**

- (1) Any order made under this Part may assess the person against whom the order is made any one or more of the following expenses incurred by the Market Regulator as a result of the investigation and the proceedings resulting in the order:
  - (a) recording or transcription fees;
  - (b) expenses of preparing transcripts;
  - (c) witness fees and reasonable expenses of witnesses;
  - (d) professional fees for services rendered by expert witnesses, legal counsel or accountants retained by the Market Regulator;
  - (e) expenses of staff time incurred by the Market Regulator;
  - (f) travel costs;
  - (g) disbursements; or
  - (h) any other expenses determined to be appropriate under the circumstances.
- (2) Where the Market Regulator conducts an investigation of a complaint or other communication in the nature of a complaint that was made by a person described in subsection (1) of Rule 10.2 and the Market Regulator determines that the complaint or other communication in the nature of a complaint was frivolous, the Market Regulator may assess the expenses incurred by the Market Regulator as a result of the investigation against that person.

#### **10.8 Practice and Procedure**

The practice and procedure governing hearings and appeals pursuant to this Part shall be made by a Policy.

### 10.9 Power of Market Integrity Officials

- (1) A Market Integrity Official may, in governing trading in securities on the marketplace:
  - (a) delay, halt or suspend trading in a security at any time and for such period of time as such Market Integrity Official may consider appropriate in the interest of a fair and orderly market;
  - (b) refuse to allow any bid price or ask price to be recorded at any time if, in the opinion of such Market Integrity Official, such quotation is unreasonable or not in compliance with these Rules or any Policy;
  - (c) settle any dispute arising from trading in securities on the marketplace where such authority is not otherwise provided for in any requirement governing trading on the marketplace;
  - (d) disallow or cancel any trade which, in the opinion of such Market Integrity Official, is unreasonable or not in compliance with these Rules or any Policy;
  - (e) vary or cancel any trade upon application of the buyer and seller provided such application has been made by the end of trading on the day following the day on which the trade was made or such earlier time as may be established in any Marketplace Rule of the marketplace on which the trade was executed;
  - (f) in respect of any trade which has not complied with the requirements of Part 5, correct the price of the trade to a price at which the trade would have complied with such requirement, or
  - (g) require the Participant to satisfy the better bid or offer up to the volume of the trade which failed to comply with the requirements of Part 5;
  - (h) provide to any person an interpretation of any provision of these Rules and any Policy in accordance with the purpose and intent of provision and shall ensure that any such interpretation is observed by such person;
  - (i) exercise such powers as are specifically granted to a Market Regulator or Market Integrity Official by these Rules and any Policy; and
  - (j) exercise such powers as are specifically granted to the Market Regulator by the marketplace where the marketplace is entitled to grant such powers.
- (2) In determining whether any quotation or trade in a security is unreasonable, the Market Regulator shall consider:

- (a) prevailing market conditions;
- (b) the last sale price of the security as displayed in a consolidated market display;
- (c) patterns of trading in the security on the marketplace including volatility, volume and number of transactions;
- (d) whether material information concerning the security is in the process of being disseminated to the public; and
- (e) the extent of the interest of the person for whose account the order is entered in changing the price or quotation for the security.

### 10.10 Report of Short Positions

- (1) A Participant shall calculate, as of 15th day and as of the last day of each calendar month, the aggregate short position of each individual account in respect of each listed security and quoted security.
- (2) Unless a Participant maintains the account in which a Non-Dealer Subscriber has the short position in respect of a listed security or quoted security, the Non-Dealer Subscriber shall calculate, as of the 15th day and as of the last day of each calendar month, the aggregate short position of the Non-Dealer Subscriber in respect of each listed security and quoted security.
- (3) Unless otherwise provided, each Participant and Non-Dealer Subscriber shall file a report of the calculation with RS Inc. in such form as may be required by RS Inc. not later than two trading days following the date on which the calculation is to be made.

### 10.11 Audit Trail Requirements

- (1) Recording Requirements for Receipt or Origination of an Order – Immediately following the receipt or origination of an order, a Participant shall record:
  - (a) the order identifier;
  - (b) the trading symbol of the security;
  - (c) the number of units of the security to which the order applies;
  - (d) the strike date and strike price, if the security is a derivative instrument;
  - (e) whether the order is a buy or sell order;
  - (f) all order designations required by clause (b) of subsection (1) of Rule 6.2;
  - (g) whether the order is a market order, limit order or other type of order, and if the order is other than a market order, the price at which the order is to trade;

- (h) the date and time the order is originated or received by the Participant;
  - (i) the client account number or client identifier or, in the case of a jitney order, the identifier of the Participant placing the order;
  - (j) the identifier of any investment adviser or registered representative receiving the order;
  - (k) the date and time that the order expires;
  - (l) any client instructions or consents respecting the handling or trading of the order, if applicable;
  - (m) any information respecting the special terms attaching to the order required by subsection (2) of Rule 6.2, if applicable; and
  - (n) the currency of the order.
- (2) Recording Requirements for Entry of an Order – Immediately following the entry of an order to trade on a marketplace, a Participant shall add to the record maintained in accordance with subsection (1):
- (a) the identifier of the Participant through which any trade would be cleared and settled;
  - (b) the identifier assigned to the Participant entering the order;
  - (c) the identifier assigned to the marketplace on which the order is entered; and
  - (d) the date and time the order is entered.
- (3) Recording Requirements for Variation, Correction or Cancellation of an Order – Immediately following the modification or cancellation of an order, a Participant shall add to the record maintained in accordance with subsection (1):
- (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;
  - (c) in the case of variation or correction, 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 in whole or in part of an order, a Participant shall add to the record maintained in accordance with subsection (1):
- (a) the marketplace where the order was executed or the identifier of the Participant executing the order if the order has not been executed on a marketplace;
  - (b) the date and time of the execution of the order;
  - (c) whether the Participant has executed the order as principal;
  - (d) if the order has been partially executed, the number of units of the security bought or sold if shares or contracts;
  - (e) the price at which the order was executed; and
  - (f) in the case of a client order, the commission charged.
- (5) Additional Recording Requirements under Trading Rules – In addition to any information required to be recorded under subsections (1) to (4), a Participant shall add to the record any information as may be required in accordance with the Trading Rules.
- (6) Transmittal of Order Information to a Marketplace - The Participant shall transmit the record of the order required to be maintained by the Participant by this section to:
- (a) the Market Regulator for the marketplace on which the trade was executed; or
  - (b) if the order was not executed on a marketplace,
    - (i) a Market Regulator if the security is not listed on an Exchange or traded on a QTRS, and
    - (ii) the Market Regulator for the Exchange or the QTRS on which the security is listed or quoted,
 at the time and in such manner and form as may be required by the Market Regulator.
- (7) Provision of Additional Information – In addition to any information provided by a Participant to a Market Regulator in accordance with subsection (6), the Participant shall provide to the Market Regulator forthwith upon request in such form and manner as may be reasonably required by the Market Regulator:
- (a) any additional information respecting the order or trade reasonably requested; and
  - (b) information respecting any prior or subsequent order or trade in the security or a related security undertaken by the Participant whether or not such order was entered or executed on the marketplace of the Market Regulator.
- (8) Provision of Information by a Non-Dealer Subscriber – Where an order has been entered on a marketplace by a Non-Dealer Subscriber, the Non-Dealer Subscriber shall provide to the Market Regulator of the marketplace on which the order was entered or the Market Regulator of the marketplace on which the order was executed forthwith upon request in such form and manner

as may be reasonably required by the Market Regulator:

- (a) any information respecting the order or trade reasonably requested; and
- (b) information respecting any prior or subsequent order or trade in the security or a related security undertaken by the Non-Dealer Subscriber whether or not such order was entered or executed on the marketplace of the Market Regulator making the request.

#### **10.12 Retention and Inspection of Records and Instructions**

(1) A Participant shall retain:

- (a) the record of each order as required by Rule 10.11; and
- (b) sufficient information to identify the beneficial owner of each account for which a record of an order is retained,

for a period of not less than seven years from the creation of the record of the order, and for the first two years, such record and information shall be kept in a readily accessible location.

(2) A Participant shall allow the Market Regulator of the marketplace:

- (a) of which the Participant is a member, user or subscriber;
- (b) on which the Participant entered the order; or
- (c) on which the order of the Participant was executed,

to inspect and make copies of the record of an order, any record related to the order required to be maintained by the Participant in accordance with applicable securities legislation or the requirements of any self-regulatory organization of which the Participant is a member and information on the beneficial owner of the account at any time during ordinary business hours during the period that such record and information is required to be retained by the Participant.

(3) A Non-Dealer Subscriber shall allow the Market Regulator of the marketplace:

- (a) of which the Non-Dealer Subscriber is a subscriber; or
- (b) on which the order of the Non-Dealer Subscriber was executed,

to inspect and make copies of any information respecting an order at any time during ordinary business hours during the period of not less than seven years from the date of the origination of the order, and for the first two years, such information shall be kept in a readily accessible location.



### **10.13 Exchange and Provision of Information by Market Regulators**

Each Market Regulator shall provide information and other forms of assistance for market surveillance, investigative, enforcement and other regulatory purposes including the administration and enforcement of these Rules to:

- (a) a self-regulatory entity;
- (b) a self-regulatory organization in a foreign jurisdiction;
- (c) a securities regulatory authority;
- (d) a securities regulatory authority in a foreign jurisdiction; and
- (e) another Market Regulator.

### **10.14 Synchronization of Clocks**

Each marketplace and each Participant shall synchronize the clocks used for recording the time and date of any event that must be recorded pursuant to these Rules to the clock used by the Market Regulator for this purpose.

### **10.15 Assignment of Identifiers and Symbols**

- (1) Each Participant and marketplace shall be assigned a unique identifier for trading purposes.
- (2) Unless otherwise provided, the TSE shall assign each identifier for the purposes of subsection (1) after consultation with BDM and CDNX.
- (3) Each security that trades on a marketplace shall be assigned a unique symbol for trading purposes.
- (4) Unless otherwise provided, the TSE shall assign each symbol for the purposes of subsection (3) after consultation with BDM and CDNX.

## **PART 11 – ADMINISTRATION OF RULES**

### **11.1 General Exemptive Relief**

A Market Regulator may exempt any particular person or particular transaction from the application of a Rule, if in the opinion of the Market Regulator, the provision of such exemption:

- (a) would not be contrary to the provisions of any applicable securities legislation and the regulation and rules thereunder;
- (b) would not be prejudicial to the public interest or to the maintenance of a fair and orderly market; and
- (c) is warranted after due consideration of the circumstances of the particular person or transaction.

### **11.2 General Prescriptive Power**

- (1) A Market Regulator may, from time to time, make or amend a Policy.

- (2) A Policy or an amendment to a Policy shall not become effective without the approval of the applicable securities regulatory authority.

### **11.3 Review of Market Regulator Decisions**

Any person directly affected by any direction, order or decision of a Market Regulator or Market Integrity Official made in connection with the administration and enforcement of these Rules and any Policy may apply to the applicable securities regulatory authority for a hearing and review of such direction, order or decision in accordance with the procedure for a hearing and review as established from time to time by the securities regulatory authority.

### **11.4 Method of Giving Notice**

- (1) Unless otherwise specifically provided in any Requirement, notice to any person shall be sufficiently given if:
  - (a) delivered personally to the person to whom it is to be given;
  - (b) delivered or mailed by pre-aid ordinary mail to the last address of such person as recorded by the Market Regulator or any securities regulatory authority or recognized self-regulatory organization;
  - (c) provided by telephone transmission or any other form of transmitted or recorded communication or in any other manner which may, in all the circumstances, could be reasonably expected to come to the attention of such person.

- (2) The Market Regulator may change the address of any person on the records of the Market Regulator in accordance with any information believed by the Market Regulator to be reliable.

- (3) A notice delivered in accordance with this section shall be deemed to have been given when the notice is delivered personally or at the address aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice sent by any means of wire or wireless or any other form of transmitted or recorded communication shall be deemed to have been given when delivered to the appropriate communication company or agency or its representatives for dispatch.

### **11.5 Computation of Time**

- (1) In computing the time when a notice must be given or for the doing of anything or taking any proceeding under any provision of a Requirement requiring that a notice be given a specified number of days prior to any meeting, hearing, action or proceeding or that any action be done or proceeding taken within a specified number of days after some event, the date of giving of the notice or of such event shall be excluded and the date of the meeting, hearing, doing of the act or taking of the proceedings shall be included.

- (2) Where the time limited for a proceeding or the doing of anything under any provision of a Requirement expires or falls upon a day that is not a trading day, the time so limited extends to and the thing may be done on the next day following that is a trading day.

#### **11.6 Waver of Notice**

Any person may waive any notice that is required to be given to such person and such waiver, whether given before or after the meeting, hearing or other event of which notice is required to be given, shall cure any default in giving such notice.

#### **11.7 Omissions or Errors in Giving Notice**

The accidental omission to give any notice to any person or the failure of a person to receive any notice or an error in any notice not affecting the substance of the notice does not invalidate any action founded or taken on the basis of such notice.

#### **11.8 Transitional Provisions**

- (1) Subject to subsection (2), any provision of any rule, policy, ruling, decision or direction of a marketplace in effect immediately prior to the coming into effect of these Rules shall remain in full force and effect until such provision, rule, policy, ruling, decision or direction has been repealed.
- (2) In the event of a conflict between these Rules and the provisions of any rule, policy, ruling, decision or direction of a marketplace that remains in effect after these Rules come into effect, the provisions of these Rules shall prevail.
- (3) Where a marketplace has retained a Market Regulator to be the regulation service provider for that marketplace in accordance with the Trading Rules, any disciplinary proceedings commenced:
  - (a) prior to the date the marketplace retained the Market Regulator shall be continued by the marketplace in accordance with the rules, policies, rulings, decisions or directions of the marketplace in effect and applicable to such disciplinary proceedings; and
  - (b) on or after the date the marketplace retained the Market Regulator in respect of the breach or failure to comply with any rule, policy, ruling, decision or direction of the marketplace shall be undertaken in accordance with Part 10 and be subject to the imposition of any penalty or remedy under Rule 10.5 as if the breach or failure to comply had been a breach or failure to comply with a Marketplace Rule after the date the marketplace retained the Market Regulator to be the regulation service provider.

#### **10.9 Non-Application of Rules**

These Rules do not apply to:

- (a) any order entered and executed on a marketplace provided the order has been entered and executed

in compliance with the Marketplace Rules of that marketplace as adopted in accordance with Part 7 of the Trading Rules; and

- (b) any order entered and executed on a marketplace or otherwise provided the order has been entered and executed in compliance with the rules of an applicable regulation service provider as adopted in accordance with Part 8, 9 or 10 of the Trading Rules.

**APPENDIX C**

**TEXT OF POLICIES UNDER THE UNIVERSAL MARKET INTEGRITY RULES**

**POLICY 2.1 – JUST AND EQUITABLE PRINCIPLES**

**Part 1 – Examples of Unacceptable Activity**

Rule 2.1 provides that a Participant and Non-Dealer shall transact business openly and fairly and in accordance with just and equitable principles of trade when trading on a marketplace or trading or otherwise dealing in securities that are eligible to be traded on a marketplace. As such, the Rule operates as a general anti-avoidance provision.

Participants and Non-Dealer Subscribers who intentionally organize their business and affairs with the intent or for the purpose of avoiding the application of a Requirement may be considered to have engaged in behaviour that is contrary to the just and equitable principles of trade. For example, the Market Regulator considers that a person who is under an obligation to enter orders on a marketplace who “uses” another person to make a trade off of a marketplace (in circumstances where an “off-market exemption” is not available) to be violating just and equitable principles of trade.

Certain patterns of activity that can be undertaken that affect the marketplace but do not reach the level of manipulative and deceptive trading practices are nonetheless unavailable to Participant and Non-Dealer Subscribers. For example, Rule 4.1 dealing with frontrunning is specifically tied to misuse of information when a Participant knows a client order will be entered. Somewhere between the Participant who acts on certain knowledge of a client order and the Participant who acts despite a single, uncertain expression of interest are the Participants that repeatedly take advantage of expressions of interest in particular securities. Such Participants are not conducting business openly and fairly and in accordance with just and equitable principles of trade. The “just and equitable principles” clause prevents such unfair activity.

Without limiting the generality of the Rule, the following are examples of activities by a Participant that would be considered to be in violation of just and equitable principles of trade:

- (a) without the specific consent of the client, entering client and principal orders in such a manner as to attempt to obtain execution of a principal order in priority to the client order (See Part 2 of Policy 5.3 – Client Priority for examples of the prohibition on “intentional trading ahead”)
- (b) without the specific consent of the client, to vary the instructions of the client to indicate that securities held by the client are to participate in a dividend reinvestment plan such that the Participant would receive securities of the issuer and would account to the client for the dividend in cash;
- (c) without the specific consent of the lender of securities, to vary the arrangements in respect of securities borrowed by the Participant to indicate that the borrowed securities are to participate in a dividend reinvestment plan such that the Participant would receive securities of the issuer and would account to the lender for the dividend in cash; and

- (d) when trading a combined board lot/odd lot order for a listed security on an Exchange, entering the odd lot portion of the order prior to executing the board lot portion of the order as such order entry exposes the Registered Trader on the TSE or the Odd Lot Dealer on the CDNX to automatic odd lot trades at unreasonable prices.

**Part 2 – Moving Markets to Execute a Trade**

A Participant or Non-Dealer Subscriber intending to execute a trade or a cross that will cause, during the course of a single trading day, a change in the price that is above the prevailing offer or below the prevailing bid by an amount greater than \$1 in a security selling below \$20, or greater than \$2 in a security selling at or above \$20, shall obtain the prior approval of the Market Regulator. The Participant shall move the market to the price of the cross or the final trade of a one-sided order (the “clean-up price”) in an orderly manner over a time period as directed by the Market Regulator. The length of time required to move the market will depend on the circumstances and the particular security involved. As a guideline, 10 to 15 minutes will be required for each movement of \$1 in price. Particular securities may require a longer period of time.

If the Market Regulator is given notice of a proposed trade or cross under this Policy shortly before the close of trading on marketplaces or the principal market for the security, the Market Regulator may disallow the trade if, in the opinion of the Market Regulator, there is not sufficient time to move the market to the clean-up price in an orderly manner before the close.

**POLICY 2.2 – MANIPULATIVE AND DECEPTIVE METHOD OF TRADING**

**Part 1 – Artificial Pricing**

For the purposes of Rule 2.2, a price will be considered artificial if it is not justified by real demand or supply in a stock. Whether or not a particular price or quotation is “artificial” depends on the particular circumstances. A price may be artificial if it is higher or lower than the previous price and the market immediately returns to that previous price following the trade. A quotation may be artificial if it raises or lowers the bid or offering, is the only bid or offering at that price and is removed without trading. However, these factors are only indications and are not on their own evidence that a given price or quotation is artificial. Consideration will also be given to whether any Participant, Non-Dealer Subscriber or account involved in the order has any motivation to establish an artificial price.

Some of the relevant considerations in determining whether an order is proper are:

- (a) the prices of the immediately preceding and succeeding trades;
- (b) the change in price or quotation that would result from carrying the instruction or entering the order;
- (c) the time the order is entered, or any instructions relevant to the time of executing the order;
- (d) the effect that such a change would have on other Participants who are or who have been interested in the stock; and
- (e) whether or not the person entering the order is associated with a promotional group or other group with an interest in effecting an artificial price, either for banking and margin

purposes or for purposes of effecting a distribution of the securities of the issuer.

Where the order is coming from a non-principal account, the responsibility for deciding whether or not an order has been entered with the bona fide intention of buying and selling shares or to establish an artificial price or quotation lies with the Participant, and specifically with the person(s) responsible for handling the order. Each case must be judged on its own merits. Orders which are intended to or which affect an artificial price or quotation are more likely to appear at year end of a month, quarter or year or on and the date of the expiry of options on the listed security.

### **POLICY 3.1 – RESTRICTIONS ON SHORT SELLING**

#### **Part 1 – Entry of Short Sales Prior to the Opening**

Prior to the opening of a marketplace on a trading day, a short sale may not be entered on that marketplace as a market order and must be entered as a limit order and have a limit price at or above the last sale price of that security as indicated in a consolidated market display (or at or above the previous day's close reduced by the amount of a dividend or distribution if the security will commence ex-trading on the opening).

#### **Part 2 – Short Sale Price When Trading Ex-Distribution**

When reducing the price of a previous trade by the amount of a distribution, it is possible that the price of the security will be between the trading increments. (For example, a stock at \$10 with a dividend of \$0.125 would have an ex-dividend price of \$9.875. A short sale order could only be entered at \$9.87 or \$9.88.) Where such a situation occurs, the price of the short sale order should be set no lower than the next highest price. (In the example, the minimum price for the short sale would be \$9.88, being the next highest price at which an order may be entered to the ex-dividend price of \$9.875).

In the case of a distribution of securities (other than a stock split) the value of the distribution is not determined until the security that is distributed has traded. (For example, if shareholders of ABC Co. receive shares of XYZ Co. in a distribution, an initial short sale of ABC on an ex-distribution basis may not be made at a price below the previous trade until XYZ Co. has traded and a value determined).

Once a security has traded on an ex-distribution basis, the regular short sale rule applies and the relevant price is the previous trade.

### **POLICY 4.1 - FRONTRUNNING**

#### **Part 1 – Examples of Frontrunning**

Rule 4.1 provides that no Participant shall trade in equities or derivatives to take advantage of information concerning a client order that has not been entered on a market place that reasonably can be expected to change the prices of the equities or the related options or futures contracts. Without limiting the generality of the Rule, the following are examples of transactions covered by the prohibition:

- (a) a transaction in an option, including an option where the underlying interest is an index, when the Participant has knowledge of the unentered client order for the underlying securities;
- (b) a transaction in a future where the underlying interest is an index when the Participant has knowledge of the unentered client order that is a program trade or index option transaction; and

- (c) a transaction in an index option when the Participant has knowledge of the unentered client order that is a program trade or an index futures transaction.

Rule 10.4 extends the prohibition to cover orders entered by a related entity of the Participant or a director, officer, partner or employee of the Participant or a related entity of the Participant.

### **Part 2 – Specific Knowledge Required**

In order to constitute frontrunning contrary to Rule 4.1, the person must have specific knowledge concerning the client order that, on entry, could reasonably be expected to affect the market price of a security. A person with knowledge of such a client order must insure that the client order has been entered on a marketplace before that person can:

- enter a principal order or non-client order for the security or any related security;
- solicit an order for the security or any related security; or
- inform any other person about the client order, other than in the necessary of course of business.

Trading based on non-specific pieces of market information, including rumours, does not constitute frontrunning.

### **POLICY 5.1 – BEST EXECUTION OF CLIENT ORDERS**

"Best execution" refers to a reasonable period of time during which the order is handled, not merely the precise moment in time that it is executed. The price of the principal transaction must also be justified by the condition of the market. Participants should consider such factors as:

- prices and volumes of the last sale and previous trades;
- direction of the market for the security;
- posted size on the bid and offer;
- the size of the spread; and
- liquidity of the security.

For example, if the market is \$10 bid and \$10.50 asked and a client wants to sell 1000 shares, it would be inappropriate for a Participant to do a principal trade at \$10.05 if the security has been trading heavily at \$10.50 and there is strong bidding for the security at \$10 compared to the number of securities being offered at \$10.50. The condition of the market suggests that the client should be able to sell at a better price than \$10.05. Accordingly, the Participant as agent for the client should post an offer at \$10.45 or even \$10.50, depending on the circumstances. The desire of the client to obtain a fill quickly is always a consideration.

Of course, if a client expressly consents to a principal trade a fully informed basis, following the client's instructions will be reasonable.

### **POLICY 5.2 – BEST PRICE OBLIGATION**

#### **Part 1 – Qualification of Obligation**

The "best price obligation" imposed by Rule 5.2 is subject to the qualification that a Participant make "reasonable efforts" to ensure that a client order receives the best price. In determining whether a Participant has made "reasonable efforts", the Market Regulator will consider:

- the information available to the Participant from the information processor or information vendor;
- the transactions costs and other costs that would be associated with executing the trade on a marketplace;

- whether the Participant is a member, user or subscriber of the marketplace with the best price;
- whether market outside of Canada have been considered (particularly if the principal market for the security is outside of Canada)
- any specific client instructions regarding the timeliness of the execution of the order.

## Part 2 – Trade-Through of Marketplaces

Subject to the qualification of the “best price obligation” as set out in Part 1, Participants may not intentionally trade through a better bid or offer on a marketplace by making a trade at an inferior price (either one-sided or a cross) on a stock exchange or other organized market. This Policy applies even if the client consents to the trade on the other stock exchange or other organized market at the inferior price. Participants may make the trade on that other exchange or organized market if the better bids or offers, as the case may be, on marketplaces are filled first, or coincidentally with the trade on the other stock exchange or organized market. The time of order entry is the time that is relevant for determining whether there is a better price on a marketplace.

This Policy applies to “active orders”. An “active order” is an order that may cause a trade-through by executing against an existing bid or offer on another stock exchange or organized market at a price that is inferior to the bid or ask price on a marketplace at the time. This Policy applies to trades for Canadian accounts and Participants’ principal (inventory) accounts. The Policy also applies to Participants’ principal trades on foreign over-the-counter markets made pursuant to the outside-of-Canada exemption in clause (e) of Rule 6.4. Trades for foreign accounts are not subject to this Policy because they are exempt from Rule 6.4 pursuant to the “outside-of-Canada” exemption set out in clause (e) of Rule 6.4. For example, an order to sell from a non-Canadian account on the New York Stock Exchange at a price below the bid price on a marketplace may be executed by the Participant.

## Part 3 – Foreign Currency Translation

If a trade is to be executed on a foreign market, the Participant shall determine whether there is in fact a better price on a marketplace. The foreign trade price shall be converted to Canadian dollars using the mid-market spot rate or 7-day forward exchange rate in effect at the time of the trade, plus or minus 15 basis points. A better price on a marketplace must be “taken out” if there is more than a marginal difference between the price on the marketplace and the price on the other stock exchange or organized market. The Market Regulator regards a difference of one-half of a tick or less as “marginal” because the difference would be attributable to currency conversion.

## POLICY 5.3 – CLIENT PRIORITY

### Part 1 – Broker’s Legal Obligations

Agency law imposes certain obligations on those who act on behalf of others. Among those obligations is a prohibition on an agent appropriating for itself an opportunity that could go to the principal (client) unless the principal specifically consents.

At common law, the client can consent to the Participant trading ahead or alongside. Such consent must be specific to an order, and not contained in a general consent in a client account agreement. For example, an institutional client may consent to splitting fills with the Participant or may consent to the Participant trading ahead in order to move the market to the agreed-upon price for a block trade (e.g.

permitting the Participant as pro to move the market down to the price at which it will buy a block from the client).

Participants have overriding agency responsibilities to their clients and cannot use technical compliance with the rule to establish fulfilment of their obligations if they have not otherwise acted reasonably and diligently to obtain best execution of their client orders. Firms should obtain legal advice that their own order handling procedures comply with their obligations to their clients.

### Part 2 – Prohibition on Intentional Trading Ahead

Rule 5.3 provides that a Participant must give priority of the execution to client orders over principal orders and non-client orders that are received, originated or entered on a marketplace after the receipt of the client order for the same security at the same price on the same side of the market on the same settlement terms.

A Participant cannot intentionally obtain execution of a pro order ahead of a client order without the specific consent of the client, unless the trade is at a better price than the client’s limit. A Participant can never intentionally trade ahead of a client market or tradeable limit order without the specific consent of the client. Examples of “intentional trades” include, but are not limited to:

- withholding a client order from entry on a marketplace (or removing an order already entered on a marketplace) to permit the entry of a competing pro order ahead of the client order;
- entering a client order in a relatively illiquid market and entering a pro order in a more liquid marketplace where the pro order is likely to obtain faster execution; and
- adding terms to an order (other than on the instructions of the client) so that the order ranks behind pro orders in the regular market at that price.

### Part 3 – No Knowledge of Client Order

Rule 5.3 also contains three exceptions that requires that the director, officer, partner, employee or agent of the Participant who enters the principal order or the non-client order be unaware that the client order has not been entered. The three exceptions are:

- if the client specifically instructs the Participant to withhold entry of the order;
- if the client specifically grants discretion to the Participant with respect to the entry of the order; and
- if the Participant withholds the client order from entry in a bona fide attempt to get better execution for the client.

In these circumstances, the Participant must have reasonable procedures in place to ensure that information concerning client orders is not used improperly within the firm. These procedures will vary from firm to firm and no one procedure will work for all firms.

The procedures must address the handling of client orders and must be followed up by after-the-fact monitoring. At a minimum, these procedures, which must be documented, must include:

- Education of all traders in their responsibilities in handling client orders. In particular, traders must be informed that intentionally trading ahead of a client order is prohibited and will result in disciplinary action against the trader.
- Identification of particular areas within the firm where there is a risk of non-compliance. For many firms this would include:

- the point at which the order is taken (e.g. a branch or institutional desk);
  - the points at which orders are managed (e.g. an OMS trader or retail special handling desk); and
  - areas of the firm that are in proximity to areas where orders are handled.
- After-the-fact reviews of trading must also be conducted. Client complaints must be documented and followed-up. On a monthly basis (at a minimum) the firm must compare execution of a reasonable sample of non-client orders with contemporaneous client orders in the same security on the same side of the market. A Participant will be expected to investigate instances where it appears that a pro may have traded with knowledge of a client order prior to its entry on a marketplace.

Periodically the firm must review its procedures to ensure that they are appropriate to ensure that the firm is meeting both the requirements of Rule 4-501 and its agency obligation to clients.

#### **Part 4 –Client Consent**

A Participant does not have to provide priority to a client order if the client specifically consents to the Participant trading along side or ahead of the client. Any request must be specific to that order. A client cannot give a blanket consent to permit the Participant to trade along side or ahead of any future orders the client may give the Participant.

A Participant must keep a record of the client’s consent to withhold orders for seven years from the date of the instruction and, for the first two years, the consent must be kept in a readily accessible location.

If the client has given the Participant that is to be executed at various times during a trading day (e.g. an “over-the-day” order) or at various prices (e.g. at various prices in order to approximate a volume-weighted average price), the client is deemed to have consented to the entry of entry of principal and non-client orders that may trade ahead of the balance of the client order. However, if the unentered portion of the client order would reasonably be expected to affect the market price of the security, the Participant may be precluded from entering principal or non-client orders as a result of the application of the frontrunning rule.

### **POLICY 6.3 – EXPOSURE OF CLIENT ORDERS**

#### **Part 1 – Reviewing Small Orders for Market Impact**

Rule 6.3 requires a Participant to immediately enter client orders for the purchase or sale of 50 standard trading units or less on a marketplace. This requirement is subject to certain exceptions. The Participant may withhold the order based on a determination that market conditions were such that immediate entry of the order would not be in the best interests of the client. If the order is withheld the Participant must guarantee that the client receives a price at least as good as the price the client would have received had the client order been executed on receipt by the Participant. If the order is executed against a principal order or non-client order the client must receive a better price.

#### **Part 2 – Confirmation of Order Terms**

Pursuant to Rule 6.3, a Participant may withhold entry of the order and return the order to its source for confirmation of its terms. For example, a Participant who receives an order to sell a security at \$3 in a stock trading at \$20 may return the order to the branch, as it is likely that either the price or the stock symbol is wrong.

### **Part 3 –Client Request to Withhold Order**

A Participant does not have to immediately enter a client order on a marketplace if the client has requested that the order be withheld (for example, the client does not want the order executed in the open market but wishes to do a tax-related trade with their spouse). Any request must be specific to that order. A client cannot give a blanket request to withhold any future orders the client may give the Participant. Furthermore, the Participant may not solicit a request to withhold the order. A Participant must keep a record of the client’s request to withhold orders for seven years from the date of the instruction and, for the first two years, the request must be kept in a readily accessible location.

### **POLICY 6.4 – TRADES TO BE ON A MARKETPLACE**

#### **Part 1 – Trades Outside of Marketplace Hours**

In accordance with section 6.1 of National Instrument 23-101, each marketplace shall set requirements in respect of the hours of trading to be observed by marketplace participants. Occasions may arise where Participants wish to make an agreement to trade as principal with a Canadian client, or to arrange a trade between a Canadian client and a non-Canadian client, outside of the trading hours of marketplaces.

Rule 6.4 states that all trades must be executed on a marketplace unless otherwise exempted from this requirement. This Policy clarifies the procedure to be followed when a Participant wishes to make such a transaction. Participants are reminded of the exemption in clause (d) of Rule 6.4 that permits a trade on another exchange or organized regulated market, provided that the exchange or market publicly disseminates details of trades in that market. Participants are also reminded of the exemption in clause (e) of Rule 6.4 that permits them to trade as principal with non-Canadian accounts off of a marketplace provided that any unwinding trade with a Canadian account is made in accordance with Rule 6.4.

Participants may make agreements to trade in listed or quoted securities with Canadian accounts as principal or as agent outside of the trading hours of marketplaces, however, such agreements must be made conditional on execution of the trade on a marketplace or on a stock exchange or organized market where the security is listed or quoted. There is no trade until such time as there is an execution on a marketplace, stock exchange or organized market. The trade on a marketplace is to be done at or immediately following the opening of the marketplace on which the order is entered. Participants may cross the trade at the agreed-upon price provided that the normal Requirements on order displacement are followed. If the Participant determines that the condition of recording the agreement to trade on a marketplace cannot be met, the agreement to trade shall be cancelled. Use of an error account to preserve the transaction is prohibited.

#### **Part 2 – Application to Foreign Affiliates and Others**

The Market Regulator considers that any use by a Participant of another person that is not subject to Rule 6.4 in order to make a trade off of a marketplace (other than as permitted by one of the exemptions) to be a violation of the just and equitable principles of trade.

Although certain related entities of Participants, including their foreign affiliates, are not directly subject to Requirements, Rule 6.4 means that a Participant may not transfer an order to a foreign affiliate, or book a trade through a foreign affiliate, and execute the order in a manner that does not comply with Rule 6.4. In other words, an order directed to a foreign affiliate by the Participant or any other person subject to Rule

6.4 shall be executed on a marketplace unless one of the exemptions. Foreign branch offices of Participants are not separate from the Participant and as such are subject to Requirements.

### **Part 3 – Non-Canadian Accounts**

Clause (e) of Rule 6.4 permits a Participant to trade off of a marketplace either as principal or as agent with non-Canadian accounts. A "non-Canadian account" is considered to be an account for a client who is not resident in Canada. There may be certain situations arising where a Participant is uncertain whether a particular account is a "non-Canadian account" for the purpose of this exemption. A trade by or on behalf of an individual normally resident in Canada, or an organization located in Canada, is considered to be a trade for a Canadian account. The fact that an individual may be located temporarily outside of Canada, that a foreign location is used to place the order or as the address for settlement or confirmation of the trade does not alter the account's status as a Canadian account. Trades made by or on behalf of bona fide foreign subsidiaries of Canadian institutions are considered to be non-Canadian accounts, if the order is placed by the foreign subsidiary.

For the purpose of this Policy, the relevant client of the Participant is the person to whom the order is confirmed, or if this is unknown, from whom the order is received.

### **Part 4 – Reporting Foreign Trades**

Clause (e) of Rule 6.4 requires a Participant to report to a marketplace any trade made outside of Canada, unless the trade is reported to another stock exchange or an organized regulated market that disseminates details of trades in that market.

Participants shall report such trades to a marketplace no later than the close of business on the next trading day. The report shall identify the stock, volume, price (in the currency of the trade and in Canadian dollars) and time of the trade.

## **POLICY 7.2 – POLICY ON TRADING SUPERVISION OBLIGATIONS**

### **Part 1 – Responsibility for Supervision and Compliance**

For the purposes of Rule 7.2, a Participant shall supervise its employees, directors and officers and, if applicable, partners to ensure that trading in securities on a marketplace (an Exchange, QTRS or ATS) is carried out in compliance with the applicable Requirements (which includes provisions of securities legislation, UMIR, the Trading Rules and the Marketplace Rules of any applicable Exchange or QTRS). An effective supervision system requires a strong overall commitment on the part of the Participant, through its board of directors, to develop and implement a clearly defined set of policies and procedures that are reasonably designed to prevent and detect violations of Requirements.

The board of directors of a Participant is responsible for the overall stewardship of the firm with a specific responsibility to supervise the management of the firm. On an ongoing basis, the board of directors must ensure that the principal risks for non-compliance with Requirements have been identified and that appropriate supervision and compliance procedures to manage those risks have been implemented.

Management of the Participant is responsible for ensuring that the supervision system adopted by the Participant is effectively carried out. The head of trading and any other person to whom supervisory responsibility has been delegated must fully and properly supervise all

employees under their supervision to ensure their compliance with Requirements. If a supervisor has not followed the supervision procedures adopted by the Participant, the supervisor will have failed to comply with their supervisory obligations under Rule 7.2(4).

When the Market Regulator reviews the supervision system of a Participant (for example, when a violation occurs of Requirements), the Market Regulator will consider whether the supervisory system is reasonably well designed to prevent and detect violations of Requirements and whether the system was followed.

The compliance department is responsible for monitoring and reporting adherence to rules, regulations, requirements, policies and procedures. In doing so, the compliance department must have a compliance monitoring system in place that is reasonably designed to prevent and detect violations. The compliance department must report the results from its monitoring to the Participant's management and, where appropriate, the board of directors, or its equivalent. Management and the board of directors must ensure that the compliance department is adequately funded, staffed and empowered to fulfil these responsibilities.

### **Part 2 – Minimum Element of a Supervision System**

For the purposes of Rule 7.2, a supervision system consists of both policies and procedures aimed at preventing violations from occurring and compliance procedures aimed at detecting whether violations have occurred.

The Market Regulator recognizes that there is no one supervision system that will be appropriate for all Participants. Given the differences among firms in terms of their size, the nature of their business, whether they are engaged in business in more than one location or jurisdiction, the experience and training of its employees and the fact that effective jurisdiction can be achieved in a variety of ways, this Policy does not mandate any particular type or method of supervision of trading activity. Furthermore, compliance with this Policy does not relieve Participants from complying with specific Requirements that may apply in certain circumstances. In particular, Participants are reminded that, in accordance with subsection (2) of Rule 10.1, the entry of orders must comply with the Marketplace Rules on which the order is entered and the Marketplace Rules on which the order is executed. (For example, for Participants that are Participating Organizations of the TSE, reference should be made to the Policy on "Connection of Eligible Clients of Participating Organizations").

Participants must develop and implement supervision and compliance procedures that exceed the elements identified in this Policy where the circumstances warrant. For example, previous disciplinary proceedings, warning and caution letters from the Market Regulator or the identification of problems with the supervision system or procedures by the Participant or the Market Regulator may warrant the implementation of more detailed or more frequent supervision and compliance procedures.

Regardless of the circumstances of the Participant, however, every Participant must:

1. Identify the relevant Requirements, securities laws and other regulatory requirements that apply to the lines of business in which the Participant is engaged (the "Trading Requirements").
2. Document the supervision system by preparing a written policies and procedures manual. The manual must be accessible to all relevant employees. The manual must be

kept current and Participants are advised to maintain a historical copy.

3. Ensure that employees responsible for trading in Exchange listed securities are appropriately registered and trained and that they are knowledgeable about the Trading Requirements that apply to their responsibilities. Persons with supervisory responsibility must ensure that employees under their supervision are appropriately registered and trained. The Participant should provide a continuing training and education program to ensure that its employees remain informed of and knowledgeable about changes to the rules and regulations that apply to their responsibilities.
4. Designate individuals responsible for supervision and compliance. The compliance function must be conducted by persons other than those who supervised the trading activity.
5. Develop and implement supervision and compliance procedures that are appropriate for the Participant's size, lines of business in which it is engaged and whether the Participant carries on business in more than one location or jurisdiction.
6. Identify the steps a firm will take when violations of Requirements, securities laws or other regulatory requirements have been identified. This may include cancellation of the trade, increased supervision of the employee or the business activity, internal disciplinary measures and/or reporting the violation to the Market Regulator or other regulatory organization.
7. Review the supervision system at least once per year to ensure it continues to be reasonably designed to prevent and detect violations of Requirements. More frequent reviews may be required if past reviews have detected problems with supervision and compliance. Results of these reviews must be maintained for at least five years.
8. Maintain the results of all compliance reviews for at least five years.
9. Report to the board of directors of the Participant or, if applicable, the partners, a summary of the compliance reviews and the results of the supervision system review. These reports must be made at least annually. If the Market Regulator or the Participant has identified significant issues concerning the supervision system or compliance procedures, the board of directors or, if applicable, the partners, must be advised immediately.

### **Part 3 - Minimum Compliance Procedures for Trading on a Marketplace**

A Participant must develop and implement compliance procedures for trading in securities on a marketplace that are appropriate for its size, the nature of its business and whether it carries on business in more than one location or jurisdiction. Such procedures should be developed having regard to the training and experience of its employees and whether the firm or its employees have been previously disciplined or warned by the Market Regulator concerning the violations of the Requirements.

In developing compliance procedures, Participants must identify any exception reports, trading data and/or other documents to be reviewed. In appropriate cases, relevant information that cannot be obtained or

generated by the Participant should be sought from sources outside the firm including from the Market Regulator.

The following table identifies minimum compliance procedures for monitoring trading in securities on a marketplace that must be implemented by a Participant. The compliance procedures and the Rules identified below are not intended to be an exhaustive list of the Rules and procedures that must be complied with in every case. Participants are encouraged to develop compliance procedures in relation to all the Rules that apply to their business activities.

The Market Regulator recognizes that the requirements identified in the following table may be capable of being performed in different ways. For example, one Participant may develop an automated exception report and another may rely on a physical review of the relevant documents. The Market Regulator recognizes that either approach may comply with this Policy provided the procedure used is reasonably designed to detect violations of the relevant Rule. The information sources identified in the following table are therefore merely indicative of the types of information sources that may be used.



### Minimum Compliance Procedures for Trading Supervision

Rules and Policies	Compliance Review Procedures	Potential Information Sources	Frequency and Sample Size
Synchronization of Clocks Rule 10.14	<ul style="list-style-type: none"> <li>• confirm accuracy of clocks and computer network times</li> <li>• remove unused or non-functional machines</li> </ul>	<ul style="list-style-type: none"> <li>• time clocks</li> <li>• Trading Terminal system time</li> <li>• OMS system time</li> </ul>	<ul style="list-style-type: none"> <li>• Daily</li> </ul>
Audit Trail Requirements Rule 10.11	<ul style="list-style-type: none"> <li>• ensure the presence of:               <ul style="list-style-type: none"> <li>- time stamp</li> <li>- quantity</li> <li>- price (if limit order)</li> <li>- security name or symbol</li> <li>- identity of trader (initial or sales code)</li> <li>- client name or account number-special instructions from any client</li> <li>- information required by audit trail requirements                   <ul style="list-style-type: none"> <li>• for CFOd orders, ensure the presence of second time stamp and clear quantity or price changes</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• order tickets</li> <li>• the Diary List</li> </ul>	<ul style="list-style-type: none"> <li>• quarterly</li> <li>• check 25 original client tickets selected randomly over the quarter</li> </ul>
Electronic Records Rule 10.11	<ul style="list-style-type: none"> <li>• verify that electronic order information is:               <ul style="list-style-type: none"> <li>- being stored</li> <li>- retrievable</li> <li>- accurate</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• firm and service bureau systems</li> </ul>	<ul style="list-style-type: none"> <li>• annually</li> </ul>
Manipulative and Deceptive Trading Rule 2.2(1), (2) Policy 2.2	<ul style="list-style-type: none"> <li>• review trading activity for:               <ul style="list-style-type: none"> <li>- wash trading</li> <li>- unrelated accounts that may display a pattern of crossing securities</li> <li>- off-market transactions which require execution on a Marketplace</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• order tickets</li> <li>• the diary list</li> <li>• new client application forms</li> <li>• monthly statements</li> </ul>	<ul style="list-style-type: none"> <li>• quarterly</li> <li>• review sampling period should extend over several days</li> </ul>
Establishing Artificial Prices Rule 2.2(1), (3) Rule 6.5 Policy 2.2	<ul style="list-style-type: none"> <li>• review tick setting trades entered at or near close</li> <li>• look for specific account trading patterns in tick setting trades</li> <li>• review accounts for motivation to influence the price</li> <li>• review separately, tick setting trades by Market on Close (MOC) or index related orders</li> </ul>	<ul style="list-style-type: none"> <li>• order tickets</li> <li>• the diary list</li> <li>• Equity History Report (available on TSE market data website for TSE-listed securities)</li> <li>• closing report from Market Regulator services (delivered to Participants)</li> <li>• new client application forms</li> </ul>	<ul style="list-style-type: none"> <li>• monthly</li> <li>• emphasis on trades at the end of month, quarter or year (for trades not on MOC or index related)</li> <li>• for MOC or index related orders, check for reasonable price movement</li> </ul>
Grey or Watch List Rule 2.2	<ul style="list-style-type: none"> <li>• review for any trading of Grey or Watch List issues done by proprietary or employee accounts</li> </ul>	<ul style="list-style-type: none"> <li>• order tickets</li> <li>• the diary list</li> <li>• trading blotters</li> <li>• firm Grey List or Watch List</li> <li>• monthly statements</li> </ul>	<ul style="list-style-type: none"> <li>• daily</li> </ul>
Restricted List Rule 2.2 Rule 7.8 Rule 7.9	<ul style="list-style-type: none"> <li>• review for any trading of restricted list issues done by proprietary or employee accounts</li> </ul>	<ul style="list-style-type: none"> <li>• order tickets</li> <li>• the diary list</li> <li>• trading blotters</li> <li>• firm Restricted List</li> <li>• monthly statements</li> </ul>	<ul style="list-style-type: none"> <li>• daily</li> </ul>
Frontrunning Rule 4.1	<ul style="list-style-type: none"> <li>• review trading activity of proprietary and employee accounts prior to:               <ul style="list-style-type: none"> <li>- large client orders</li> <li>- transactions that would impact the market</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• order tickets</li> <li>• the diary list</li> <li>• equity history report</li> </ul>	<ul style="list-style-type: none"> <li>• quarterly</li> <li>• sample period should extend over several days</li> </ul>

Rules and Policies	Compliance Review Procedures	Potential Information Sources	Frequency and Sample Size
<p>Sales from Control Blocks</p> <p>Securities legislation incorporated by Rule 10.1</p>	<ul style="list-style-type: none"> <li>review all known sales from control blocks to ensure regulatory requirements have been met</li> <li>review large trades to determine if they are undisclosed sales from control block</li> </ul>	<ul style="list-style-type: none"> <li>order tickets</li> <li>trading blotter</li> <li>new client application form</li> <li>OSC bulletin</li> <li>Exchange company bulletins</li> </ul>	<ul style="list-style-type: none"> <li>as required</li> <li>sample trades over 250,000 shares</li> </ul>
<p>Order Handling Rules</p> <p>Rule 5.1 Rule 5.3 Rule 6.3 Rule 8.1</p>	<ul style="list-style-type: none"> <li>review client-principal trades of 50 standard trading units or less for compliance with order exposure and client principal transactions rules</li> <li>verify that orders of 50 standard trading units or less are not arbitrarily withheld from the market</li> </ul>	<ul style="list-style-type: none"> <li>order tickets</li> <li>equity history report</li> <li>trading blotters</li> <li>the diary list</li> </ul>	<ul style="list-style-type: none"> <li>quarterly</li> <li>sample, specifically: <ul style="list-style-type: none"> <li>-trader managed orders of 1200 shares and under</li> <li>-trader managed orders above 1200 and up to and including 5000 shares</li> </ul> </li> </ul>
<p>Order Markers</p> <p>Rule 6.2 Marketplace Rules incorporated by Rule 10.1 (for marketplaces on which the order is entered or executed)</p>	<ul style="list-style-type: none"> <li>verify that appropriate client, employee, and proprietary trade markers are being employed</li> <li>ensure that client orders are not being improperly entered with pro markers</li> <li>verify that appropriate order designations are included on orders</li> </ul>	<ul style="list-style-type: none"> <li>order tickets</li> <li>trading blotters</li> <li>the diary list</li> </ul>	<ul style="list-style-type: none"> <li>quarterly</li> <li>samples should include one full day of trading for orders not entered through the OMS system</li> </ul>
<p>Trade Disclosures</p> <p>Securities legislation incorporated by Rule 10.1</p>	<ul style="list-style-type: none"> <li>verify appropriate trade disclosures are made on client confirmations <ul style="list-style-type: none"> <li>- principal</li> <li>- average price</li> <li>- related Issuer</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>trading blotters</li> <li>client confirmations</li> <li>the diary list</li> <li>order tickets</li> </ul>	<ul style="list-style-type: none"> <li>quarterly</li> <li>sample should include non-OMS trades</li> </ul>
<p>Normal Course Issuer Bids</p> <p>Marketplace Rules (e.g. Rule 6-501 and Policy 6-501 of TSE and Policy 5.6 of CDNX)</p>	<ul style="list-style-type: none"> <li>review NCIBs for: <ul style="list-style-type: none"> <li>- maximum stock purchase limits of 5% in 1 year or 2% in 30 days are observed</li> <li>- purchases for NCIBs are not occurring while a sale from control is being made</li> <li>- purchases are not made on upticks</li> <li>- trade reporting to Exchange (if the firm reports on behalf of issuer)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>order tickets</li> <li>the diary list (formerly known as the CATS diary list)</li> <li>trading blotters</li> <li>new client application form</li> </ul>	<ul style="list-style-type: none"> <li>quarterly</li> </ul>

## POLICY 8.1 – CLIENT-PRINCIPAL TRADING

### Part 1 - General Requirements

Rule 8.1 governs client-principal trades. It provides that, for trades of 50 standard trading units or less, a Participant trading with one of its clients as principal must give the client a better price than the client could obtain on a marketplace. A Participant must take reasonable steps to ensure that the price is the best available price for the client taking into account the condition of the market. If the security is inter-listed, the rule extends to all Canadian markets on which the security is listed. This means that if the Participant is buying, the client must receive a higher price than is bid on any Canadian marketplace, and, if the Participant is selling, the client must pay a lower price than the lowest offering.

For client-principal trades greater than 50 standard trading units, the Participant may do the trade provided the client could not obtain a better price on a marketplace in accordance with the best execution obligations under Rules 5.1 and 5.2. The Participant must take reasonable steps to ensure that the best price is obtained and the price to the client is justified by the condition of the market.

### Part 2 – Legal Aspects of the Client-Principal Relationship

A Participant owes a fiduciary duty to its clients. This duty and investors' trust in our Participants are fundamental to investor confidence in the integrity of the market. In the Market Regulator's view, this relationship of trust arises where there is reliance by the client on the Participant's expertise in securities matters. From the point of view of both the client and the Participant, the fiduciary responsibility exists regardless of the legal form of the transaction. In other words, an investor who relies on the expertise of a Participant expects the Participant to act in the investor's best interests regardless of whether the Participant is acting as agent or as principal. The legal framework underpinning client-principal trades was stated in the 1965 report of the Royal Commission on the Windfall Co. scandal:

An agent must conduct himself so that the interest of the person in whose behalf he is acting is not brought into conflict with his personal interest. An agent may not make for himself any deal which could have been made for his client within the scope of the client's instructions; if he does, he is assumed to have been acting on his client's behalf and the client is entitled to the benefit of the transaction. An agent must disclose to the client any fact known to the agent which would be likely to operate on the client's judgment. An agent may not, in connection with his client's business, make a secret profit for himself.

These restrictions flow from the recognition of the serious conflicts inseparable from the agency relationship, and from a corresponding recognition that every such conflict must be resolved in favour of the client. A principal trade may be subject to attack if it appears that the Participant did not act to the best advantage of its client even if the Participant complies with the technical requirements of the Rule. For example, if the principal account profited from the trade by unwinding the position again soon after the principal trade was made, or if the Registered Representative receives a higher commission than for agency transactions of a similar size involving similar securities, the Participant will find it more difficult to justify its actions. Participants should obtain their own legal advice as to the propriety of their client-principal trading practices. The following are considerations in any client-principal trade:

**Consent** — At common law, the prior informed consent of the client must be obtained before the agent may act as principal. This is impractical in the context of trading securities on a marketplace, where at the time of receipt of the client's order the Participant will likely not know who will be on the other side. If the Participant, through the Registered Representative or other employee knows that the firm or a non-client of the firm will or probably will take the other side, the client's consent should be obtained. In particular, if the Registered Representative wishes to take the other side of the trade with their client, the client must be informed and consent to the trade in advance. Such consent must be specific to that trade and cannot be in a general consent to any future trades with the Registered Representative. As promptly as possible following the execution of a principal trade, the client should be advised that all or part of the securities taken or supplied were from an account in which the Participant or a non-client of the Participant has an interest. This advice would form part of the usual discussion that occurs when a Registered Representative confirms to the client that the client's order has been filled. In addition, the written confirmation must disclose that the order has been filled in a principal transaction.

**Nature of the Client** — Some clients are in greater need of protection from the potential conflict of interest in client-principal trades. The onus on the Participant usually will be reduced if the client is a fully informed institutional client with regard to the state of the market. Sophisticated institutional clients are able to judge whether a specific net price is appropriate in the context of the market. If there was no prior discussion with the client concerning executing the client's order in a client-principal trade, or if there are no standing instructions on handling of orders, the Participant must judge whether any steps need be taken, taking into account the size of the order and other circumstances, to ensure that a better price is not available. To a large degree this will depend on the depth of the market and normal liquidity of the security.

**Suitability** — Compliance with the client-principal trading rules does not relieve a Participant of its suitability and "know your client" obligations. As with any other trade, Participants must ensure that the trade is suitable for the client, even if the best possible price has been obtained.

**Facilitation Accounts** — The rules do not apply to a client-principal trade where the inventory account was used solely to facilitate the execution or confirmation of a client order (for example, an inventory accumulation account used to give an institutional client a single average-price confirmation). In these cases, the client is the beneficial owner of the position in the inventory account at all times.

**Refusal by Client** — Participants should ensure that procedures are in place to identify orders that should not be affected on a principal basis. This is necessary to deal with situations where clients notify a Participant that they do not consent to principal trading generally or to particular principal trades.

## POLICY 10.8 - POLICY ON PRACTICE AND PROCEDURE

### Part 1 - General Procedure and Practice

#### 1.1 Definitions

In this Policy, unless the subject matter or context otherwise requires:

“**applicant**” means the party who instituted the proceedings for a written hearing.

“**document**” includes a sound recording, videotape,

film, photographs, chart, graph, map, plan, survey, book of account, and information recorded or stored by means of any device.

"party" includes the staff of the Market Regulator.

"Secretary" means the Secretary of the Market Regulator or other officer or employee of the Market Regulator designated by the Board to perform the functions of the Secretary for the purposes of this Policy.

## 1.2 Procedural Power of Hearing Panel

(1) A Hearing Panel may:

- (a) exercise any power under this Policy on its own initiative or at the request of a party;
- (b) issue general or specific procedural directions at any time before or during a hearing; and
- (c) waive any procedural requirement with the consent of the parties.

(2) If any provision of this Policy is inconsistent with any applicable statutory requirement, the Hearing Panel shall order such change in the practice and procedure as to comply with the applicable statutory requirement.

## 1.3 Irregularity in Form

No determination, document, hearing, order or interim order is invalid by reason only of a defect or other irregularity in form.

## 1.4 Language of Proceedings

(1) If, in accordance with any applicable statutory requirement, a person would have a right to a hearing conducted in the French language then, upon the request of such person in writing to the Secretary or in such other manner as provided by law, all documents prepared by or on behalf of the Market Regulator and served or delivered on such person shall be in French and any hearing or other proceeding shall be conducted in French.

(2) Despite subsection (1), any document to be disclosed in accordance with section 8.1(1) shall be provided in the language that the document was originally written.

## 1.5 Service and Filing

(1) **Service** - A document required under this Policy to be served must be served by one of the following methods:

- (a) personal service on an individual, by leaving a copy of the document with the individual;
- (b) personal service on any corporation, by leaving a copy of the document with an officer or director of the corporation, or with an individual at any place of business of the corporation who appears to be in control or management of the place of business;

(c) service by sending a copy of the document by mail, courier or telephone transmission to the last known address or fax number of the party to be served;

(d) service on a party who is represented by a solicitor or an agent by,

- (i) acceptance of a copy of the document on behalf of the solicitor or the agent,
- (ii) sending a copy of the document by mail, courier or telephone transmission to the officer of the solicitor or agent, or
- (iii) depositing a copy of the document at a document exchange of which the solicitor or agent is a member or subscriber; or

(e) service by any other method permitted by the Hearing Panel.

(2) **Proof of Service** - The Hearing Panel may accept proof of service of a document by an affidavit of the person who served it.

(3) **Filing** - A document required to be filed with the Hearing Panel under this Policy must be filed by either personal delivery of a copy or sending a copy by mail, courier or telephone transmission to Secretary.

(4) **Effective Date of Service or Filing** - Service or filing of a document is deemed to be effective:

- (a) if served personally, on the same day as service;
- (b) if sent by mail, on the fifth day after the day of mailing;
- (c) if sent by telephone transmission, on the same day as the transmission unless received after 5 p.m., in which case the document will be deemed to have been served or filed on the next day that is not a holiday;
- (d) if sent by courier, on the second day after the day on which the document was given to the courier by the party serving or filing, unless the second day is a holiday, in which case the effective date is the next day which is not a holiday;
- (e) if deposited at a document exchange, on the first day after the day on which the document was deposited, unless the first day is a holiday, in which case the effective date is the next day which is not a holiday; or
- (f) as otherwise ordered by the Hearing Panel.

(5) **Required Information on Documents** - A party serving or filing a document shall include the following information:

- (a) the party's name, address, telephone number and fax number;
- (b) the style of cause of the hearing to which the

- document relates;
  - (c) the name, address, telephone and fax number of the party's solicitor or agent; and
  - (d) the name of the party or solicitor or agent with whom the document is being served or filed.
- (6) **Extension or Abridgment of Time** - Any time period prescribed by this Policy may be extended or abridged as follows:
- (a) upon order of the Hearing Panel or after expiration of a prescribed time period on such terms as the Hearing Panel considers appropriate; or
  - (b) on consent of the parties before the expiration of a prescribed time period.

## Part 2 – Statement of Allegations

### 2.1 Provision of Statement of Allegations

If the Market Regulator is of the opinion that a person described in subsection (1) of Rule 10.2 has contravened a Requirement or a person is liable for the contravention of a Requirement in accordance with Rule 10.3, the Market Regulator may serve a Statement of Allegations on such person.

### 2.2 Contents of Statement of Allegations

A Statement of Allegations must contain:

- (a) a reference to the Requirement that the Market Regulator is of the opinion has been contravened;
- (b) the facts alleged and intended to be relied upon by the Market Regulator; and
- (c) the conclusions drawn by the Market Regulator based on the alleged facts.

## Part 3 - Offers of Settlement and Settlement Agreements

### 3.1 Provision of Offer of Settlement

If the Market Regulator has served a Statement of Allegations on any person, the Market Regulator may serve an Offer of Settlement on such person concurrent with or at any time after the serving of the Statement of Allegations.

### 3.2 Contents of Offer of Settlement

An Offer of Settlement must:

- (a) be in writing;
- (b) be signed by the President of the Market Regulator or such other officer of the Market Regulator as is authorized to make an Offer of Settlement;
- (c) specify, that if the Offer of Settlement is accepted, the date on or before which the Settlement Agreement must be served on the Market Regulator provided that the date shall not be earlier than 20 days after the Offer of Settlement has

been served;

- (d) contain a reference to the Statement of Allegations intended to be relied upon by the Market Regulator; and
- (e) specify the penalties or remedies to be imposed by the Market Regulator pursuant to Rule 10.4 and the assessment of any expenses to be made pursuant to Rule 10.5; and
- (f) contain a statement that if the Offer of Settlement is accepted by the person on whom it is served:
  - (i) the resulting Settlement Agreement is conditional upon the approval of the Hearing Panel, and
  - (ii) the person shall waive all rights under the Rules and other Requirements to a hearing or to an appeal or review if the Settlement Agreement is approved by the Hearing Panel.

### 3.3 Acceptance of Offer of Settlement

An Offer of Settlement may be accepted by a person upon whom it has been served by that person or such other individual authorized to sign on behalf of that person:

- (a) executing the Offer of Settlement; and
- (b) serving the executed document on the Market Regulator on or before the date specified in the Offer of Settlement.

### 3.4 Submission of Settlement Agreement for Approval

A Settlement Agreement shall be submitted to a Hearing Panel of three members within 20 days following the acceptance of the Offer of Settlement and the Hearing Panel may:

- (a) approve the Settlement Agreement; or
- (b) reject the Settlement Agreement.

### 3.5 Without Prejudice Negotiations

All negotiations of an Offer of Settlement or a Settlement Agreement are without prejudice to the Market Regulator and all other persons involved in the negotiations and the negotiations may not be used as evidence or referred to in any proceedings.

### 3.6 Approval of Settlement Agreement

If the Settlement Agreement is approved by the Hearing Panel:

- (a) the Hearing Panel shall issue an order in accordance with the terms of the Settlement Agreement;
- (b) the matter becomes final and no party to the Settlement Agreement may appeal or seek a review of the matter;
- (c) the disposition of the matter shall be included in the permanent record of the Market Regulator in respect of the person that accepted the Offer of

Settlement; and

- (d) the Market Regulator shall publish a summary of:
  - (i) the Requirement contravened,
  - (ii) the facts, and
  - (iii) the disposition of the matter, including any penalty or remedy imposed and any expenses assessed.

### **3.7 Rejection of Settlement Agreement**

If the Settlement Agreement is rejected by the Hearing Panel, the Market Regulator may proceed with a hearing of the matter and any member of the Hearing Panel that reviewed the Settlement Agreement must not participate further in any way in the matter.

## **Part 4 – Notice of Hearing**

### **4.1 Provision of Notice of Hearing**

If the Market Regulator has served a Statement of Allegations on any person, the Market Regulator may serve a Notice of Hearing on such person concurrent with or at any time after the serving of the Statement of Allegations provided that a Notice of Hearing may not be issued:

- (a) if the Market Regulator has served an Offer of Settlement, until after the date specified in the Offer of Settlement by which the Offer of Settlement may be accepted; and
- (b) if an Offer of Settlement has been accepted, until the Settlement Agreement has been rejected by a Hearing Panel.

### **4.2 Contents of Notice of Hearing**

A Notice of Hearing must contain:

- (a) details about the manner in which the hearing will be held including, if applicable to the form of hearing, the date, time and place of the hearing;
- (b) a reference to the statutory or other authority under which the hearing will be held;
- (c) a statement as to the purpose of the hearing;
- (d) a reference to the Statement of Allegations intended to be relied upon by the Market Regulator;
- (e) a statement that the party notified may object to holding the hearing as an electronic or a written hearing and the procedure to be followed for that purpose;
- (f) a statement respecting the effect of section 9.4; and
- (g) any other information the Market Regulator or the Hearing Panel considers advisable.

### **4.3 Date of Hearing**

- (1) Unless the party on whom the Notice of Hearing is served has consented in writing, the date of the initial hearing specified in the Notice of Hearing shall not be earlier than 45 days after the date the Notice of Hearing has been served.
- (2) For greater certainty, any hearing of a matter after the date of the initial hearing specified in the Notice of Hearing shall be as directed or ordered by the Hearing Panel.

## Part 5 – Form of Hearing

### 5.1 Factors in Determining to Hold Oral, Electronic or Written Hearing

In deciding whether to hold an oral hearing, written hearing or electronic hearing, the Hearing Panel shall take into account any relevant factors, which may include:

- (a) the suitability of the hearing format considering the subject matter of the hearing, including the extent to which matters are in dispute;
- (b) whether the nature of the evidence is appropriate for the hearing format, including whether credibility is an issue and the extent to which the facts are in dispute;
- (c) the extent to which the matters in dispute are questions of law;
- (d) the convenience of the parties;
- (e) the cost, efficiency and timeliness of the proceedings;
- (f) avoidance of unnecessary length or delay;
- (g) ensuring a fair and understandable process;
- (h) the desirability or necessity of public participation or public access to the Hearing Panel's process; and
- (i) any other consideration which may be taken into account in accordance with applicable legislation.

### 5.2 Notice of Objection

- (1) A party who objects to a hearing being held as an electronic or as a written hearing shall file and serve on all other parties a Notice of Objection within 5 days after receiving the Notice of Hearing.
- (2) Despite subsection (1), a party may not object to the Hearing Panel conducting an electronic hearing to deal with procedural matters.

### 5.3 Contents of Notice of Objection

A Notice of Objection shall be in writing and shall:

- (a) state whether the holding of an electronic or written hearing is likely to cause the party significant prejudice;
- (b) set out reasons for the objection; and
- (c) state all facts upon which the party relies and provide the evidence on which the party relies in relation to the objection.

### 5.4 Procedure When Objection Made

If the Hearing Panel receives a Notice of Objection, the Hearing Panel shall:

- (a) accept the objection, cancel the form of hearing and either schedule an oral hearing or, with

consent of the parties, schedule a written hearing or an electronic hearing as the case may be;

- (b) if permitted by applicable law, reject the objection provided the Hearing Panel is satisfied that there will not be significant prejudice to the objecting party, inform every other party that they are not required to respond to the Notice of Objection and proceed with the form of hearing specified in the Notice of Hearing; or
- (c) notify all other parties that they may respond to the Notice of Objection by serving on every other party and filing a written response in such form and within such time as is directed by the Hearing Panel and, after considering the objection and all responses, proceed with the form of hearing specified in the Notice of Hearing, schedule an oral hearing, or, with consent of the parties, schedule a written hearing or an electronic hearing as the case may be.

### 5.5 Converting Type of Hearing

- (1) Subject to any applicable statutory requirements, the Hearing Panel may continue:
  - (a) a written or electronic hearing as an oral hearing;
  - (b) an oral or written hearing as an electronic hearing; or
  - (c) an oral or electronic hearing as a written hearing, unless a party objects.
- (2) If the Hearing Panel decides to convert the type of hearing that was specified in the Notice of Hearing, the Hearing Panel shall notify the parties of its decision and may supply directions as to the holding of that hearing and any procedures for such hearing.

## Part 6 - Motions

### 6.1 Notice of Motion

Where a party intends to bring a motion before the Hearing Panel at a hearing, written notice shall be served on all other parties and filed with the Hearing Panel at least 5 days before the day the motion is to be heard.

**6.2 Contents of Notice of Motion**

The Notice of Motion must contain the relief sought, the grounds for the motion and the evidence to be relied upon.

**6.3 Hearing Date for Notice of Motion**

Except when a motion is to be heard on a scheduled hearing date or is to be argued in writing, the party bringing the motion shall, before serving the Notice of Motion, file a copy of the Notice of Motion with the Secretary and obtain a date for the Hearing Panel to hear the motion.

**Part 7 - Pre-Hearing Conferences**

**7.1 Order for a Pre-hearing Conference**

At any time prior to a hearing, the Hearing Panel on its own initiative, or at the request of one or more of the parties, may order the parties to attend a pre-hearing conference.

**7.2 Composition of the Hearing Panel at the Pre-hearing Conference**

A pre-hearing conference shall be held before a chairman of the Hearing Panel and any other member of the Hearing Panel who may be required to assist the chairman.

**7.3 Issues to be Considered**

At a pre-hearing conference the Hearing Panel may consider any appropriate issue, including:

- (a) the settlement of any or all of the issues;
- (b) the identification and simplification of the issues;
- (c) the disclosure of documents;
- (d) facts or evidence that may be agreed upon;
- (e) evidence to be admitted on consent;
- (f) the identification of any preliminary objections;
- (g) procedural issues including the dates by which any steps in the hearing are to be taken or begun, the estimated duration of the hearing, and the date that the hearing will begin; and
- (h) any other issue that may assist in the just and most expeditious disposition of the hearing.

**7.4 Notice of Pre-hearing Conference**

- (1) Notice to Parties and Others - The Secretary shall give notice of any pre-hearing conference to the parties and to such other persons as the Hearing Panel directs.
- (2) Contents of Notice -The notice of any pre-hearing conference must include:
  - (a) the date, time, place and purpose of the pre-hearing conference;

(b) whether parties are required to exchange or file documents or pre-hearing submissions in accordance with section 7.5 and, if so, the issues to be addressed and the date by which the documents or pre-hearing submissions must be exchanged and filed;

(c) whether parties are required to attend in person, and

(i) if so, that they may be represented by counsel or agent, or

(ii) if not, that their counsel or agent must be given authority to make agreements and undertakings on their behalf respecting the matters to be addressed at the pre-hearing conference;

(d) a statement that if a party does not attend in person or by counsel or an agent at the pre-hearing conference, the Hearing Panel may proceed in the absence of that party; and

(e) a statement that the Hearing Panel presiding at the pre-hearing conference may make orders with respect to the conduct of the proceeding which will be binding on all parties.

**7.5 Exchange of Documents**

The Hearing Panel designated to preside at the pre-hearing conference may:

- (a) order the parties to exchange or file by a specified date documents or pre-hearing submissions; and
- (b) set the issues to be addressed in the pre-hearing submissions and at the pre-hearing conference.

**7.6 Oral, Written or Electronic**

A pre-hearing conference may be held in person, in writing or electronically as the Hearing Panel may direct.

**7.7 Inaccessible to the Public**

- (1) Pre-hearing Conference - A pre-hearing conference shall be held in the absence of the public unless the Hearing Panel directs that it be open to the public.
- (2) Documents and Submissions - Any pre-hearing documents or pre-hearing submissions ordered under section 7.5 shall not be disclosed to the public.

**7.8 Settlement of Issues**

If the settlement of any issues is discussed at a pre-hearing conference:

- (a) statements made without prejudice at a pre-hearing conference may not be communicated to the hearing panel;
- (b) the members of the Hearing Panel presiding at the



pre-hearing conference shall not preside at the hearing of the proceeding unless all parties consent in writing or on the record;

- (c) an agreement to settle any or all of the issues binds the parties to the agreement but is subject to approval by such other panel of the Hearing Panel as is assigned to consider the settlement; and
- (d) all agreements, orders and decisions which dispose of a proceeding as it affects any party shall be made available to the public unless the Hearing Panel directs otherwise.

#### **7.9 Orders, Agreements, Undertakings**

- (1) Preparation of Memorandum - Any orders, agreements and undertakings made at a pre-hearing conference shall be recorded in a memorandum prepared by or under the direction of the members of the Hearing Panel presiding at the pre-hearing conference.
- (2) Provision of Copies - Copies of this memorandum shall be provided to the parties and to the members of the Hearing Panel presiding at the hearing of the matter and to such other persons as the members of the Hearing Panel presiding at the pre-hearing conference direct.
- (3) Binding Effect - Any orders, agreements and undertakings in the memorandum shall govern the conduct of the hearing and are binding upon the parties at the hearing unless otherwise ordered by the Hearing Panel.

#### **7.10 No Communication to Hearing Panel**

Other than any orders, agreements and undertakings recorded in a memorandum prepared in accordance with section 7.9, no information about the pre-hearing conference shall be disclosed to the members of the Hearing Panel who preside at the hearing unless all parties consent in writing or on the record.

### **Part 8 - Disclosure**

#### **8.1 Requirement to Disclose**

- (1) Documents and Other Things - Each party to a hearing shall, as soon as practicable after service of the Notice of Hearing, and in any case no later than 10 days before the day upon which the hearing is scheduled to commence:
  - (a) deliver to every other party copies of all documents that the party intends to refer to or tender as evidence at the hearing; and
  - (b) make available for inspection by every other party anything other than a document that the party intends to refer to or tender as evidence at the hearing.
- (2) Additional Obligation of Market Regulator – In addition to any document or thing delivered or made available by the Market Regulator in accordance with subsection (1), the Market Regulator shall as soon as practicable after service of the Notice of Hearing, and in any case no later than 10 days before the day upon which the hearing is scheduled to commence:
  - (a) deliver to every other party copies of all other documents relevant to the subject matter of the hearing; and
  - (b) make available for inspection by every other party anything other than a document relevant to the subject matter of the hearing.
- (3) By Order of Hearing Panel - At any stage in a hearing, the Hearing Panel may order a party to provide to another party any other disclosure that the Hearing Panel considers appropriate within a time period and on terms and conditions as specified by the Hearing Panel.

#### **8.2 Failure to Make Disclosure**

If a party fails to make a disclosure of a document or thing in compliance with section 8.1, the party may not refer to the document or thing or tender it as evidence at the hearing without the consent of the Hearing Panel on such terms and conditions as the Hearing Panel considers just.

#### **8.3 Witness Lists and Statements**

- (1) **Provision of Witness Lists and Statements** – Subject to section 8.4, a party to a hearing shall, as soon as practicable after service of the Notice of Hearing, and in any case no later than 10 days before the day upon which the hearing is scheduled to commence, provide to every other party:
  - (a) a list of the witnesses the party intend to call to give evidence at the hearing; and
  - (b) in respect of each witness named on the list, either:
    - (i) a witness statement signed by the witness, or
    - (ii) a summary of the anticipated evidence that

the witness is expected to give at the hearing.

- (2) **Contents of Witness Statements** - A witness statement or summary of the anticipated evidence that the witness is expected to give at the hearing must contain:

- (a) the substance of the evidence of the witness;
- (b) a reference to all documents, if any, that the witness will refer to; and
- (c) the name and address of the witness, or in the alternative, the name of a person through whom the witness can be contacted.

- (3) **Failure to Provide Witness List or Statement**

If a party fails to include a witness in the witness list or provide a witness list or a witness statement or a summary of the anticipated evidence as required by subsection (1), the party may not call the witness at the hearing without the consent of the Hearing Panel on such terms and conditions as the Hearing Panel considers just.

- (4) **Incomplete Witness Statement**

A party may not call a witness to testify to matters not disclosed in the witness statement or summary of the anticipated evidence as required by subsection (2), without the consent of the Hearing Panel on such terms and conditions as the Hearing Panel considers just.

#### 8.4 Expert Witness

- (1) **Notice of Intent to Call Expert** - A party that intends to call an expert witness at the hearing shall, at least 30 days before the day upon which the hearing is scheduled to commence, inform the other parties of the intent to call the expert witness and the issue on which the expert will be giving evidence.
- (2) **Provision of Expert's Report** - A party that intends to refer to or to tender as evidence a report prepared by an expert witness at a hearing shall, at least 15 days before the day upon which the hearing is scheduled to commence, provide to every other party a copy of the report signed by the expert containing:
- (a) the name, address and qualifications of the expert;
  - (b) the substance of the anticipated evidence of the expert; and
  - (c) a list of all the documents, if any, to which the expert will refer.
- (3) **Failure to Advise of Intent to Call Expert** - A party that fails to comply with subsection (1) may not call the expert as a witness without the consent of the Hearing Panel on such terms and conditions as the Hearing Panel considers just.
- (4) **Failure to Provide Expert's Report** - A party that fails to comply with subsection (2) may not

refer to or tender as evidence the expert's report without the consent of the Hearing Panel on such terms and conditions as the Hearing Panel considers just.

### Part 9 – Conduct of Hearing

#### 9.1 Particular Practice and Procedure for Oral Hearing

- (1) A person served with a Notice of Hearing shall, within 20 days from the date of service, serve on the Market Regulator a Reply signed by the person or by an individual authorized to sign on behalf of the person that specifically denies, with the particulars of the supporting facts and arguments, any or all of the facts alleged or the conclusions drawn by the Market Regulator as set out in the Statement of Allegations.
- (2) The Hearing Panel may accept as having been proven any facts alleged or conclusions drawn by the Market Regulator in the Statement of Allegations that are not specifically denied, with the particulars of the supporting facts and arguments, in the Reply.
- (3) A person served with a Notice of Hearing is entitled at an oral hearing of the matter:
- (a) to attend and be heard in person;
  - (b) to be represented by counsel or an agent;
  - (c) to call and examine witnesses and to present arguments and submissions; and
  - (d) to conduct cross-examinations of witnesses at the hearing reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence.

## 9.2 Particular Practice and Procedure for Written Hearing

- (1) **Submissions and Supporting Documents** - The applicant shall, within 7 days after receiving notice of the written hearing, file and serve on all other parties its written submissions setting out,
  - (a) the grounds upon which the request for the remedy or order is made;
  - (b) a statement of the facts relied on in support of the remedy or order requested;
  - (c) the evidence relied on in support of the remedy or order requested; and
  - (d) any law relied on in support of the remedy or order requested.
- (2) **Additional Information** - The Hearing Panel may require the applicant to provide further information, and this information must be supplied to every other party.
- (3) **Response** - A party may respond to the submissions of the applicant by filing and serving on every other party a written response within 5 days after the submissions and supporting documents of the applicant are served on the party which response shall set out the submissions of the responding party relating to the matter before the Hearing Panel and be accompanied by a statement of the facts and any evidence and any law relied on in support of the response.
- (4) **Reply to Response** - The applicant may reply to a response by filing and serving on every other party a written reply within 5 days after a response from a party is served on the applicant which reply to the response must set out the position of the applicant to the response and be accompanied by any additional facts, evidence and law that the applicant relies on in support of the reply.
- (5) **Questions and Answers** - If a written hearing involves evidentiary issues, the Hearing Panel may direct that,
  - (a) the applicant and any responding party may ask such questions of the other as are reasonably necessary for the purpose of clarification of the other's evidence by filing and serving on every other party written questions within such time as is directed by the Hearing Panel; and
  - (b) the party to whom the questions are directed shall file and serve on every other party written answers to such questions within such time as is directed by the Hearing Panel.
- (6) **Evidence** - The evidence must:
  - (a) be in writing, or when electronic transmission is permitted, it must be in the form directed by the Hearing Panel;
  - (b) identify the person giving the evidence and be in certified form or in affidavit form; and

(c) include all documents and things a party is relying on to support the remedy or order requested or the response or to otherwise support the position a party is taking in the hearing.

(7) **No Oral Examination** - Unless ordered by the Hearing Panel, there will be no oral examination.

(8) **Presentation of Witness** - If a party requests, the Hearing Panel may order that a party present a witness to be examined or cross-examined upon such conditions as the Hearing Panel directs.

## 9.3 Particular Practice and Procedures for Electronic Hearing

The Hearing Panel may, in deciding that a hearing will be held electronically, impose conditions including specifying the party responsible for making the necessary arrangements for the electronic hearing and requiring that a party requesting an electronic hearing pay all or part of the cost of providing the facilities necessary for the conduct of the hearing electronically.

## 9.4 Failure of Defendant to Reply, Attend or Participate

If a person served with a Notice of Hearing fails to:

- (a) in the case of an oral hearing, serve a Reply in accordance with section 9.1;
- (b) in the case of written hearing, serve a Response in accordance with section 9.2 or
- (c) attend or participate at the hearing specified in the Notice of Hearing,

the Market Regulator may proceed with the hearing on the matter on the date and at the time and place set out in the Notice of Hearing without further notice to and in absence of the person, and the Hearing Panel may, if permitted by law, accept the facts alleged or the conclusions drawn by the Market Regulator in the Statement of Allegations as having been proven by the Market Regulator and the Hearing Panel may impose any one or more of the penalties or remedies authorized by the Rules and assess expenses as authorized by the Rules.

## 9.5 Order for Particulars or Amendment

At any time in a hearing, the Hearing Panel may order:

- (a) any party to provide to any other party such particulars as the Hearing Panel considers necessary for a full and satisfactory understanding of the subject of the hearing; and
- (b) after providing parties an opportunity to make submissions, that the Statement of Allegations be amended in accordance with the evidence introduced at the hearing.

## 9.6 Disposition

- (1) The Hearing Panel shall give its final decision and order, if any, in a hearing in writing and shall give reasons in writing therefore if requested by a party.
- (2) The Hearing Panel shall send to each party to the hearing a copy of its final decision and order, if any, including the reasons therefore if any have been given by any method of service permitted under section 1.4.
- (3) The disposition of the matter shall be included in the permanent record of the Market Regulator in respect of the person that is the subject of the hearing.
- (4) The Market Regulator shall publish a summary of the decision and order, including:
  - (a) the Requirement contravened or alleged to be contravened,
  - (b) the facts, and
  - (c) the disposition of the matter, including any penalty or remedy imposed and any expenses assessed.

## Part 10 – Hearing Committee and Hearing Panels

### 10.1 Composition of Hearing Committee

- (1) On the date that a marketplace retains the Market Regulator to be its regulation service provider and every third annual anniversary thereafter, each marketplace that has retained the Market Regulator to be its regulation service provider shall be entitled to nominate 20 persons in each jurisdiction in which the marketplace is recognized or registered in accordance with applicable securities legislation to be a member of the Hearing Committee.
- (2) At least one-third of the persons nominated by a marketplace in each jurisdiction shall be:

- (a) a member in good standing of the Law Society of that jurisdiction or a person retired from membership of the Law Society of that jurisdiction in good standing; and
  - (b) a director, officer, partner or employee of a Participant or a Non-Dealer Subscriber of the marketplace or a former director, officer, partner or employee of a Participant or a Non-Dealer Subscriber.
- (3) The Governance Committee or other committee of the Board comprised of independent directors or persons shall:
    - (a) review each person nominated for membership on the Hearing Committee and in such review shall consider general knowledge of business practices and securities legislation, experience, regulatory background, availability for hearings, reputation, ability to conduct hearings in either French or English, jurisdictions in which the person would be entitled to serve; and
    - (b) appoint to the Hearing Committee those persons which it considers to be suitable.
  - (4) Each person appointed to the Hearing Committee shall serve for a term of three years from the date of their appointment provided that, if the person is serving on a Hearing Panel at the expiration of the three-year term, the term of that person shall be automatically extended until the completion of the proceeding then before the Hearing Panel.
  - (5) If the Market Regulator ceases to be the regulation service provider for a marketplace every member of the Hearing Committee nominated by that marketplace shall be automatically removed from the Hearing Committee effective as of the date that the Market Regulator ceased to be the regulation service provider for the marketplace provided that, if the person is serving on a Hearing Panel on that date, the term of that person shall be automatically extended until the completion of the proceeding then before the Hearing Panel.

### 10.2 Selection of Hearing Panel

- (1) Upon the issuance of a Notice of Hearing, the Secretary shall select from the members of the Hearing Committee for the jurisdiction in which the hearing will be held:
  - (a) one member of the Hearing Committee who is or was a member of the Law Society for that jurisdiction and this person shall act as chair of the Hearing Panel; and
  - (b) two members of the Hearing Committee, at least one of whom shall be a current or former director, officer, partner or employee of a Participant or a Non-Dealer Subscriber.
- (2) The Secretary shall not select any person to be a member of a Hearing Panel who is precluded from acting in such capacity by reason of:
  - (a) subsection (2) of Rule 10.6;

- (b) any statutory requirement applicable to the jurisdiction in which the hearing will be held; or
- (c) any requirement in the recognition order or registration under applicable securities legislation of the relevant marketplace.

## **Part 11 – Appeals**

### **11.1 Commencement of Appeal**

- (1) Subject to Rule 10.6, any party to a hearing may appeal a determination, order or interim order of the Hearing Panel by serving on the Secretary and each of the parties to the hearing a written Notice of Appeal within 30 days from the date the party serving the Notice of Appeal was served with the order of the Hearing Panel pursuant to section 9.6.
- (2) The Notice of Appeal shall contain the grounds of the appeal together with a summary of the supporting reasons for the appeal.
- (3) Within 20 days following the date the Secretary was served with the Notice of Appeal, the Secretary shall establish a date for the appeal and notify in writing each party to the hearing of the date, time and place for the appeal.
- (4) Unless all parties to the hearing otherwise agree in writing, the date established for the appeal shall not be later than 15 days following the date the Secretary provides the notice in accordance with subsection (3).

### **11.2 Conduct of Appeal**

- (1) On an appeal, the Board must consider the record of the hearing and may consider any new evidence that the Board determines appropriate under the circumstances.
- (2) The Board shall give its final decision and order, if any, in an appeal in writing and shall give reasons in writing therefore if requested by a party.
- (3) The Board shall send to each party to the hearing a copy of its final decision and order, if any, including the reasons therefore if any have been given by any method of service permitted under section 1.4.
- (4) The disposition of the matter by the Board shall be included in the permanent record of the Market Regulator in respect of the person that is the subject of the hearing and appeal.
- (5) The Market Regulator shall publish a summary of the decision and order of the Board, including:
  - (a) the Requirement contravened or alleged to be contravened,
  - (b) the facts, and
  - (c) the disposition of the matter, including any penalty or remedy imposed and any expenses assessed.

**Universal Market Integrity Rules for Canadian  
Marketplaces**

**APPENDIX D**

**LIST OF COMMENTATORS ON THE UNIVERSAL  
MARKET INTEGRITY RULES**

On April 20, 2001, the TS Regulation Services ("RS") issued Regulatory Notice No. 2001-011 and The Canadian Venture Exchange ("CDNX") issued a notice requesting comments on draft rules entitled "Universal Market Integrity Rules" ("UMIR") that were formulated jointly by CDNX and RS. Concurrent with the publication of UMIR, the Canadian Securities Administrators ("CSA") issued Request for Comment 23-401, published at (2001) 24 OSCB 2555, that specifically sought comment on twelve questions related to UMIR and its application.

The following persons or organizations submitted comment letters in response to the Request for Comments by RS and CDNX or in response to the Request for Comments issued by the CSA:

- 1 Bank of Canada - Ron Parker, Chief, Financial Market Department, Bank of Canada / Bill Mitchell, Director, Financial Markets Division, Department of Finance
- 2 Barclays Global Investors ("BGI") - Gerry Rocchi, Managing Director/President
- 3 Jerry Bayer - Yorkton Securities Inc.
- 4 Bloomberg LP ("Bloomberg") - Kevin M. Foley
- 5 BMO Nesbitt Burns Inc. ("BMO") - Eric Tripp, Vice Chairman, Equity Division
- 6 Bourse de Montréal ("BDM") – Johanne Dupont, Legal Counsel
- 7 Canadian Securities Traders Association ("CSTA") - Diane Peto, Chairman
- 8 CIBC World Markets Inc. ("CIBC") - Suky Ing, Executive Director
- 9 E\*Trade Canada Securities Corporation ("E\*Trade") - Colleen Moorehead, President
- 10 Hospitals of Ontario Pension Board ("HOPP") - Marion R. Herron, Manager, Equity Trading
- 11 Instinet Canada Limited ("Instinet") - Joie P. Watts, Managing Director
- 12 Investment Dealers Association of Canada ("IDA Capital Markets Committee") - Phipps Lounsbery, Chair
- 13 Investment Dealers Association of Canada ("IDA Equity Trading Committee") - W. Moriarty, Chair
- 14 ITG Canada Corp. ("ITG") - Ken Hight, President and CEO
- 15 Merrill Lynch Canada Inc. ("ML") - Gerald Throop, Executive Vice President and Managing Director Equity Markets Group
- 16 National Bank Financial Inc. ("NBF") – L. Haber,

Executive Vice President

- 17 Ontario Teachers' Pension Plan Board ("Teachers") - Morgan McCague, Senior Vice President, Quantitative Investments
- 18 Power Budd LLP - James Boyle
- 19 Raymond James Ltd. ("RJL") - Peter A. Erglis, Registered Trader
- 20 RBC Dominion Securities ("RBC") - John Reilly, Managing Director, Global Equity
- 21 TD Newcrest, a division of TD Securities Inc. ("TD") - Bob Dorrance, Vice Chair, Institutional Equities / Mark Faircloth, Vice Chair Debt Capital Markets
- 22 TD Quantitative Capital ("TDQC") - Enrique M.I.Cuyegkeng, Managing Director
- 23 Union Securities Ltd. – Dimitrious Nasirpour
- 24 Wolverton Securities Ltd. ("WSL") - Joan Rogers

APPENDIX E

GENERAL COMMENTS ON UMIR

Reference	Commentator and Comment	Response
<i>Comments on Scope and Content</i>		
Comment Period	<p><b>Barclays Global Investors (“BGI”)</b> – Comment period insufficient for such a complex proposal.</p> <p><b>BMO Nesbitt Burns (“BMO”)</b> – Comments should be disseminated and action taken only after a suitable review period.</p> <p><b>E*Trade Canada Securities Corporation (“E*Trade”)</b> – Impossible to make meaningful comment on UMIR until CSA clarifies status of the ATS Proposal. Moved away from meaningful consultations with all industry. If UMIR is revised to accommodate the final version of the ATS rules, will other marketplace participants be offered the same opportunity to respond?</p> <p><b>Ontario Teachers’ Pension Plan Board (“Teachers”)</b> – Comment period insufficient to evaluate impact on derivative and bond markets.</p>	<p>While initially issued on April 20, 2001 for a 30-day comment period, the comment period was extended until July 15, 2001. All commentators were advised in writing of the extensions of time and given the opportunity to supplement any submissions that had been made. Public notice of the extension of time was provided by both RS and CDNX.</p> <p>The timetable for the submission of comments was dictated in part by the desire of the CSA to be in a position to publish the final version of the ATS Rules. The final version of the ATS Rules was published on August 17, 2001.</p>
Cost of Regulation	<p><b>RBC Dominion Securities Inc. (“RBC”)</b> – Will the cost of the Market Regulator be borne by the marketplace or dealer or will there be a legislated fee added to every trade similar to the OSC fee?</p>	<p>It is anticipated that each marketplaces will bear a portion of the cost of regulation in accordance with a formula based on value traded, volume traded and number of orders. The marketplace will be given the option of paying the regulation fee attributable to that marketplace or collecting the fee from the Participants in the marketplace based on the same formula.</p>

Reference	Commentator and Comment	Response
Data Consolidator	<p><b>Jerry Bayer (Yorkton Securities Ltd.)</b> – Without a data consolidator, may not be able to effectively execute short sales.</p> <p><b>BMO</b> – Best execution standards can not be reliably meet without the data consolidator and market integrator.</p> <p><b>E*Trade</b> – If there is no Data Consolidator, will CSA require enhancement of the Canadian Exchange Group dissemination of information to minimize costs to the industry?</p>	<p>The ATS Rule replaces the “data consolidator” with an “information processor”. Prior to January 1, 2004, the requirement to provide order and trade information to an information processor may also be satisfied by providing such information to an “information vendor”. UMIR has been amended to permit a Participant to rely on a “consolidated feed” prepared by an information processor or information vendor in determining “best execution”, “best prices” and “last sale prices”. An amendment to UMIR will be required by January 1, 2004 when the form of market integration contemplated by the ATS Rule is determined.</p>
Extraterritoriality	<p><b>Bloomberg LP (“Bloomberg”)</b> – UMIR should clearly articulate the extent to which the rules are meant to apply outside of Canada or to securities of non-Canadian issuers.</p>	<p>UMIR is intended to apply to Canadian marketplaces and to persons with access to trading in those marketplaces. UMIR will therefore apply to securities of non-Canadian issuers traded on Canadian marketplaces but will not apply to the trading of securities of Canadian issuers in market outside of Canada. UMIR will not apply to trading of securities on certain Canadian marketplaces if the trading of securities is governed by rules of another regulation service provider in accordance with the Final ATS Rules.</p>
Market Development	<p><b>BGI</b> – UMIR will hamper formation of ATSS – competitiveness was not considered and sole consideration appears to be market integrity.</p> <p><b>Bloomberg</b> – Not all ATSS are alike and are really a new “kind of broker” that should not be hampered by over-regulation. The ability of “agency-broker ATSS” to introduce new</p>	<p>The objective of UMIR was to create a single “code” for the market integrity rules governing marketplaces in Canada. UMIR specifically recognizes that certain of the rules have to be modified to incorporate the particular workings of a marketplace (e.g. exchanges are authorized to provide liquidity guarantees and, as such, exemptions from the short sale rule were provided to accommodate the workings of the market-making</p>



Reference	Commentator and Comment	Response
	<p>features should be encouraged.</p> <p><b>E*Trade</b> – UMIR appears to be designed to maintain the status quo and does not foster competitiveness. However, concerned that UMIR would permit orders to be routed to ATS in the United States thereby avoiding the application of UMIR and CSA Trading Rules. CSA can adopt uniform standards for market integrity without dictating a single way for marketplaces to carry on business in Canada.</p> <p><b>Instinet Canada Limited (“Instinet”)</b> – The standard under UMIR is unaccountably higher for competing Canadian marketplaces than for foreign. May discourage foreign marketplaces from subjecting themselves to regulation under Rule ATS.</p> <p><b>National Bank Financial (“NBF”)</b> – Issues related to market structure must be addressed prior to resolving issues of regulation. Different securities may require different market models and rules.</p> <p><b>RBC</b> – Believe that UMIR has been biased towards a particular marketplace (the TSE) as it is more important to regulate the integration of markets as opposed to protecting the current marketplaces from competition.</p> <p><b>Teachers</b> – Thrust is toward market integrity with little attention to competitiveness. UMIR has the potential to significantly reduce the ability and incentives of ATS to innovate.</p>	<p>system on the existing exchanges). It was not intended that UMIR be a static document. Instead, as a code of market integrity rules, UMIR would evolve with the development of the marketplaces and would ensure that each marketplace was subject to a “level playing field”. A common set of integrity rules would facilitate the market integration contemplated by the Final ATS Rule.</p>
<p><b>Market Regulator Independence</b></p>	<p><b>Bloomberg</b> – CSA should set standards for the organization and governance of Market Regulators so that marketplaces and participants</p>	<p>Under the Final ATS Rule, a “regulation service provider” must be recognized as an exchange, quotation and trade reporting system or a self-regulatory body or</p>

Reference	Commentator and Comment	Response
	<p>will have confidence that the approach to regulation will be consistent and even-handed.</p> <p><b>BMO</b> – Prefer an independent body to provide market regulation.</p> <p><b>E*Trade</b> – Rulemaking process itself is unfair, with the advantage given to the TSE. Independent body, such as the CSA, should write the rules.</p> <p><b>Power Budd LLP</b> - Supports the proposal to create a stand-alone regulator, particularly as it will utilize the expertise of recognized SROs.</p> <p><b>Raymond James Ltd. (“RJL”)</b> – A majority of the board of the Market Regulator should be from industry but represent a participant whose presence would not be influential to the operations of any particular exchange or potential ATS.</p> <p><b>RBC</b> - A single Market Regulator must be independent and not favour one marketplace or structure.</p>	<p>self-regulatory organization. RS Inc. has applied to be recognized as a self-regulatory organization in Ontario, British Columbia, Alberta, Manitoba and Québec. That application will be the subject of a separate request for comments by the securities regulators in those jurisdictions.</p>
<p><b>Participant and Non-Dealer Subscribers</b></p>	<p><b>BGI and Hospital of Ontario Pension Plan (“HOOPP”)</b> - Affiliates of dealers should be treated the same as any other Non-Dealer Subscribers.</p> <p><b>RJL</b> – Non-Dealer Subscribers should be subject to the best execution and best price obligations.</p> <p><b>RBC</b>– Non-Dealer Subscribers should be subject to rules on order entry, order designation, trading supervision, proficiency and principal trading.</p> <p><b>Instinet</b> – Dealers who are subscribers should be treated as clients for the purposes of</p>	<p>The definition of “Non-Dealer Subscriber” has been amended to eliminate the distinction between affiliates of dealers and other Non-Dealer Subscribers.</p> <p>UMIR continues to require that Dealers (whether subscribers to an ATS or a member of an exchange) provide priority to client orders that were entered prior to principal or non-client orders regardless of the marketplace on which the principal or non-client orders are entered.</p> <p>While the present version of UMIR does not propose it, consideration will be given to whether it would be appropriate to extend the definition of “Participant” to include other</p>

Reference	Commentator and Comment	Response
	the client priority rules.	categories of registrants under securities legislation in addition to dealers.
VWAP	<b>CIBC World Markets</b> – UMIR should permit trading on ATSS of products similar to the VWAP under TSE Rules.	The definition of “Volume-Weighted Average Price Order” contained in the original version of UMIR permitted such orders on a marketplace other than an Exchange. The definition has been continued in the current version of UMIR.
<i>Comments on Specific Rules</i>		
Appeals	<b>Instinet</b> – Should clarify that “marketplace” is a person directly affected for the purposes of being able to obtain a review (which should be treated as a “trial de novo” rather than an appellate review).	As an SRO, the right of appeal or review of a decision of the Market Regulator will be established by the applicable securities legislation. The provision included in UMIR corresponds to the current legislative language and the provision was included for the sole purpose of indicating that appeal and review rights existed.

Reference	Commentator and Comment	Response
<b>Best Execution</b>	<p><b>BGI and HOOPP</b> – “Best execution” is an improvement from “best execution price: but needs specific indicia like price versus timeliness and price versus depth of market.</p> <p><b>Canadian Securities Traders Association, Inc. (“CSTA”)</b> – What are “reasonable steps” taking into account “the condition of the market”.</p> <p><b>RBC</b> – Best execution may put an undue burden on the dealer to seek out a better price in another marketplace leading to market fragmentation. The requirement for order exposure is in conflict with the best execution obligation.</p> <p><b>Bloomberg</b> - The requirement of dealers to guarantee prices for withheld orders may discourage any approach other than an immediate presentation of a large order. ATs that operate as “agency brokers” should not be subject to the affirmative best-execution obligations of a full-service brokerage. Responsibility for best execution with rest with use of an ATS that affects a customer order.</p> <p><b>Instinet</b> – Orders should go to the marketplace where the client gets the best “all in” price taking into account commissions as well as transaction costs.</p> <p><b>TD</b> – Clients, on a transaction by transaction basis, should determine whether “best price” or “fastest execution” represents “best execution”.</p>	<p>The concept of “best execution of client orders” is not absolute. Under the “best execution” rule there is no requirement to “guarantee prices”. The “guarantee” comes under the rule related to the exposure of client orders where withholding of “small” orders (of less than 50 standard trading units) may attract a guarantee that the price ultimately received by the client is not less than the price the client would have received if the order had been immediately entered as otherwise required by the order exposure rule. If a dealer believes that the best execution of the client order may be achieved other than by immediate exposure to the market, the dealer may fulfill its best execution obligations in this fashion. The rule as drafted permits the client to establish “most advantageous terms” as a combination of price and speed of execution.</p> <p>A dealer must be able to defend the steps it has taken in pursuing the execution of the client’s order as being in the best interests of the client in light of market conditions. Unlike transaction fees established by a marketplace, commissions charged by the dealer to its client will be the subject of agreement between the dealer and client. UMIR does not purport to regulate commission fees except to the extent that commissions are used to vary the reported transaction price on a marketplace.</p>
<b>Client/Principal Trading</b>	<b>CSTA and HOOPP</b> – Supports notion that “price improvement” is dependent upon the depth of the market.	The requirement to improve the price for the client is the mechanism to demonstrate “best execution” of the client order in the

Reference	Commentator and Comment	Response
	<p><b>RBC</b> – Anti-competitive to allow other dealers to fill client orders at current best bid/offer while requiring principal to improve the price.</p>	<p>absence of exposure of the order to the market.</p>
<p>Continuous Disclosure</p>	<p><b>BMO</b> – CSA should retain responsibility for continuous/timely disclosure with the Market Regulator responsible for ensuring that all marketplaces have the same criteria and mechanisms for dealing with breaches.</p> <p><b>NBF</b> - Exchanges must co-ordinate the halting and reopening of securities for the issue of a press release by the issuer.</p>	<p>Continuous and timely disclosure is the cornerstone on which a fair and orderly market is built. While the current version of UMIR does not incorporate provisions related to timely disclosure, consideration is being given to whether a common policy applicable in all marketplaces would be an appropriate addition to UMIR.</p>
<p>Definitions</p>	<p><b>Bourse de Montréal Inc. (“BDM”)</b> – Suggests a number of technical changes to the definitions, but in particular wishes to limit the definition of a “related security” to one which varies “in accordance with” rather than merely “materially” with movement in the price of the underlying security and to provide that the mere ownership of an option should be deemed ownership of the underlying security for the purpose of the definition of a “short sale”.</p>	<p>Given the diversity of financial instruments available, a definition of “related security” which imposes a test higher than varying “materially” with the underlying security would not be sufficiently flexible.</p> <p>Ownership of an option is not sufficient to establish “economic ownership” of the underlying security. If a call option has been exercised or a put option has been assigned, the current definition would permit a sale of the underlying security.</p>

Reference	Commentator and Comment	Response
Designations and Identifiers	<p><b>CSTA and HOOPP</b> – For reporting purposes only, the requirement for identifiers should be extended to clients.</p> <p><b>Instinet</b> – Should clarify the obligation of marketplace to capture and convey information to the data consolidator and that none of the information need be made public except through the consolidated market display. Should not have to enforce the obligations of another marketplace.</p>	<p>Given the number of subscribers that may exist, maintenance of distinct identifiers may not be practicable at the time of order entry. However, the client identifier must be provided as part of the audit trail.</p> <p>UMIR has been amended to clarify that order designations (other than for a Special Terms Order) will not be disclosed in a consolidated display. The Draft ATS Rule addressed the information to be included in the consolidated display but these provisions have been omitted from the Final ATS Rule.</p> <p>The requirement that orders for securities listed on the TSE contain the order designations required by the TSE has been deleted. However, to the extent that the orders do not contain appropriate designations, orders originating in other marketplaces may be assigned “default options” that would impact on their ability to trade on the TSE.</p>
Display Requirements	<p><b>Bloomberg</b> – Dealers should be allowed to use an ATS and have the ATS identify itself in the public display in order to allow for anonymity.</p>	<p>Under UMIR, each marketplace will be able to determine whether the identifier of the Participant or ATS is disclosed in a consolidated market display.</p>
Enforcement	<p><b>CSTA</b> – Should be different levels of penalties that account for the severity of the offence.</p>	<p>UMIR establishes the parameters for penalties. It will be for each Hearing Panel making an order in a disciplinary or enforcement matter to determine the appropriate penalty or remedy based on the circumstances of the matter. Any party (including the Market Regulator) may appeal the penalty or remedy imposed by a Hearing Panel.</p>
Exchange of Information	<p><b>BDM</b> – What is the basis to allow for the exchange of information? Will MOUs be executed?</p>	<p>Section 7.5 of the National Instrument 23-101 requires that each regulation service provided enter into a written agreement with</p>

Reference	Commentator and Comment	Response
	<p><b>Instinet</b> – Information provided to the Market Regulator should be used only for enforcement and compliance purposes. No Market Regulator should be able to supply information obtained to an affiliated stock exchange.</p>	<p>all other regulation services providers, recognized exchanges and recognized quotation and trade reporting system to co-ordinate monitoring and enforcement requirements. In addition, UMIR provides that information may be provided for regulatory purposes to self-regulatory entities and securities regulatory authorities in Canada and foreign jurisdictions.</p>
Frontrunning	<p><b>BDM</b> - Frontrunning restrictions should apply to all unentered orders (and not just client orders)</p> <p><b>Bloomberg</b> – Dealers and institutional investors should be able to agree when a dealer will be permitted to trade alongside of, or even ahead of, the customer in the course of facilitating a customer’s order.</p>	<p>Frontrunning is limited to those persons with knowledge of unentered orders from their clients. Unlike the client priority rules that specifically allow the client to consent to the principal trading ahead of or along-side the client order, the distinguishing factor under the frontrunning rule is the fact that the client’s order could reasonably be expected to affect the market price. In these circumstances, the firm should not be able to profit from knowledge of one client’s intention, particularly at the expense of other clients of the same firm.</p>
Jitney Trading	<p><b>CSTA</b> and <b>HOOPP</b> – Opposed to the practice of one broker trading under another broker’s number.</p>	<p>While UMIR will not prohibit “jitney trading”, the identifier of the Participant placing the jitney order must be disclosed to the Market Regulator as part of the audit trail requirements.</p>
Just and Equitable	<p><b>BDM</b> – Should replace with the concept of “integrity and transparency”.</p> <p><b>HOOPP</b> –Need to define the concept as the absence of specifically prescribed list of activities.</p> <p><b>Instinet</b> – Application of concept to Non-Dealer Subscribers is unclear.</p>	<p>Exchanges have for a considerable period of time maintained a requirement for dealers to trade in accordance with just and equitable principles of trade. While the concept is vague, it is nonetheless a “general anti-avoidance” concept. Conduct, particularly a consistent pattern, that in and of itself does not constitute a violation of a specific rule may nonetheless be considered a violation of the “just and equitable principles” of trade.</p>

Reference	Commentator and Comment	Response
		It is proposed that certain examples be provided in the accompanying Policy to UMIR.
Liability	<p><b>BDM</b> - Should include a provision concerning the liability or the exclusion of liability for Non-Dealer Subscribers.</p> <p><b>Instinet</b> – Orders should be binding on the persons making them rather than on the marketplace.</p>	The integrity of the market requires that trades be honoured. Dealers have assumed this responsibility as members of an exchange and as the only parties with access to the trading system of exchanges. As each ATS will be a dealer, UMIR imposes on the ATS the liability for orders given by their Non-Dealer Subscribers. If all orders entered on an ATS are inter-mediated by a dealer, the ATS would have no additional liability.
<b>Manipulative and Deceptive Methods of Trading</b>	<p><b>BDM</b> - concept of “change in economic ownership” should be defined and a price should be considered artificial if it not justified by “market conditions” rather than “real demand or supply”</p> <p><b>CSTA</b> – Fraud provisions should be included in UMIR. With respect to “price manipulation” problems may arise due to the different processing speeds of connecting ATSS.</p> <p><b>HOOPP</b> – Supports prohibition on manipulative trading practices but “deceptive” should be removed.</p>	<p>“Market conditions” would include the markets response to the attempted manipulation. The concept of “real demand and supply” is an attempt to remove the response to the manipulation from consideration as well as the actual manipulative orders or trades.</p> <p>It remains the view of RS and CDNX that fraud is not properly included in trading rules as such behaviour is not regulatory in nature but rather an “offence” to be dealt with in court proceedings.</p> <p>UMIR retains the concept of “deceptive” trading methods as it can cover a number of trading practices that would not have the effect of “manipulating” the market price. For example, trades with no change in beneficial ownership would be considered “deceptive” even if the trades occurred at the prevailing market prices.</p>
Order Exposure	<p><b>CSTA</b> – The internalization of order flow should not be permitted.</p> <p><b>HOOPP</b> – Market depth and liquidity better achieved through time priority for all orders. Internalization of</p>	Under UMIR, client orders of 50 standard trading units or less due not have to exposed to a marketplace if the order is executed upon receipt by the Participant at a “better price”. Each marketplace will be able to



Reference	Commentator and Comment	Response
	orders should only be allowed when the pro betters the price the client would otherwise realize.	establish its own rules for the allocation of trades. There is no requirement under UMIR that a particular allocation formula be adopted. Each marketplace will have to satisfy the applicable securities regulatory authorities as to the fairness of any allocation formula adopted.
Regulatory Halts	<b>CSTA and HOOPP</b> – Supports inter-market regulatory halts. What processes will be in place to ensure notice?	It is anticipated that the Market Regulator will issue real time tickers/bulletins with respect to regulatory halts. It is also anticipated that halts will be enforced across marketplaces by the Market Regulator inputting the trading halts into the trading systems of the marketplaces for which the Market Regulator is the regulation service provider.
Rule Amendments	<b>BDM</b> – Set out procedures for rule amendments.	As an SRO, the amendment of UMIR will be governed by the procedure adopted by the applicable securities regulatory authorities. The procedure will be part of a separate request for comments to be issued by the CSA.
Short Sales	<b>Bloomberg</b> – Short sale restrictions should not apply to large-capitalization companies with substantial average daily volumes. <b>HOOPP</b> – Should be an exemption for dealer principal markets. Short sale may not be applicable to debt markets. Should be further discussion to broaden the number of exemptions or to eliminate the rule.	UMIR generally will not apply to the unlisted debt market. The short sale rule would apply to trading in listed debt. While UMIR has not been drafted to exempt highly liquid stocks from the short sale rule, consideration should be given to expanding the exemption based on trading patterns that emerge with the introduction of multiple marketplaces for listed securities.
Transaction Fees	<b>TD</b> – Participants should not be allowed to take into account differences in transaction fees when determining which marketplace offers the “best price”.	A Participant in pursuit of the “best price” for a client should not be forced to pay a transaction fee for execution of the order in a particular market which when passed on to the client results in a

Reference	Commentator and Comment	Response
		lower net than would have been received if the order had been executed at a lower price in a marketplace that charged a significantly lower transaction fee or no fee at all.

APPENDIX F

COMMENTS ON UMIR IN RESPONSE TO CDNX/RS QUESTIONS

Reference	Commentator and Comment	Response
<p><b>U n i v e r s a l Application</b> - Is it acceptable to have multiple Market Regulators if there is a single set of market integrity rules applicable in all marketplaces?</p>	<p><b>Barclays Global Investors (“BGI”), Hospital of Ontario Pension Plan (“HOOPP”), TD Quantitative Capital (“TDQC”) and Wolverton Securities Ltd. (“WSL”) – No.</b></p> <p><b>BMO Nesbitt Burns (“BMO”), ITG Canada Corp. (“ITG”), Merrill Lynch Canada Inc. (“ML”) and National Bank Financial (“NBF”) – Prefer a single, independent regulator enforcing standard integrity rules.</b></p> <p><b>Canadian Securities Trader Association (“CSTA”) – No benefit to multiple Market Regulators (except to recognize different types of securities – e.g. equities, fixed income, debt and derivatives).</b></p> <p><b>CIBC World Markets (“CIBC”), Instinet Canada Limited (“Instinet”), RBC Dominion Securities Inc. (“RBC”) and TD Newcrest (TD) – Yes.</b></p>	<p>While there was a general consensus that a single Market Regulator would be preferable, UMIR has been drafted recognizing that there may be multiple Market Regulators.</p>
<p><b>U n i v e r s a l Application</b> - How would overall market integrity be assured in an “integrated market” if each Market Regulator adopts different standards and rules to govern trading in their particular marketplace?</p>	<p><b>Bloomberg LP (“Bloomberg”) – Further consideration necessary on whether fair and orderly marketplaces require universal rules.</b></p> <p><b>BMO – Common standards, particularly for fraud and manipulation.</b></p> <p><b>CSTA – Even with multiple Market Regulators, should be only one set of rules that is reviewed annually for effectiveness.</b></p> <p><b>CIBC – UMIR should apply.</b></p> <p><b>HOOPP and TDQC – Oversight by a single regulator.</b></p> <p><b>Raymond James Ltd. (“RJL”) – Ensure all rule changes are communicated to participants</b></p>	<p>UMIR has been constructed to be a “framework” which would recognize particular aspects of each different marketplaces and different securities. It does not attempt to provide the same rule for “all” but to be a “code” which contains all applicable rules.</p>

Reference	Commentator and Comment	Response
	<p>in a fair and timely fashion.</p> <p><b>RBC</b> – While difficult to maintain overall integrity, no different than the current environment with different standards in multiple jurisdictions.</p> <p><b>TD</b> – Marketplaces should be able to compete by providing different market regulation.</p>	
<p><b>Extent of Jurisdiction of Market Regulator</b> - Is it appropriate for a Market Regulator to have enforcement and disciplinary jurisdiction over subscribers who are not dealers under applicable securities legislation? In particular, if retail investors or non-residents are subscribers to an ATS should the jurisdiction of the Market Regulator extend to such persons?</p>	<p><b>BGI, HOOPP, Instinet and ITG</b> - Market Regulator should not have jurisdiction. Current role of registrants as “gatekeepers” works.</p> <p><b>BMO, CIBC, RBC, TDQC and WSL</b> – Yes. Market Regulator should have jurisdiction over all direct marketplace participants.</p> <p><b>CSTA</b> – Non-Dealer Subscribers should be regulated directly by the Market Regulator.</p> <p><b>TD</b> – Jurisdiction over subscribers should reside exclusively with CSA.</p> <p><b>Bloomberg</b> – No. Defer regulation of institutional investors.</p>	<p>National Instrument 23-101 proposes to exempt an ATS from the audit trail requirements imposed on other dealers. As such, an ATS will not be fulfilling the “gatekeeper” role imposed on other securities dealers. For this reason, UMIR has retained the provision that would provide jurisdiction to the Market Regulator for enforcement and disciplinary proceedings over all direct marketplace participants.</p>
<p><b>Extent of Jurisdiction of Market Regulator</b> – What should be the responsibility of the ATS in these circumstances?</p>	<p><b>BMO and TD</b> – ATS should provide a copy of the trading rules and the subscriber should acknowledge they have received and understood the rules and will adhere to them.</p> <p><b>CSTA and HOOPP</b> - ATS to ensure users trained in and adhere to UMIR. Obligation of broker to monitor clients with direct access to ATS.</p> <p><b>Instinet</b> – ATS should simply make Non-Dealer Subscriber aware of the rules without training them on compliance.</p> <p><b>WSL</b> – Obligation of ATS should be that of a “dealer”.</p> <p><b>Bloomberg</b> – An ATS that functions as an “agency broker” should not be asked to undertake regulatory duties.</p> <p><b>IDA Capital Markets Committee</b> – Market Regulator should regulate exchanges and ATS and each individual marketplace should be responsible for the market conduct of Non-Dealer Subscribers.</p>	<p>National Instrument 21-101 does not propose to divide alternative trading systems along functional lines based on the services which they will provide to their subscribers (e.g. an “agency” that routes orders) or on the basis of the identity of subscribers (e.g. limited to the participation of dealers or other registrants). UMIR therefore continues the proposal that the ATS ensure that subscribers are trained in the integrity rules.</p>
<p><b>Extent of Jurisdiction of Market Regulator</b> – Should a marketplace be permitted to have more than one Market Regulator provided each Market Regulator applies the same set of integrity rules?</p>	<p><b>BMO</b> – Yes, if rules are uniform and applied in an identical manner.</p> <p><b>CIBC</b> – Yes, one for each equities, debt and derivatives.</p> <p><b>RBC</b> – Yes, but should not be required to have more than one.</p> <p><b>WSL</b> – No.</p>	<p>UMIR contemplated the possibility of multiple regulation service providers. UMIR has been expanded to recognize that UMIR does not apply if the order and trade have been made in accordance with the rules of an exchange or quotation and trade reporting system that has adopted integrity rules other than UMIR or on a marketplace that has adopted the rules of another regulation service provider.</p>

Reference	Commentator and Comment	Response
<p><b>Supervision of Trading and Proficiency</b> – As a dealer, should an ATS have “compliance responsibility” for monitoring trading activity of subscribers who are not dealers?</p>	<p><b>BGI, CIBC and RBC</b> – No.  <b>BMO</b> – Responsibility should vary depending on size and sophistication of the client.  <b>CSTA, HOOPP, ML and WSL</b> – Yes. An ATS should be responsible and accountable for all users of its system.  <b>Instinet</b> – No, ATS may not govern the conduct of subscribers other than conduct in respect of trading by those subscribers.  <b>RBC</b> – A participant operating a marketplace should have compliance responsibility.  <b>TDQC</b> – Compliance responsibility should be with Market Regulator.</p>	<p>Under National Instrument 21-101, an ATS will be able to abdicate its responsibilities to subscribers by providing disclosure that, notwithstanding the registration of the ATS as a dealer under securities legislation, it does not ensure best execution for its subscribers. UMIR proposes that trading supervision obligations be imposed on dealers that are Participants (see in particular Rule 7.2 and the related policy). To the extent that “compliance” is not being performed by an ATS directly, the ATS should obtain such services from or through its regulation service provider.</p>
<p><b>Supervision of Trading and Proficiency</b> – Should subscribers to an ATS who are not dealers be limited to “trading for their own account”?</p>	<p><b>CSTA, CIBC and WSL</b> – Yes  <b>BGI, BMO, HOOPP and TDQC</b> – Yes, provided registered investment advisors are deemed to be trading for their own accounts.  <b>Instinet</b> – Yes, provided investment counsel trading with discretion and mutual funds are both deemed to be trading for their own account.  <b>ML</b> – No. Unfair to US broker-dealers and money managers.  <b>RBC</b> – Should be able to trade on behalf of anyone for whom they have a fiduciary responsibility.  <b>TD</b> – Unlikely to have pure agency trading. Mutual funds, portfolio managers, insurance companies and trust companies managing segregated funds should all be capable of being subscribers.</p>	<p>Neither National Instrument 21-101 nor 23-101 addressed the question of the capacity of the “Non-Dealer Subscriber”. If subscribers to an ATS can trade other than for their own account, information respecting those orders and trades should be to the audit trail requirements. In such circumstances, it may also be desirable to extend to such subscribers a number of the specific rules that would apply in agency-principal situations and, in particular, those rules related to best execution obligations and order exposure.</p>
<p><b>Supervision of Trading and Proficiency</b> – To what extent should “subscribers” be considered “clients” of the ATS in its capacity as a dealer?</p>	<p><b>BGI, Instinet and RBC</b> – Subscribers should always be considered to be clients of an ATS.  <b>BMO</b> – If ATS elects to be regulated as a dealer, subscribers should be considered clients. However, with client priority rules, dealers and no-dealer subscribers will not be treated equally.  <b>CSTA and HOOPP</b> – All subscribers should be considered “clients” unless trading as a “principal”.  <b>CIBC</b> – All persons with access should meet specific training and proficiency requirements.  <b>WSL</b> – An ATS should be regulated in same way as a dealer if they take on unregistered subscribers.</p>	<p>Under National Instrument 21-101, an ATS will be able to abdicate its responsibilities to subscribers by providing disclosure that, notwithstanding the registration of the ATS as a dealer under securities legislation, it does not ensure best execution for its subscribers.</p>

Reference	Commentator and Comment	Response
<p><b>Order Exposure</b> – Are the proposed exemptions from the requirement to expose client orders appropriate?</p>	<p><b>CSTA, HOOPP, Instinet, ML, RJL, RBC and WSL</b> – Yes.</p> <p><b>BGI</b> – Yes, but exemption needed for “crossing” and client instruction.</p> <p><b>TD</b> – Yes, but the exemption for wide distributions is inappropriate as it benefits the TSE only.</p> <p><b>TDQC</b> – Yes, but additional exemption needed for “crossing”.</p> <p><b>BDM and NBF</b> – No. Order exposure rule may not be appropriate for options or derivative instruments.</p>	<p>The purpose of the order exposure rule is to ensure liquidity in the market by requiring orders below a certain size to be entered directly on a marketplace. Whether the orders are entered as a “cross” or cross on entry with other orders from the same firm goes to the business functionality of each marketplace. If the client order “crosses” in a principal trade with the Participant, it must be at a “better price” which is an exception to the order exposure rule. UMIR contains a provision that the client may instruct that an order no be immediately exposed.</p>
<p><b>Order Exposure</b> – Is a variable threshold preferable to a fixed dollar amount (e.g. \$100,000 as proposed in the CSA Trading Rules) or fixed share amount (e.g.1,200 shares as in the present TSE Rules)?</p>	<p><b>BMO, CIBC and TD</b> – Thresholds too high. Prefer fixed share amount.</p> <p><b>HOOPP</b> – Maintain the status quo</p> <p><b>Instinet, NBF, RJL and RBC</b> – Yes.</p> <p><b>ITG and TDQC</b> – No, prefer fixed dollar amount (\$100,000).</p> <p><b>ML</b> – No, prefer a fixed dollar amount (\$50,000).</p> <p><b>WSL</b> – No, prefer a fixed dollar amount (scaled for junior and senior securities).</p>	<p>While a fixed share amount is attractive from the perspective of ease of compliance, it ignores the difference in markets and types of securities. For example, the average share price traded on the TSE has in recent years been approximately \$20 as compared to an average share price on CDN of less than \$0.50.</p>
<p><b>Client/Principal Trading</b> – Is it appropriate to retain the \$100,000 “cap” originally proposed in the CSA Trading Rules?</p>	<p><b>CSTA and HOOPP</b> – Yes</p> <p><b>CIBC</b> – No. Combine order exposure and client-principal rules but review the need for such rules in a penny increment environment. Remove \$100,000 cap.</p> <p><b>BMO</b> – Prefer fixed share amount as threshold. Concerned that the extension of the “in-house” client priority will be unworkable with multiple disparate trading systems.</p> <p><b>NBF</b> – No. Should be appropriate to the instrument being traded and the instrument’s liquidity.</p> <p><b>RBC</b> – No. Dealers should be able to execute any order at the best price.</p> <p><b>BDM</b> - Restrictions should not apply to derivative instruments.</p>	<p>UMIR has retained the \$100,000 cap on orders for which a Participant must give “price improvement” in order to execute a client order against a principal order. Orders for more than 50 standard trading units or with a value of \$100,000 or more will be subject to the “best execution” obligation of the Participant. For this reason, subsection (2) of Rule 8.1 as originally proposed has been deleted as essentially duplicative of the “best execution” obligations.</p>
<p><b>Client/Principal Trading</b> – Is a variable threshold preferable to a fixed dollar amount (e.g. \$100,00 as proposed in the CSA Trading Rules) or fixed share amount (e.g. 5,000 shares as in the present TSE Rules)?</p>	<p><b>Instinet and RJL</b> – Yes.</p> <p><b>CSTA</b> – Prefer that present TSE rule be maintained.</p> <p><b>ML</b> – No, prefer a fixed dollar amount (\$50,000).</p> <p><b>RBC</b> – Oppose thresholds but, if necessary, a variable one preferable.</p> <p><b>TD</b> – Threshold too high.</p> <p><b>WSL</b> – No, prefer a fixed dollar amount (scaled for junior and senior securities).</p>	<p>While a fixed share amount is attractive from the perspective of ease of compliance, it ignores the difference in markets and types of securities. For example, the average share price traded on the TSE has in recent years been approximately \$20 as compared to an average share price on CDN of less than \$0.50.</p>
<p><b>Order Designations</b> – Are the proposed order designations and, in particular the requirement to mark orders by insiders and significant shareholders, appropriate?</p>	<p><b>CSTA</b> – Yes</p> <p><b>HOOPP and ITG</b> – Yes, if the designations are disclosed on entry only to the Market Regulator.</p> <p><b>CIBC, RBC and Teachers</b> – No.</p> <p><b>BMO, ML and WSL</b> – Dealers generally not privy to this information and responsibility should remain with investor to file insider trading reports.</p> <p><b>Instinet</b> – Yes, but the insider, significant</p>	<p>UMIR originally proposed that orders for securities listed on the TSE comply with any additional order designation requirements of the TSE. This requirement has been deleted in light of comments. However, orders that are routed from a marketplace to the TSE without the appropriate designations may be assigned default values in accordance with TSE rules and this</p>

Reference	Commentator and Comment	Response
	<p>shareholder and other designation required by the Market Regulator are not appropriate.</p> <p><b>NBF</b> – No. Disclosure could affect sales by large shareholder.</p> <p><b>TD</b> – No, designations should be limited to current practice and should not enforce rules of a particular marketplace.</p> <p><b>TDQC</b> – Trading activities of insiders and significant shareholders are already regulated. Marketplaces should be able to determine additional features that do not compromise fundamental rules.</p> <p><b>BDM</b> – “Insider” and “significant shareholder” designations not appropriate for derivatives.</p>	<p>may affect the ability of the order to trade on the TSE.</p> <p>UMIR has retained the proposal to include “insider” and “significant shareholder” designations. Participants should be aware of this information as part of their “know your client” obligations. While a “post-trade” audit using information filed with securities regulators could be undertaken, a direct monitoring of market activity by these investors in real time is, in the opinion of RS, the most effective tool to demonstrate the existence of a fair and orderly market. (In appropriate circumstances, unusual price and volume volatility could be directly correlated by the Market Regulator with market activity by insiders or significant shareholders.)</p>
<p><b>Order Designations-</b> Should the marketplace be allowed to decide whether the identification number of Participants is included in the consolidated market display?</p>	<p><b>BGI</b> and <b>ML</b> – Identifiers should only be displayed to the Market Regulator and not to the consolidated display.</p> <p><b>BMO, Instinet, ITG, RBC</b> and <b>TD</b> – Yes.</p> <p><b>CIBC</b> – The Subscriber should be allowed to choose but the Market Regulator should have the ability to view all identifiers.</p> <p><b>HOOPP</b> – Yes, but market would be better served with no identifiers.</p> <p><b>WSL</b> – No, identifiers should be disclosed in all cases.</p>	<p>UMIR retains the proposal that each marketplace would have the option of determining whether Participant identifiers would be included in a consolidated market display.</p>
<p><b>Best Execution Obligation</b> – Should a Special Terms Order be taken into account to establish the best available price?</p>	<p><b>BMO, CIBC, Instinet, ML, RJL, RBC, TD</b> and <b>WSL</b> – No</p> <p><b>CSTA</b> and <b>HOOPP</b> – Yes, if it meets some or all of the requirements of the inquiring order (but recognize limitations of current technology).</p> <p><b>ITG</b> – Generally no, unless a pattern develops of avoiding best execution obligations through the use of Special Terms Orders.</p>	<p>UMIR retains the proposal that Special Terms Order be excluded from the establishment of “best” prices. UMIR has been amended to specifically provide that the designation for “Special Terms Order” be included in a consolidated display. All other order designations will only be for the use of the Market Regulator.</p>
<p><b>Best Execution Obligation</b> – Should a dealer have an obligation imposed under UMIR to check market prices for a particular security trading on exchanges or organized markets outside of Canada before trading the security on a marketplace?</p>	<p><b>BMO</b> and <b>TD</b> – Should not be mandatory, unless the client requests.</p> <p><b>CSTA</b> and <b>HOOPP</b> – No, only when full market integration in Canada.</p> <p><b>RBC</b> – No, but dealer should be held to best execution standard.</p> <p><b>CIBC, ML</b> and <b>NBF</b> - No, foreign exchange problems.</p> <p><b>Union Securities Ltd.</b> – No, due to possible delays, foreign currency problems and client complaints.</p> <p><b>Instinet</b> – Yes, subject to client instructions.</p> <p><b>RJL</b> and <b>WSL</b> – Yes.</p>	<p>UMIR retains the concept that a dealer is not required to check markets outside of Canada. However, one of the factors which will be taken into account when determining whether a Participant has used “reasonable efforts” to obtain best execution will be whether foreign markets were checked prior to execution, particularly when the foreign market is the principal market for the security.</p>
<p><b>Trading Increments</b> – Should each marketplace be able to determine whether it will trade fractional shares and at prices less than a cent? Should this depend on the specific type of security being traded?</p>	<p><b>CSTA, RJL, TDQC</b> and <b>WSL</b> – No, should not allow fractional shares or prices less than a cent.</p> <p><b>BMO, Instinet</b> and <b>RBC</b> – Marketplace should determine.</p> <p><b>HOOP</b> and <b>ML</b> – No, increments should be standardized at a cent.</p> <p><b>NBF</b> – No, the concept of “better price” would be impossible to enforce if markets have</p>	<p>In the near term, UMIR retains the requirement that the minimum increment is a cent.</p>

Reference	Commentator and Comment	Response
	<p>different minimum ticks. Prices of less than a cent should be permitted only if “entire industry” follows suit.</p> <p><b>TD</b> – No, minimum should be a cent for non-debt markets.</p> <p><b>BDM</b> – Derivatives may eventually be traded in fractions of a cent.</p> <p><b>E*Trade</b> – Prohibitions against fractional cents and shares prevents marketplaces from creating unique offerings and prevents diligent pursuit of execution on most advantageous terms for the client.</p>	
<p><b>Trading Increments</b> – Should the matter be determined by the systems capacity of the data consolidator and/or data vendors?</p>	<p><b>Instinet</b> – No.</p> <p><b>CSTA</b> – No, unless there is a consensus that technological limitations will preclude it.</p> <p><b>BMO</b> – No, but in the absence of an integrator or consolidator there would need to be a connection to all marketplaces.</p> <p><b>CIBC</b> – Capacity should not be a problem.</p>	<p>In the absence of a data consolidator, the issuer will have to be addressed in the context of the establishment of a data integrator on or before January 1, 2004.</p>
<p><b>Short Sale Rule</b> – Is a special mechanism required to govern the short sale of securities that are also listed on an exchange or traded on an organized market in the United States?</p>	<p><b>BMO, CIBC, Instinet, RBC and TD</b> – No.</p> <p><b>CSTA and HOOPP</b> – No, until full market integration in Canada.</p> <p><b>NBF</b> – No, provided arbitrage selling is permitted.</p> <p><b>TDQC</b> – Yes, given the number of inter-listed securities.</p> <p><b>WSL</b> - Yes (either approval of the Market Regulator and/or noting the reasons on the trade ticket.)</p>	<p>The consensus of the comments was that a special mechanism would not be required for securities that are inter-listed with markets in the United States. No addition has been made to UMIR.</p>
<p><b>Short Sale Rule</b> – What provision, if any, should be made for securities which are listed on exchanges in jurisdictions other than the United States?</p>	<p><b>BMO, CIBC, Instinet, RBC and TD</b> – No provision.</p> <p><b>CSTA and HOOPP</b> – No provision until full market integration.</p> <p><b>TDQC</b> – Should be a provision given the number of inter-listed stocks.</p> <p><b>WSL</b> – Either approval of the Market Regulator and/or noting the reasons on the trade ticket.</p>	<p>No special provision has been introduced into UMIR. In appropriate circumstances, an exemption from the short sale rule may be granted by the Market Regulator in accordance with Rule 11.3.</p>
<p><b>Definitions</b> – Should the definition of “arbitrage account” be expanded to include client and non-client accounts?</p>	<p><b>CSTA, CIBC, HOOPP and Instinet</b> – Yes</p> <p><b>BMO</b> – Yes, provided the order is given to the same dealer or ATS and there is a time limit on gap between the two orders.</p> <p><b>ITG</b> – Should be limited to buy-side institutions and other arm’s length clients of a broker/dealer.</p> <p><b>NBF</b> – Arbitrage selling should be permitted without the need for a special account as long as the purchase was made before the sale.</p> <p><b>RBC, TD and WSL</b> – No.</p>	<p>No change has been made to the definition that requires that an arbitrage account be limited to a principal account. While any account will be able to engage in “arbitrage”, the exemption to the short sale rule will only be available to principal accounts.</p>
<p><b>Definitions</b> – Is the definition of “standard trading unit” appropriate, and in particular, should less than 100 shares be adopted as a standard trading unit for higher-priced securities (what number at what price level)?</p>	<p><b>Instinet, NBF, TD and WSL</b> – Yes.</p> <p><b>BMO</b> – Yes, there is no need to adopt special standard trading units for higher-priced securities at this time.</p> <p><b>CSTA and HOOPP</b> – Yes, and modified only after a full consultation.</p> <p><b>RBC</b> – Yes, but marketplaces should be able to trade in any size increment they wish.</p>	<p>The definition of standard trading unit has been retained and no provision has been made at this time for higher-priced securities. For equities, the smallest unit is 100 shares.</p>



Reference	Commentator and Comment	Response
<p><b>Continuous/Timely Disclosure</b> – Should the requirements for disclosure be limited only to the issuers of securities listed on an Exchange or quoted on a recognized quotation and trade reporting system?</p>	<p><b>BMO, TDQC and WSL</b> – Disclosure should apply to all issuers independent of where or how they trade.</p> <p><b>CSTA and HOOPP</b> – Disclosure should be included in UMIR but be limited to listed and quoted securities.</p> <p><b>Instinet and TD</b> – Yes.</p>	<p>Under the final version of National Instrument 21-101, an ATS will be limited to trading in exchange-traded securities and certain unlisted debt securities and foreign exchange-traded securities. As such, there is not a need to introduce a separate continuous/timely disclosure policy for domestic reporting issuers that would have otherwise been eligible to have their securities trade through an ATS under the July 2000 draft.</p>
<p><b>Continuous/Timely Disclosure</b> – Should the disclosure requirements be standard or should each Exchange and recognized quotation and trade reporting system be able to establish their own policy?</p>	<p><b>ITG, TD and WSL</b> – Standards should be uniform.</p> <p><b>BMO</b> – Standard requirements best addressed by securities regulators.</p> <p><b>CSTA and HOOPP</b> – Standard requirements, including provisions related to halts and reopening.</p> <p><b>Instinet</b> – Securities laws will set a minimum standard but in any event it is likely that the exchange will adopt uniform standards.</p> <p><b>RBC</b> – The requirements should be at the discretion of the marketplace but administered by the Market Regulator.</p>	<p>The consensus of the commentators is that the requirements for continuous and timely disclosure should be standardized. Given the implications for the extension of these requirements, any proposal will be subject to a separate request for comments.</p>
<p><b>Negative Commissions/Payment for Order Flow</b> – Comments are requested on whether “payment for order flow” by a marketplace should be prohibited, restricted or regulated in the context of UMIR.</p>	<p><b>CIBC</b> – Should not be restricted.</p> <p><b>BMO</b> – Should be allowed subject to appropriate restrictions and regulations.</p> <p><b>CSTA, HOOPP, ITG, RJL and TDQC</b> – Should be prohibited.</p> <p><b>Instinet, IDA Equity Trading Committee and TD</b> – Should be regulated as it is in the United States with disclosure to the client.</p> <p><b>RBC</b> – US-based ATSs will have an unfair advantage in competing for correspondent execution business (due to their ability to pay for order flow). Should be permitted as long as full disclosure is made.</p> <p><b>WSL</b> – Should be allowed if there is a “best price guarantee”.</p>	<p>No provision has been added to UMIR to regulate, restrict or prohibit “payment for order flow”. UMIR has retained the prohibition on negative commissions.</p>
<p><b>Application to Derivative Instruments</b> – Should trading of derivative instruments on a marketplace be subject to UMIR?</p>	<p><b>CSTA, HOOPP and ITG</b> – Yes</p> <p><b>Instinet and TD</b> - Yes, where the underlying interest is an equity.</p> <p><b>WSL</b> – Yes, with appropriate modifications to recognize unique nature.</p> <p><b>Bloomberg</b> – Different or additional rules may be required for the derivative markets, particularly when traded by retail customers.</p> <p><b>BMO, CIBC, E*Trade and TDQC</b> - No. Derivatives are sufficiently unique to warrant a customized set of rules.</p> <p><b>NBF and RBC</b> – Not at this stage. Market model for trading derivatives is still under development.</p>	<p>UMIR would apply to the trading of derivatives on a marketplace that has retained RS to be the regulation service provider. Trading of derivatives in other marketplaces with other integrity rules would be subject to those rules. UMIR has been drafted to be of the greatest application in transparent auction markets.</p>
<p><b>Application to Derivative Instruments</b> – Should an exemption be granted to BDM from Rule 6.3 and 8.1 to accommodate their current market structure?</p>	<p><b>CSTA and WSL</b> – No</p> <p><b>BMO</b> – No, exemptions should be necessary (given comparable rules).</p> <p><b>TD</b> – No, a special exemption should not be built into the rules to benefit any particular existing marketplace.</p>	<p>The trading of derivatives on the Bourse de Montréal (“BDM”) will be undertaken in accordance with the rules adopted by the BDM as an exchange.</p>
<p><b>Application to Derivative</b></p>	<p><b>CSTA</b> – No</p>	<p>No specific provisions have been added</p>

Reference	Commentator and Comment	Response
<p><b>Instruments</b> – Should there be any other exemptions or additional integrity provisions in connection with the trading of derivative instruments?</p>		<p>to UMIR to deal with derivatives.</p>
<p><b>Application to Debt Securities</b> – Should trading of debt securities on a marketplace be subject to UMIR?</p>	<p><b>CSTA, ITG, WSL</b> – Yes  <b>BGI, CIBC, E*Trade and TDQC</b> – No.  <b>Bank of Canada, IDA Capital Markets Committee and TD</b> – No, inappropriate for debt markets or any other decentralized, quote-driven dealer markets.  <b>Bloomberg</b> – No, until the impact in the equity markets can be assessed.  <b>BMO</b> – No. Regulation of all debt securities, whether listed or over-the-counter, should be addressed separately from UMIR.</p>	<p>UMIR could apply to the trading of debt on a marketplace that has retained RS to be the regulation service provider. Trading of debt in other marketplaces with other integrity rules would be subject to those rules. UMIR has been drafted to be of the greatest application in transparent auction markets. While the debt market is presently not structured in this manner, the introduction of ATs may have an effect on how all securities are traded and not be limited to affecting only the trading patterns of exchange-traded equity securities.</p> <p>An inter-dealer bond broker is specifically excluded from the definition of a marketplace under National Instrument 21-101. In accordance with National Instrument 23-101, trades in unlisted debt securities by inter-dealer bond brokers or dealers outside of a marketplace may be undertaken in compliance with Policy No. 5 Code of Conduct for IDA Member Firms Trading in Domestic Debt Markets.</p>
<p><b>Application to Debt Securities</b> – Should an exemption from Rule 3.1 on short selling be granted for trading in debt securities (including listed or quoted debt securities)?</p>	<p><b>Bank of Canada</b> – Concepts like a “standard trading unit” have no equivalent in over-the-counter markets and the concept of “short selling” has a different meaning.  <b>CSTA</b> – Yes, given nature of “short sales” in dealer principal markets  <b>WSL</b> – No.</p>	<p>No specific provisions have been added to UMIR to deal with trading of unlisted debt securities.</p>
<p><b>Application to Debt Securities</b> – Should there be any other exemptions or additional integrity provisions in connection with the trading of debt securities?</p>	<p><b>Bank of Canada and IDA Capital Markets Committee</b> - Yes. IDA Policy # 5 should be adopted as market integrity rules for debt markets.  <b>CSTA</b> – No.</p>	<p>No specific provisions have been added to UMIR to deal with trading of unlisted debt securities.</p>

**Universal Market Integrity Rules for Canadian Marketplaces**

**APPENDIX G**

**COMMENTS ON UMIR IN RESPONSE TO CSA QUESTIONS**

Reference	Commentator and Comment	Response
<p><b>Question 1</b> – Are the scope and content of the UMI rules appropriate?</p>	<p><b>Barclays Global Investors (“BGI”)</b> – Non-Dealer Subscribers and dealer affiliates should be treated equally and the concept of “just and equitable” should be defined.</p> <p><b>Bloomberg LP (“Bloomberg”)</b> – Reconsider application to the fixed income market given the differences in market structure. The definition of “marketplace” in the National Instrument is too expansive and imprecise (e.g. should a single-dealer system as a marketplace.)</p> <p><b>BMO Nesbitt Burns (“BMO”)</b> – UMIR does not recognize the unique characteristics of ATSS and may not be flexible as ATSS evolve.</p> <p><b>Canadian Securities Traders Association, Inc. (“CSTA”)</b> and <b>Hospitals of Ontario Pension Plan (“HOOPP”)</b> – Should apply to all users of a marketplace. Rules should be as broad as possible covering all aspects of the market process and applying to all Canadian marketplaces, all participants (dealers and clients) and all securities and administered by a single Market Regulator.</p> <p><b>E*Trade Canada (E*Trade)</b> – UMIR goes well beyond market integrity and defines the nature of trading opportunities, systems features and functionality to be supported and order types permitted. UMIR makes it impossible for any organization not in partnership with the TSE to compete in a cost effective or distinctive manner. Prefers CSA's less intrusive approach that rules apply at the trade execution stage.</p> <p><b>Instinet Canada Limited (“Instinet”)</b> – Neither scope nor concept is appropriate and, in particular, the role of the Market Regulator has expanded from that envisaged for the “approved agent”. CSA must retain an important role in supervision of developing marketplaces.</p> <p><b>RBC Dominion Securities Inc. (“RBC”)</b> – Generally adequate but requirements for Non-Dealer Subscribers are too lax.</p> <p><b>TD Newcrest, a division of TD Securities Inc. (“TD”)</b> – CSA should have ultimate authority with implementation to an intermediate “disinterested” body. Not all marketplaces should be regulated alike.</p> <p><b>TD Quantitative Capital (“TDQC”)</b> – Fundamentally, the scope and content of UMIR are appropriate for the equity market.</p>	<p>The definition of Non-Dealer Subscriber has been amended such that dealer affiliates may be Non-Dealer Subscribers unless they are themselves dealers.</p> <p>UMIR will not apply to the trading of fixed income securities unless such securities are traded on a marketplace which has retained RS to act as its regulation service provided.</p> <p>UMIR is intended to be flexible and provide appropriate exemptions for the needs of individual marketplaces but to “codify” all applicable rules.</p> <p>A number of integrity provisions, and in particular market manipulation, are applicable at the order entry level. UMIR continues to use order entry as the base on which the rules are built.</p> <p>The regulator should not be an “agent” of the person that is being regulated. The Market Regulator will be subject to the jurisdiction of the CSA in both rule development and administration as all rules and policies must be approved by the securities commissions and any decision by the Market Regulator is reviewable by the securities commissions.</p> <p>UMIR and all amendments to it will be subject to approval by the applicable securities commissions. The corporate governance of RS Inc. as a self-regulatory organization will be subject to public comment and approval by the applicable securities commissions. UMIR contemplates that there will be regulation service providers in addition to RS Inc.</p>
<p><b>Question 2</b> – Should the market regulator regulate non-dealer subscribers directly and subject non-dealer subscribers to some or all of the trading supervision obligations described in section 7.2 of</p>	<p><b>BGI, Bourse de Montréal Inc. (“BDM”)</b> – No. Market Regulator should not regulate but ATS should provide copy of the rules.</p> <p><b>BMO</b> – If retail investors are precluded from direct access, all rules should apply uniformly to dealer and non-dealer subscribers alike. Non-residents may not be able to participate directly or must meet certain criteria for direct participation.</p>	<p>UMIR proposes to regulate Non-Dealer Subscribers. The compliance provisions under Part 10 of UMIR have been expanded to specifically include a number of investigation and enforcement provisions directly affecting Non-Dealer Subscribers and the practice and procedure to be</p>

Reference	Commentator and Comment	Response
<p>the UMI rules and to proficiency requirements? In the alternative, should there only be a requirement for an ATS to provide a copy of the rules to their non-dealer subscribers and ensure that they acknowledge that they have received rules and understand them?</p>	<p><b>CSTA, HOOPP and RBC</b> –Non-Dealer Subscribers should be regulated by Market Regulator and subject to applicable UMIR provisions.</p> <p><b>CIBC World Markets Inc. (“CIBC”)</b> and <b>TDQC</b> – All participants with direct access to the market must meet specific training and proficiency requirements enforced by the Market Regulators.</p> <p><b>Instinet</b> - No direct regulation of Non-Dealer Subscribers is called for and would be at variance with the practice in the United States. ATS should not be required to provide rules.</p> <p><b>Ontario Teachers Pension Plan Board (“Teachers”)</b> – ATSS should monitor subscribers and have them sign-off on the rules. Market Regulator should enforce applicable rules to Non-Dealer Subscribers (which may include trading supervision and proficiency obligations).</p> <p><b>TD</b> – No direct regulation of Non-Dealer Subscribers is required. General prohibitions on certain conduct are appropriate. ATS should provide a copy of rules and require subscribers to agree to follow them.</p>	<p>employed by the Market Regulator has been set out in a policy.</p> <p>Not all of the integrity rules are applicable to persons who are not dealers (e.g. client priority and client principle trading).</p> <p>If an ATS does not assume the “compliance” function required of other dealers and there is no direct regulation of Non-Dealer Subscribers a true regulatory vacuum would emerge. The suggestion that appropriate prohibitions is all that is required</p>
<p><b>Question 3</b> – Should the market regulator require that an ATS be responsible for training its non-dealer subscribers on the applicable rules?</p>	<p><b>BGI, BMO, Instinet and TD</b> – No.</p> <p><b>BDM</b> – Yes.</p> <p><b>CSTA and HOOPP</b> - ATS should ensure users are trained in and adhere to UMIR.</p> <p><b>E*Trade</b> – No. In addition, ATS should not be responsible for orders placed in their systems unless exchanges are also liable.</p>	<p>UMIR continues to propose that an ATS have the responsibility for ensuring that its subscribers are trained in the rules. As an ATS will not be assuming any compliance responsibility in respect of orders entered by subscribers and as subscribers will not be limited to registrants, market integrity requires that persons with direct access to marketplaces have a minimum level of understanding and proficiency in the applicable rules. In the near term, it was thought appropriate place the responsibility for such training on the ATS to which the person subscribed. During the public comment on UMIR, it was suggested that completion of a modified version of the “Trader Training Course” might be an appropriate prerequisite for a person to be able to become a subscriber to an ATS.</p> <p>Members of an exchange are made responsible for all bids and offers that are entered into their system. Since an ATS will have subscribers who are not dealers, responsibility for orders must reside with the ATS in its capacity as a dealer. Subscribers to an ATS who are dealers will be as responsible for their own orders as Participants who are members of an exchange.</p>
<p><b>Question 4</b> – Should the UMI rules replace all or part of the CSA Trading Rules that were published for comment at the same time as the July 2000 ATS proposal?</p>	<p><b>BDM</b> – Yes.</p> <p><b>BGI, HOOPP, Instinet, RBC and TDQC</b> – Yes, if modified.</p> <p><b>BMO</b> – Neither set of rules is fully complete. After successive rounds of comments, a suitable composite should arise.</p> <p><b>IDA Capital Markets Committee</b> – UMIR should replace the CSA’s Trading Rules though the CSA must retain effective oversight of the Market Regulator’s rule-making function.</p>	<p>CDNX and the TSE continue to be of the view that there should be a single set of market integrity rules applicable in all marketplaces. UMIR has been constructed to be a “framework” which would recognize particular aspects of each different marketplaces and different securities. It does not attempt to provide the same rule for “all” but to be a “code” which contains all</p>

Reference	Commentator and Comment	Response
	<p><b>CSTA</b> – Yes, if sensitive to differences between equity, debt and derivative markets.</p> <p><b>CIBC</b> – Yes, for listed equities.</p> <p><b>TD</b>- No.</p>	applicable rules.
<p><b>Question 5</b> – Please comment on the extent to which the UMI rules are applicable to the debt and derivatives markets and OTC trading.</p>	<p><b>BGI</b> and <b>HOOPP</b> – Applicability of UMIR to other markets should be subject of a separate proposal and request for comments.</p> <p><b>BMO</b> – Separate rules for debt market. UMIR applicable to certain “equity like” derivatives.</p> <p><b>BDM</b> – Should be very limited (as many rules will not apply).</p> <p><b>CIBC</b> and <b>TDQC</b> – Debt and derivatives should have their own integrity rules.</p> <p><b>Instinet</b> – Manipulative or deceptive means of trading and frontrunning should apply to derivative. Application to debt markets requires further and independent study.</p> <p><b>Teachers</b> – After application in equity markets for a period of six months should undertake analysis to determine which parts may be applicable in other markets.</p> <p><b>RBC</b> – UMIR inapplicable to derivative trading environment.</p> <p><b>TD</b> – Introduction of ATSS should not be permitted to change the way the “debt market” operates today and integrity rules must therefore reflect the manner in which debt is traded prior to introduction of ATSS. With suitable modifications, rules could apply to listed derivatives involving underlying equity interests.</p>	<p>UMIR has been expanded to recognize that UMIR does not apply if the order and trade have been made in accordance with the rules of an exchange or quotation and trade reporting system that has adopted integrity rules other than UMIR or on a marketplace that has adopted the rules of another regulation service provider. Certain of the commentators presume the structure of the existing debt and derivative markets will be immune from any effect arising from the introduction of alternative trading systems. To the extent that investors will be able to have direct access to a marketplace, the dynamics of trading derivatives and debt securities will change.</p>
<p><b>Question 6</b> – Does the concept of a standard trading unit apply to the debt and derivatives markets?</p>	<p><b>BDM, BGI</b> and <b>CSTA</b> – Yes.</p> <p><b>BMO</b> – Yes, where the underlying securities are subject to UMIR.</p> <p><b>RBC</b> – Yes, but marketplace should be able to advertise price and size in whatever increments offer a competitive product.</p> <p><b>TD</b> – No.</p> <p><b>TDQC</b> – Should be subject of a separate proposal.</p>	<p>The concept of a board lot is not new for the trading of derivatives or debt on an exchange. The proposed “standard trading unit” merely set out a benchmark that would be applicable for setting the minimum size trade or order that can set last sale price or best bid and offer in an auction market environment and the size of client order that would have to be exposed to the market.</p>
<p><b>Question 7</b> – Please comment on whether it is appropriate for an exemption to be granted from the CSA Trading Rules for manipulation and fraud if a marketplace participant is in compliance with the UMI rules.</p>	<p><b>BGI</b> – Yes.</p> <p><b>BMO, Instinet, Teachers, RBC</b> and <b>TD</b> – No. UMIR should encompass any CSA rules.</p> <p><b>BDM</b> and <b>TDQC</b> – Only one set of rules should exist.</p> <p><b>CSTA</b> and <b>HOOPP</b> – Appropriate for Market Regulator to administer securities fraud provisions with the securities regulator involved only in compliance or enforcement matters referred by the Market Regulator.</p>	<p>CDNX and the TSE continue to be of the view that “fraud” is not a proper area of responsibility for a regulator, particularly a regulation service provider that obtains much of its power and jurisdiction by virtue of contractual relationships with marketplaces.</p>
<p><b>Question 8</b> – Should the best execution obligation be subject to “prevailing market conditions?”</p>	<p><b>BDM, BGI, Instinet</b> and <b>TDQC</b> – Yes.</p> <p><b>BMO, CIBC</b> and <b>TD</b> – Yes, but the concept needs to be further defined.</p> <p><b>CSTA</b> and <b>HOOPP</b> – The concept needs to be further defined.</p> <p><b>E*Trade</b> – Order exposure rule premised on TSE systems and functionality and therefore inappropriate.</p> <p><b>Teachers</b> – Concept requires further study.</p> <p><b>RBC</b> – Best execution rules are complex and the bid or offer size is not reflected in the definition of</p>	<p>The “best execution obligation” continues to be subject to “prevailing market conditions”.</p>

Reference	Commentator and Comment	Response
<p><b>Question 9</b> – Should there be exceptions to the best execution obligation? If so, what exceptions are appropriate?</p>	<p>“best price”.</p> <p><b>BGI</b> – Yes, further exception for “cross” trades.  <b>Bloomberg</b> – Yes, same rule for small orders should not apply to large orders that require special handling (e.g. should be able to “pay up for size.”)  <b>BDM</b> and <b>BMO</b> – Yes, UMIR proposals appropriate.  <b>CSTA</b> and <b>HOOPP</b> – Yes, large transactions.  <b>Instinet</b> – Yes, UMIR proposal too narrow.  <b>TD</b> – Yes, should be an exception for unstable or unusual market conditions.  <b>TDQC</b> – Yes, exceptions for calls and crosses.</p>	<p>A provision for call market orders has been added as an exception to the “best price obligation”.</p> <p>The “best execution” obligation recognizes size as a factor through the use of the phrase “most advantageous terms for the client as expeditiously as practicable under prevailing market conditions”.</p>
<p><b>Question 10</b> – Is the proposed threshold for order exposure of 50 standard trading units appropriate?</p>	<p><b>BGI, Instinet</b> and <b>RBC</b> – Yes.  <b>CSTA</b> – Yes, but should be reviewed in 6 months.  <b>BMO</b> – No. (prefer 10 standard trading units).  <b>CIBC</b> – No, should be lower (and rule consolidated with client/principal rule and reviewed in light of trading in penny increments).  <b>TD</b> – No, should be lower.  <b>TDQC</b> – No, threshold of \$100,000 would be less ambiguous.  <b>Teachers</b> – Order disclosure should be at the discretion of the participants and subscribers.  <b>E*Trade</b> – Supports concept of standard trading unit but should not be defined in a way which is anti-competitive or advantageous to the TSE.</p>	<p>While a set dollar amount would be easy to administer, the requirement would not recognize difference in the structure of markets. For example, while the average price of a share traded on the TSE may exceed \$20.00 the price is approximately \$0.50 on CDNX. The use of 50 standard trading units recognizes these price differences.</p>
<p><b>Question 11</b> – Is the proposed threshold for principal trading of 50 standard trading units appropriate?</p>	<p><b>BGI, Instinet</b> and <b>Teachers</b> – Yes.  <b>CSTA</b> – Yes, but should be reviewed in 6 months.  <b>BMO</b> – No. (prefer 10 standard trading units).  <b>TD</b> – No, should be lower (calculated in a manner similar to basis for the 1,200 requirement under TSE Rule 4-402).  <b>TDQC</b> – No, threshold of \$100,00 would be less ambiguous.  <b>CIBC</b> – No should be lower (and rule consolidated with order exposure rule and reviewed in light of trading in penny increments).  <b>E*Trade</b> – Supports concept of standard trading unit but should not be defined in a way which is anti-competitive or advantageous to the TSE.  <b>RBC</b> – Should be no threshold for “market orders”.</p>	<p>While a set dollar amount would be easy to administer, the requirement would not recognize difference in the structure of markets. For example, while the average price of a share traded on the TSE may exceed \$20.00 the price is approximately \$0.50 on CDNX. The use of 50 standard trading units recognizes these price differences.</p>
<p><b>Question 12</b> – Should participants be permitted to implement the audit trail requirement regarding transmission of order information over time? If so, what would be the appropriate phase-in period.</p>	<p><b>BGI</b> and <b>HOOPP</b> – No, unless persuasive argument can be made against immediate implementation.  <b>TDQC</b> – No.  <b>BDM</b> - Yes.  <b>TD</b> – Yes (suggest 6 months).  <b>BMO, Instinet</b> and <b>RBC</b> - Yes (suggest 12 months).  <b>CSTA</b> – Yes (suggest 24 months).  <b>Teachers</b> – Yes (suggest no more than 18 to 24 months).  <b>CIBC</b> – Yes, tied to T+1 phase-in.</p>	<p>UMIR requires that Participants maintain records of orders and trades. Under UMIR this information is to transmit to the Market Regulator “at the time and in such manner and form as may be required by the Market Regulator.” It is contemplated that the Market Regulator would co-ordinate the introduction of the electronic filing of the order and trade information with the January 1, 2004 date established in National Instrument 23-101.</p>



## *Universal Market Integrity Rules for Canadian Marketplaces*

### APPENDIX “H” MARKED COPY INDICATING REVISIONS TO VERSION PUBLISHED APRIL 20, 2001

#### TEXT OF THE UNIVERSAL MARKET INTEGRITY RULES

#### PART 1 – DEFINITIONS AND INTERPRETATION

##### 1.1 Definitions

In these Rules, unless the subject matter or context otherwise requires:

“**arbitrage account**” means a principal account in which the holder makes a usual practice of buying and selling:

- (a) securities in different markets to take advantage of differences in prices available in each market; or
- (b) securities which are or may become convertible or exchangeable by the terms of the securities or operation of law into other securities in order to take advantage of differences in prices between the securities.

“**BDM**” means the Bourse de Montréal Inc.

“**best ask price**” means the lowest price of an order on any marketplace as displayed in [thea](#) consolidated market display to sell a particular security, but does not include the price of any Special Terms Order.

“**best bid price**” means the highest price of an order on any marketplace as displayed in [thea](#) consolidated market display to buy a particular security, but does not include the price of any Special Terms Order.

“**better price**” means, in respect of a particular security:

- (a) a price lower than the best ask price, in the case of a purchase; and
- (b) a price higher than the best bid price, in the case of a sale.

“**Board**” means [the board of directors or other governing body of a Market Regulator](#).

“**CDNX**” means the Canadian Venture Exchange Inc.



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**“Call Market Order”** means an order for the purchase or sale of one or more particular securities that is entered in a special facility operated by a marketplace to trade at a particular time or times during a trading day at a better price.

**“client order”** means an order for the purchase or sale of a security received or originated by a Participant for the account of a client of the Participant or a client of an affiliated entity of the Participant, but does not include a principal order or a non-client order.

**“consolidated market display”** means, in respect of a particular security:

- (a) the consolidated feed respecting orders and trades produced by an information processor in accordance with section 7.3 of the Marketplace Operation Instrument provided such consolidated feed includes details of orders and trades from the principal market; or
- (b) information regarding all orders and trades on a marketplace produced by an information vendor for the purposes of the Marketplace Operation Instrument provided such information includes details of orders and trades from the principal market.

**“derivative market maker account”** means the account of a person who performs the function ordinarily associated with a market maker or specialist on the BDM in connection with a derivative instrument.

**“Exchange”** means:

- (a) the BDM;
- (b) the CDNX;
- (c) the TSE; and
- (d) a person recognized by the applicable securities regulatory authority under securities legislation to carry on business as an exchange.

**“hearing”** means a disciplinary and enforcement proceeding commenced by a Market Regulator to determine whether a person has contravened a Requirement or is liable for the contravention of a Requirement and includes any procedural applications or motions in relation to those proceedings.

**“Hearing Committee”** means a standing committee of a Market Regulator comprised of persons selected in accordance with the Policy made under Rule 10.8

**“Hearing Panel”** means the particular members of the Hearing Committee selected in accordance with the Policy made under Rule 10.8 to hear a particular disciplinary and enforcement proceeding.





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“**hedge**” means the purchase or sale of a security by a person to offset, in whole or in part, the risk assumed on a prior purchase or sale or to be assumed on a subsequent purchase or sale of that security or a related security.

“**insider**” means a person who is an insider of an issuer for the purpose of applicable securities legislation.

“**intentional cross**” means a trade resulting from the entry by a Participant of both the order to purchase and the order to sell a security, but does not include a trade in which the Participant has entered one of the orders as a jitney order.

“**internal cross**” means an intentional cross between two client accounts of a Participant which are managed by a single firm acting as a portfolio manager with discretionary authority to manage the investment portfolio granted by each of the clients and includes a trade where the Participant is acting as a portfolio manager in authorizing the trade between the two client accounts.

“**jitney order**” means an order entered on a marketplace by a Participant acting for or on behalf of another Participant.

“**last sale price**” means the price of the last sale of at least one standard trading unit of a particular security displayed in ~~the~~a consolidated market display.

“**limit order**” means an order to:

- (a) buy a security to be executed at a specified maximum price; or
- (b) sell a security to be executed at a specified minimum price.

“**listed security**” means a security listed on an Exchange.

“**Market Operation Instrument**” means National Instrument 21-101 – Marketplace Operation as amended, supplemented and in effect from time to time;

“**market order**” means an order to:

- (a) buy a security to be executed upon entry to a marketplace at the best ask price; or
- (b) sell a security to be executed upon entry to a marketplace at the best bid price.

“**Market-on-Close Order**” means an order for the purchase or sale of a security:

- (a) received by a Participant ~~during a Regular Session of an Exchange~~ to execute at the closing price of the listed security in the Regular Session on ~~that~~the Exchange on which the security is listed on that trading day; or
- (b) entered on a special facility operated by a marketplace for the purpose of calculating and executing at the closing price of the security on that marketplace.

“**Market Regulator**” means:



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- (a) in respect of the TSE, ~~[RS Inc.]~~RS Inc.;
- (b) in respect of the CDNX, ~~[RS Inc.]~~RS Inc.;
- (c) in respect of the BDM, the Regulatory Division of BDM; and
- (d) in respect of any other marketplace, the ~~person approved by the applicable securities regulatory authority to administer these Rules in connection with trades in that marketplace.~~ regulation service provider with whom that marketplace has entered an agreement in accordance with the requirements of the Trading Rules.

“**Market Integrity Official**” means an employee of a Market Regulator designated by the Market Regulator to exercise the powers of the Market Regulator under these Rules.

“**marketplace**” means:

- (a) an Exchange;
- (b) a QTRS;
- (c) an ATS.

“**Marketplace Rules**” means the rules, policies and other similar instruments adopted by an Exchange or a QTRS as filed in accordance with National Instrument 21-101 or as approved by the applicable securities regulatory authority in accordance with applicable securities legislation.

“**non-client order**” means an order for the purchase or sale of a security received or originated by a Participant for an account:

- (a) for a partner, director, officer or a person holding a similar position or acting in a similar capacity of the Participant or of a related entity of the Participant;
- (b) for an employee of the Participant or of a related entity of the Participant who holds approval from an Exchange or a self-regulatory entity; or
- (c) which is considered to be an employee account or a non-client account by a self-regulatory entity, ~~but does not include a principal account.~~

but does not include a principal account.

“**net cost**” means the amount by which the sum of the total cost of the trade on the purchase of securities based on the purchase price on the marketplace and any commission charged to the client by the Participant exceeds the amount of any allowance, discount, rebate and any other benefit with a monetary value that is allowed to the client on the trade by the Participant or any other person.

“**net proceeds**” means the amount by which the sum of the total proceeds of the trade on the sale of securities based on the sale price on the marketplace and the amount of any allowance, discount, rebate and other benefit with a monetary value that is allowed to



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the client on the trade by the Participant or any other person exceeds any commission charged to the client by the Participant.

“**Non-Dealer Subscriber**” means a subscriber who is ~~not:~~

~~(a) registered as a dealer under the securities legislation of any jurisdiction; or~~

~~(b) a related entity of~~ not a Participant.

“**offered security**” means the security offered in a securities exchange take-over bid.

“**Opening Order**” means an order for the purchase or sale of a security:

- (a) entered by a Participant prior to a Regular Session of an Exchange to execute at the opening price of the listed security in the Regular Session on that Exchange on that trading day; or
- (b) entered on a special facility operated by a marketplace for the purpose of calculating and executing the opening price of the security on that marketplace.

“**Participant**” means:

- (a) a dealer registered in accordance with securities legislation of any jurisdiction and who is:
  - ~~(i) an Approved Participant of the BDM,~~
  - ~~(ii) a Member or Participating Organization of the CDNX,~~
  - ~~(iii) (i) a Participating Organization of the TSE, a member of an Exchange,~~
  - (ii) a user of a QTRS, or
  - ~~(iv) (iii) a subscriber~~ of an ATS; or
- (b) a person who has been granted trading access to a marketplace and who performs the functions ordinarily associated with a market maker, specialist or restricted permit holder on the BDM.

“**Policy**” means a policy statement adopted by a Market Regulator in connection with the administration or application of these Rules as such policy statement is amended, supplemented and in effect from time to time.

“**principal account**” means an account in which a Participant or a related entity of the Participant holds a direct or indirect interest other than an interest in the commission charged on a transaction.

“**principal order**” means an order for the purchase or sale of a security received or originated by a Participant for a principal account.

“**QTRS**” means a recognized quotation and trade reporting system.



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“**quoted security**” means a security quoted on a ~~recognized quotation and trade reporting system~~ QTRS.

“**Regular Session**” means the time period during a trading day when an Exchange is ordinarily open for trading, but does not include any extended or special trading facility of the Exchange.

“**related entity**” means, in respect of a particular person:

- (a) an affiliated entity of the particular person which carries on business in Canada and is registered as a dealer or adviser in accordance with applicable securities legislation; and
- (b) a person who has been designated by a Market Regulator in accordance ~~with Rule 10.2(3)~~ subsection (3) of Rule 10.4 as a person who acts in conjunction with the particular person.

“**related security**” means, in respect of a particular security:

- (a) a security which is convertible or exchangeable into the particular security;
- (b) a security into which the particular security is convertible or exchangeable;
- (c) a derivative instrument for which the particular security is the underlying interest;
- (d) a derivative instrument for which the market price varies materially with the market price of the particular security; and
- (e) if the particular security is a derivative instrument, a security which is the underlying interest of the derivative instrument or a significant component of an index which is the underlying interest of the derivative instrument.

“**Requirements**” means, collectively:

- (a) these Rules;
- (b) the Policies;
- (c) the Trading Rules;
- (d) the Marketplace Rules; and
- (e) any direction, order or decision of the Market Regulator or a Market Integrity Official,

as amended, supplemented and in effect from time to time.

“**restricted person**” means, in respect of a securities exchange take-over bid:



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- (a) the Participant appointed by the offeror to be dealer-manager or manager in respect of such securities exchange take-over bid;
- (b) a related entity of the Participant;
- (c) a partner, director, officer or a person holding a similar position or acting in a similar capacity, of the Participant or of a related entity of the Participant; or
- (d) an employee of the Participant or of a related entity of the Participant who has been granted approval from an Exchange or a self-regulatory entity.

**"Rules"** means these Universal Market Integrity Rules as amended, supplemented and in effect from time to time.

**"securities exchange take-over bid"** means a take-over bid where the consideration for the securities of the offeree is to be, in whole or in part, securities traded on a marketplace.

**"short sale"** means a sale of a security, other than a derivative instrument, which the seller does not own either directly or through an agent or trustee and, for this purpose, a seller shall be considered to own a security if the seller:

- (a) has purchased or has entered into an unconditional contract to purchase the security, but has not yet received delivery of the security;
- (b) has tendered such other security for conversion or exchange or has issued irrevocable instructions to convert or exchange such other security;
- (c) has an option to purchase the security and has exercised the option;
- (d) has a right or warrant to subscribe for the security and has exercised the right or warrant; or
- (e) is making a sale of a security that trades on a when issued basis and the seller has entered into a contract to purchase such security which is binding on both parties and subject only to the condition of issuance of distribution of the security,

but a seller shall be considered not to own a security if:

- (f) the seller has borrowed the security to be delivered on the settlement of the trade and the seller is not otherwise considered to own the security in accordance with this definition; or
- (g) the security held by the seller is subject to any restriction on sale imposed by applicable securities legislation or by an Exchange or QTRS as a condition of the listing or quoting of the security.

**"significant shareholder"** means any person holding separately, or in combination with other persons, more than 20 per cent of the outstanding voting securities of an issuer.



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“**Special Terms Order**” means an order for the purchase or sale of a security:

- (a) for less than a standard trading unit;
- (b) the execution of which is subject to a condition other than as to price or date of settlement; or
- (c) that on execution would be settled on a date other than:
  - (i) the third business day following the date of the trade, or
  - (ii) any settlement date specified in a special rule or direction referred to in ~~Rule 6.2(2) subsection (2) of Rule 6.1~~ that is issued by an Exchange or a ~~recognized quotation and trade reporting system~~ [QTRS](#).

“**standard trading unit**” means, in respect of:

- (a) a derivative instrument, 1 contract;
- (b) a debt security, \$1,000 in principal amount;
- (c) any equity or similar security:
  - (i) 1,000 units of a security trading at less than \$0.10 per unit,
  - (ii) 500 units of a security trading at \$0.10 or more per unit and less than \$1.00 per unit, and
  - (iii) 100 units of a security trading at \$1.00 or more per unit;
- (d) a particular listed security or class of listed securities, such other number of units of the security as may be specified from time to time by the Exchange on which such security is listed; or
- (e) a particular quoted security or class of quoted securities, such other number of units of the security as may be specified from time to time by the ~~recognized quotation and trade reporting system~~ [QTRS](#) on which such security is quoted.

“**trades on a when issued basis**” means purchases or sales of a security to be issued pursuant to:

- (a) a prospectus offering where a receipt for the final prospectus for the offering has been issued by the applicable securities regulatory authority but the offering has not closed and settled;
- (b) a proposed plan of arrangement, an amalgamation or a take-over bid prior to the effective date of the amalgamation or the arrangement or the expiry date of the take-over bid; or
- (c) any other transaction that is subject to the satisfaction of certain conditions,



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and the trade is to be settled only if the security is issued and the trade in the security prior to the issuance would not contravene the applicable securities legislation.

“**trading day**” means a calendar day during which trades are executed on a marketplace.

“**Trading Rules**” means National Instrument 23-101 as amended, supplemented and in effect from time to time.

“**TSE**” means The Toronto Stock Exchange Inc.

“**Volume-Weighted Average Price Order**” means an order for the purchase or sale of a security:

- (a) entered by a Participant prior to a Regular Session of an Exchange to be executed at an average price of the listed security traded on that Exchange during that Regular Session weighted in accordance with the volume traded at each price increment; or
- (b) entered on a special facility operated by a marketplace for the purpose of executing trades at an average price of the security traded on that marketplace.

### **1.2 Interpretation**

- (1) Unless otherwise defined or interpreted, every term used in these Rules that is:
  - (a) defined in subsection 1.1(3) of National Instrument 14-101 – Definitions has the meaning ascribed to it in that subsection;
  - (b) defined or interpreted in ~~National Instrument 21-101~~ the Marketplace Operation Instrument has the meaning ascribed to it in that National Instrument; and
  - (c) a reference to a requirement of an Exchange or a ~~recognized quotation and trade reporting system~~ QTRS shall have the meaning ascribed to it in the applicable ~~by-law, rule or policy of the Exchange or recognized quotation and trade reporting system~~ Marketplace Rule.
- (2) For the purposes of these Rules, the following terms shall be as defined by applicable securities legislation except that:

“**person**” includes any corporation, incorporated association, incorporated syndicate or other incorporated organization.

“**trade**” includes a purchase or acquisition of a security for valuable consideration.
- (3) In determining the value of an order for the purposes of Rule 6.3 and 8.1, the value shall be calculated as of the time of the receipt or origination of the order and shall



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be calculated by multiplying the number of units of the security to be bought or sold under the order by:

- (a) in the case of a limit order for the purchase of a security, the lesser of:
    - (i) the specified maximum price in the order, and
    - (ii) the best ask price;
  - (b) in the case of a limit order for the sale of a security, the greater of:
    - (i) the specified minimum price in the order, and
    - (ii) the best bid price;
  - (c) in the case of a market order for the purchase of a security, the best ask price; and
  - (d) in the case of a market order for the sale of a security, the best bid price.
- (4) For the purposes of determining the “last sale price”, if a sale of at least a standard trading unit of a particular security has not been previously displayed in ~~the a~~ consolidated market display the last sale price shall be deemed to be the price:
- (a) of the last sale of the security on an Exchange, if the security is a listed security;
  - (b) of the last sale of the security on a ~~recognized quotation and trade reporting system~~ QTRS, if the security is a quoted security;
  - (c) at which the security has been issued or distributed to the public, if the security has not previously traded on a marketplace;
  - (d) ~~which~~ that has been accepted by a Market Regulator, in any other circumstance.
- (5) For the purposes of determining the price at which a security is trading for the purposes of the definition of a “standard trading unit”, the price shall be the last sale price of the particular security on the immediately preceding trading day.

## PART 2 – MANIPULATIVE OR DECEPTIVE METHOD OF TRADING

### 2.1 Just and Equitable Principles

A Participant or Non-Dealer Subscriber shall transact business openly and fairly and in accordance with just and equitable principles of trade when:

- (a) trading on a marketplace; or



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- (b) trading or otherwise dealing in securities which are eligible to be traded on a marketplace.

### **2.2 Manipulative or Deceptive Method of Trading**

- (1) A Participant or Non-Dealer Subscriber shall not, directly or indirectly, use nor knowingly facilitate nor participate in the use of any manipulative or deceptive method of trading in connection with the entry of an order or orders to trade on a marketplace for the purchase or sale of any security which creates or which could reasonably be expected to create a false or misleading appearance of trading activity or an artificial price for the security or a related security.
- (2) Without limiting the generality of subsection (1), the following activities when undertaken on a marketplace constitute deceptive and manipulative methods of trading:
  - (a) making a fictitious trade;
  - (b) effecting a trade in a security which involves no change in the beneficial or economic ownership;
  - (c) effecting trades by a single interest or group with the intent of limiting the supply of a security for settlement of trades made by other persons except at prices and on terms arbitrarily dictated by such interest or group; and
  - (d) purchasing a security with the intention of making a sale of the same or a different number of units of the security or a related security on a marketplace at a price which is below the price of the last sale of a standard trading unit of such security displayed in ~~the~~ [a](#) consolidated market display.
- (3) Without limiting the generality of subsection (1), the following activities shall be considered deceptive and manipulative methods of trading when undertaken on a marketplace with the intention of creating a false or misleading appearance of trading activity or an artificial price for a security or a related security:
  - (a) entering an order or orders for the purchase of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the sale of that security, has been or will be entered by or for the same or different persons;
  - (b) entering an order or orders for the sale of a security with the knowledge that an order or orders of substantially the same size, at substantially the same time and at substantially the same price for the purchase of that security, has been or will be entered;
  - (c) making purchases of, or offers to purchase, a security at successively higher prices;

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- (d) making sales of or offers to sell a security at successively lower prices;
  - (e) 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; and
  - (f) entering a series of orders for a security that are not intended to be executed.
- (4) A price will be considered artificial if the price is not justified by real demand or supply in a security.
- (5) For the purposes of subsection (4), a price in a security may be considered not justified by real demand or supply if:
- (a) the price is higher or lower than the previous price and the market immediately returns to the previous price following the trade; and
  - (b) the bid price is raised or the ask price is lowered by an order which, at the time of entry, is the only order at that price and the order is cancelled prior to trading.

### **PART 3 – SHORT SELLING**

#### **3.1 Restrictions on Short Selling**

- (1) Except as otherwise provided, a Participant or Non-Dealer Subscriber shall not make a short sale of a security on a marketplace unless the price is at or above the last sale price.
- (2) A short sale of a security may be made on a marketplace at a price below the last sale price if the sale is:
  - (a) a program trade in accordance with the ~~requirements~~ [Marketplace Rules](#) of an Exchange;
  - (b) for the account of the Responsible Registered Trader and made in ~~requirements~~ [furtherance of the market making obligations of the Responsible Registered Trader in accordance with the Marketplace Rules](#) of the TSE;
  - (c) [for the account of the Odd Lot Dealer and made in accordance with the Marketplace Rules of CDNX](#);
  - (d) [for the account of market maker for the security on a ~~recognized quotation and trade reporting system~~ \[QTRS\]\(#\)](#) and is made in accordance with the

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~~requirements~~ Marketplace Rules of that ~~recognized quotation and trade reporting system-QTRS~~;

- (e) for an arbitrage account and the seller knows or has reasonable grounds to believe that an offer enabling the seller to cover the sale is then available and the seller intends to accept such offer immediately;
- (f) for a derivative market maker account and is made:
  - (i) in accordance with the market making obligations of the seller in connection with the security or a related security, and
  - (ii) to hedge a pre-existing position in the security or a related security; ~~or~~
- (f) the first sale of the security on any marketplace made on an ex-dividend, ex-rights or ex-distribution basis and the price of the sale is not less than the last sale price reduced by the cash value of the dividend, right or other distribution; or
- (g) the result of:
  - (i) a Call Market Order,
  - (ii) a Market-on-Close Order, or
  - (iii) a Volume-Weighted Average Price Order.

### **PART 4 - FRONTRUNNING**

#### **4.1 Frontrunning**

- (1) A Participant with knowledge of a client order that on entry could reasonably be expected to affect the market price of a security, shall not, prior to the entry of such client order,
  - (a) enter a principal order or a non-client order on a marketplace, stock exchange or market, including any over-the-counter market, for the purchase or sale of the security or any related security;
  - (b) solicit an order from any other person for the purchase or sale of the security or any related security; or
  - (c) inform any other person, other than in the necessary course of business, of the client order.
- (2) A Participant does not contravene subsection (1) if:

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- (a) no director, officer, partner, employee or agent of the Participant who made or participated in making the decision to enter a principal order [or non-client order](#) or to solicit an order had actual knowledge of the client order;
- (b) an order is entered or trade made for the benefit of the client for whose account the order is to be made;
- (c) an order is solicited to facilitate the trade of the client order;
- (d) a principal order is entered to hedge a position that the Participant had assumed or agreed to assume before having actual knowledge of the client order provided the hedge is:
  - (i) commensurate with the risk assumed by the Participant, and
  - (ii) entered into in accordance with the ordinary practice of the Participant when assuming or agreeing to assume a position in the security;
- (e) a principal order is made to fulfil a legally binding obligation entered into by the Participant before having actual knowledge of the client order; or
- (f) the order is entered for an arbitrage account.

## **PART 5 – BEST EXECUTION OBLIGATION**

### **5.1 Best Execution of Client Orders**

A Participant shall diligently pursue the execution of each client order on the most advantageous terms for the client as expeditiously as practicable under prevailing market conditions.

### **5.2 Best Price Obligation**

- (1) A Participant shall make reasonable efforts prior to the execution of a client order to ensure that:
  - (a) in the case of an offer by the client, the order is executed at the best bid price; and
  - (b) in the case of a bid by the client, the order is executed at the best ask price.
- (2) Subsection (1) does not apply to the execution of an order which is:
  - (a) required or permitted by a Market Regulator to be executed other than on a marketplace in order to maintain a fair or orderly market;
  - (b) a Special Terms Order unless:

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- (i) the security is a listed security or quoted security and the ~~rules Marketplace Rules~~ of the Exchange or ~~recognized quotation and trade reporting system~~ QTRS governing the trading of a Special Terms Order provide otherwise, or
  - (ii) the order could be executed in whole, according to the terms of the order, on a marketplace or with a market maker displayed in ~~the~~ a consolidated market display;
- (c) a Call Market Order;
- (d) a Volume-Weighted Average Price Order;
  - (e) a Market-on-Close Order; or
  - (f) an Opening Order.
- (3) For the purposes of subsection (1), the Participant may take into account any transaction fees that would be payable to the marketplace in connection with the execution of the order as set out in the schedule of transaction fees disclosed ~~to the data consolidator~~ in accordance with Marketplace Operation Instrument.

### **5.3 Client Priority**

- (1) A Participant shall give priority to a client order of the Participant over all principal orders and non-client orders of the Participant ~~for the same security at the same price on the same side of the market which that~~ are received, originated or entered on a marketplace after the receipt of the client order for the same security at the same price on the same side of the market on the same settlement terms.
- (2) Despite subsection (1) but subject to Rule 4.1, a Participant is not required to give priority to a client order if:
  - (a) the client specifically has consented to the Participant entering principal orders and non-client orders for the same security at the same price on the same side of the market on the same settlement terms; or
  - (b) the client order has not been entered on a marketplace as a result of:
    - (i) the client specifically instructing the Participant to deal otherwise with the particular order,
    - (ii) the client specifically granting discretion to the Participant with respect to entry of the order, or
    - (iii) the Participant determining, based on market conditions, that entering the order would not be in the best interests of the client,

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and no director, officer, partner, employee or agent of the Participant with knowledge that the client order has not been entered on a marketplace enters a principal order or a non-client order for the same security on the same side of the market on the same settlement terms; or

(c) the principal order or non-client order is:

(i) for the account of the Responsible Registered Trader and has been automatically generated by the trading system in accordance with the Marketplace Rules of the TSE in respect of the obligations of the Responsible Registered Trader for the Minimum Guaranteed Fill facility and orders for less than a board lot,

(ii) for the account of the Odd Lot Dealer and has been automatically generated by the trading system in accordance with the Marketplace Rules of CDN X in respect of the obligations of the Odd Lot Dealer for order for less than a board lot,

(iii) a Call Market Order, Opening Order, Volume-Weighted Average Price Order or a Market-on-Close Order that is entered into a special facility of a marketplace that uses established, non-discretionary methods to execute trades, or

(iv) part of a program trade, a switch transaction, an exchange for physicals or a contingent option trade made in accordance with the Marketplace Rules of the TSE.

(d) a Market Integrity Official requires or permits the principal order or non-client order to be executed in priority to a client order.

(3) For the purposes of clause (2)(a), a client shall be deemed to have consented to the Participant entering principal orders and non-client orders for the same security at the same price on the same side of the market on the same settlement terms if the client order, in accordance with the specific instructions of the client, is to be executed in part at various times during the trading day or at various prices during the trading day.

## **PART 6 – ORDER ENTRY AND EXPOSURE**

### **6.1 Entry of Orders to a Marketplace**

- (1) No order to purchase or sell a security shall be entered to trade on a marketplace at a price that includes a fraction or a part of a cent.
- (2) Each order to purchase or sell a listed security or a quoted security entered to trade on a marketplace shall be subject to any special rule or direction issued by

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the Exchange on which the security is listed or by the ~~recognized quotation and trade reporting system~~ [QTRS](#) on which the security is quoted with respect to:

- (a) clearing and settlement; and
- (b) entitlement of the purchaser to receive a dividend, interest or any other distribution made or right given to holders of that security.

### **6.2 Disclosure of Designations and Identifiers**

- (1) Each order entered on a marketplace shall contain:
  - (a) the identifier of:
    - (i) the Participant entering the order as assigned to the Participant in accordance with Rule ~~40.9~~ [10.15](#), or
    - (ii) the ATS on which the order is entered as assigned to the ATS in accordance with Rule ~~40.9~~ [10.15](#), if the order has been entered by a Non-Dealer Subscriber;
  - (b) a designation acceptable to the Market Regulator for the marketplace on which the order is entered, if the order is:
    - ~~(i) a Call Market Order,~~
    - (ii) an Opening Order,
    - (iii) a Market-on-Close Order,
    - (iv) a Special Terms Order,
    - (v) a Volume-Weighted Average Price Order,
    - (vi) a short sale,
    - (vii) part of a program trade in accordance with the ~~requirements~~ [Marketplace Rules](#) of an Exchange,
    - (viii) a non-client order,
    - (ix) a principal order,
    - (x) a jitney order,
    - (xi) part of an intentional cross [or internal cross](#),
    - (xii) for a derivative market maker account,



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- (xiii) for the account of a person who is an insider of the issuer of the security which is the subject of the order,
  - (xiv) for the account of a person who is a significant shareholder of the issuer of the security which is the subject of the order, or
  - (xv) of a type for which the Market Regulator may from time to time require a specific or particular designation. ~~and~~
- ~~(c) if the order is for the purchase or sale of a security listed on the TSE, a designation acceptable to [RS Inc.], if the order is, in accordance with the requirements of the TSE:~~
- ~~(i) for the account of a Registered Trader,~~
  - ~~(ii) an internal cross,~~
  - ~~(iii) ineligible to participate in the Minimum Guaranteed Fill facility, or~~
  - ~~(iv) of a type for which [RS Inc.] may from time to time require a specific or particular designation.~~
- (2) If the order entered on a marketplace is a Special Terms Order, the order shall contain, in addition to all designations and identifiers required by subsection (1), information in such form as is acceptable to the Market Regulator of the marketplace on which the order is entered respecting:
- (a) any condition on the execution of the order; and
  - (b) the settlement date.
- (3) If following the entry of an order on a marketplace for the sale of security that has not been designated as a short sale such order would become a short sale on execution, the order shall be modified to include the short sale designation required by subsection (1).
- (4) Each order entered on a marketplace including all designations and identifiers required by subsection (1) shall be disclosed to each Market Regulator.
- (5) The marketplace on which the order is entered shall determine if the identifier of the Participant or the ATS shall be displayed in a ~~the~~ consolidated market display.
- (6) Unless otherwise permitted or directed by the Market Regulator, a marketplace shall not disclose for display in a consolidated market display any designation attached to an order other than the designation that the order is a Special Terms Order.
- (7) Unless otherwise permitted or directed by the Market Regulator, a marketplace shall not disclose for display in a consolidated market display:
- (a) the size of:



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- (i) a Call Market Order,
- (ii) a Market-on-Close Order, or
- (iii) a Volume-Weighted Average Price Order; and
- (b) the price of an Opening Order other than the price which has been calculated by the marketplace as the opening price of the security.

### **6.3 Exposure of Client Orders**

- (1) A Participant shall immediately enter on a marketplace a client order to purchase or sell 50 standard trading units or less of a security unless:
  - (a) the client has specifically instructed the Participant to deal otherwise with the particular order;
  - (b) the Participant executes the order upon receipt at a better price;
  - (c) the Participant returns the order for confirmation of the terms of the order;
  - (d) the Participant withholds the order pending confirmation that the order complies with applicable securities requirements or, if applicable, the ~~requirements~~ Marketplace Rules of any Exchange on which the security is listed or of any ~~recognized quotation and trade reporting system~~ QTRS on which the security is quoted;
  - (e) the Participant determines based on market conditions that entering the order would not be in the best interests of the client;
  - (f) the order has a value of more than \$100,000;
  - (g) the order is part of a trade to be made in accordance with Rule 6.4 by means other than entry on a marketplace; or
  - (h) the order is:
    - (i) a Call Market Order,
    - (ii) an Opening Order,
    - (iii) a Special Terms Order,
    - (iv) a Volume-Weighted Average Price Order,
    - (v) a Market-on-Close Order, or
    - (vi) part of a wide distribution made in accordance with the ~~requirements~~ Marketplace Rules of the TSE.

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- (2) If a Participant withholds a client order from entry based on market conditions in accordance with clause (1)(e), the Participant may enter the order in parts over a period of time or adjust the terms of the order prior to entry but the Participant must guarantee that the client receives:
- (a) a price at least as good as the price the client would have received if the client order had been executed on receipt by the Participant; and
  - (b) if the Participant executes the client order against a principal order or non-client order, a better price than the price the client would have received if the client order had been executed on receipt by the Participant.

### **6.4 Trades to be on a Marketplace**

A Participant acting as principal or agent may not trade nor participate in a trade in a security by means other than the entry of an order on a marketplace unless the trade is:

- (a) **Unlisted or Non-Quoted Security** - in a security which is not a listed security or a quoted security;
- (b) **Regulatory Exemption** – required or permitted by a Market Regulator to be executed other than on a marketplace in order to maintain a fair or orderly market and provided, in the case of a listed security or quoted security, the Market Regulator requiring or permitting the order to be executed other than on a marketplace shall be the Market Regulator of the Exchange on which the security is listed or of the ~~recognized quotation and trade reporting system~~ [QTRS](#) on which the security is quoted;
- (c) **Error Adjustment** - to adjust by a journal entry an error in connection with a client order;
- (d) **On Another Market** – on another exchange or organized regulated market that publicly disseminates details of trades in that market;
- (e) **Outside of Canada** – as principal with a non-Canadian account or as agent if both the purchaser and seller are non-Canadian accounts provided such trade is reported to a marketplace or to a stock exchange or organized regulated market that publicly disseminates details of trades in that market;
- (f) **Term of Securities** – as a result of a redemption, retraction, exchange or conversion of a security in accordance with the terms attaching to the security;
- (g) **Options** – as a result of the exercise of an option, right, warrant or similar pre-existing contractual arrangement;

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- (h) **Prospectus and Exempt Distributions** – pursuant to a prospectus, take-over bid, issuer bid, amalgamation, arrangement or similar transaction including any distribution of previously unissued securities by an issuer.

### **6.5 Reporting Market-on-Close Orders**

- (1) A Participant that has received a Market-on-Close Order for a listed security and a Non-Dealer Subscriber that intends to enter on a marketplace a Market-on-Close Order for a listed security shall report the Market-on-Close Order to the Market Regulator in such form and manner as may be required by Market Regulator if:
- (a) the order is to be executed on a marketplace during the Regular Session of the Exchange on which the security is listed; or
- (b) the Participant may undertake hedging activity on a marketplace in connection with the order during the 5 minutes prior to the close of the Regular Session of the Exchange on which the security is listed.
- (2) For the purposes of subsection (1), if the number of units of a listed security to be purchased or sold under an order is not known or cannot be determined at the time the report is required, the Participant or Non-Dealer Subscriber shall make a reasonable estimate.
- (3) For the purposes of subsection (1), the Participant or Non-Dealer Subscriber shall report to the Market Regulator:
- (a) not earlier than 45 minutes and not later than 30 minutes prior to close of the Regular Session, the aggregate volume of Market-on-Close Orders to purchase and the aggregate volume of Market-on-Close Orders to sell in respect of each listed security then received by a Participant or intended to be entered by a Non-Dealer Subscriber;
- (c) as soon as practicable, any change in the volume of Market-on-Close Orders for a particular security from that volume provided in the report made under clause (a) including any Market-on-Close Order for a listed security that was not included in the report made under clause (a).
- (4) The Market Regulator may provide from time to time by a notice to Participants and Non-Dealer Subscribers that a report of Market-on-Close Order for a listed security is not required if:
- (a) the aggregate volume of Market-on-Close Orders otherwise to be reported for a particular security;
- (b) the difference between the aggregate volume of Market-on-Close Orders to purchase and sell a particular security; or



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(c) the change in the volume of Market-on-Close Orders for a particular security from that volume provided in the report under clause 3(a),

is less than a number of units established by the Market Regulator.

(5) Based on the reports received of Market-on-Close Orders, the Market Regulator may provide, if the Market Regulator is of the opinion that it is in the interest of a fair and orderly market, a public notice of the listed securities for which there may be significant price volatility at or near the close of the Regular Session of the Exchange.

### **PART 7 – TRADING IN A MARKETPLACE**

#### **7.1 Clearing Obligations**

- (1) Each Participant and Non-Dealer Subscriber shall:
  - (a) at the time of the entry to a marketplace of an order for the purchase or sale of a security other than a derivative instrument:
    - (i) be a participant of Canadian Depository for Securities Limited, or
    - (ii) have entered into an arrangement for the clearing and settlement of trades with a person which is a participant of the Canadian Depository for Securities Limited and such arrangement shall be in a form which is satisfactory to the Canadian Depository for Securities Limited; and
  - (b) at the time of the entry to a marketplace of an order for the purchase or sale of a derivative instrument:
    - (i) be a member of Canadian Derivatives Clearing Corporation, or
    - (ii) have entered into an arrangement for the clearing and settlement of trades with a person which is a member of the Canadian Derivatives Clearing Corporation and such arrangement shall be in a form which is satisfactory to the Canadian Derivatives Clearing Corporation.
- (2) A marketplace shall not permit a Participant or Non-Dealer Subscriber to enter an order for the purchase or sale of a security on that marketplace, if the Participant or Non-Dealer Subscriber is not in compliance with the requirements of subsection (1).

#### **7.2 Trading Supervision Obligations**



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- (1) Each Participant shall adopt written policies and procedures to be followed by directors, officers, partners and employees of the Participant that are adequate, taking into account the business and affairs of the Participant, to ensure compliance with these Rules and each Policy.
- (2) Prior to the entry of an order on a marketplace by a Participant, the Participant shall comply with:
  - (a) applicable regulatory standards with respect to the review and approval of orders;
  - (b) the policies and procedures adopted in accordance with subsection (1);
  - (c) all requirements of these Rules and each Policy.
- (3) Each Participant shall appoint a head of trading who shall be responsible to supervise the trading activities of the Participant in a marketplace.
- (4) The head of trading together with each person who has authority or supervision over or responsibility to the Participant for an employee of the Participant shall fully and properly supervise such employee as necessary to ensure the compliance of the employee with these Rules and each Policy.

### **7.3 Proficiency Obligations**

- (1) No order to purchase or sell a security shall be entered by a Participant on a marketplace unless the Participant or the director, officer, partner or employee of the Participant entering the order or responsible for the order has:
  - (a) completed the Trader Training Course of the Canadian Securities Institute;
  - (b) received approval of an Exchange for the entry of orders to the trading system of the Exchange; or
  - (c) completed such course, examination or other means of demonstrating proficiency in these Rules and Policies as may be acceptable to the Market Regulator of the marketplace on which the order is entered or the applicable securities regulatory authority.
- (2) An ATS shall ensure that each Non-Dealer Subscriber of the ATS is trained in these Rules and Policies.
- (3) ~~Training material which an ATS proposes to use for the purposes of subsection (2) must be approved by the~~ The Market Regulator of the ATS shall approve the training materials that an ATS proposes to use for the purposes of subsection (2).

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### **7.4 Liability for Bids, Offers and Trades**

- (1) All bids and offers for securities made and accepted on a marketplace shall be binding and all contracts thereby effected shall be subject to the exercise by the marketplace on which the trade is executed of the powers vested in the marketplace and the Market Regulator of that marketplace.
- (2) A Participant shall be responsible for all bids and offers that are entered into, or arise by operation of the trading system of a marketplace and that originate from any terminal or computer system allowing access to trading on the marketplace that is operated by or is under the control of that Participant whether or not the Participant has authorized the entry of the order.
- (3) Subject to the obligation of a Non-Dealer Subscriber for compliance with these Rules and each Policy, an ATS shall be responsible for all bids and offers that are entered into, or arise by operation of the trading system of the ATS and that originate from any terminal or computer system allowing access to trading on the ATS that is operated by or is under the control of the Non-Dealer Subscriber of that ATS whether or not the Non-Dealer Subscriber has authorized the entry of the order.

### **7.5 Contract Record and Official Transaction Record**

- (1) The electronic record of a trade in a security ~~maintained by the data consolidator~~ as provided by a marketplace to an information processor and information vendor in accordance with the Marketplace Operation Instrument is the official transaction record for the purpose of determining:
  - (a) best ask price;
  - (b) best bid price; and
  - (c) last sale price.
- (2) Despite subsection (1), the electronic record of a trade in a security as maintained by the marketplace on which the trade occurred shall be the record of the contract made on that trade and in the event of a dispute between parties to the contract or discrepancy with the records of the clearing agency effect shall be given to the record of the marketplace.
- (3) Each marketplace shall provide to the ~~data consolidator~~ information processor or information vendor information respecting each cancellation, variation or correction of a trade as soon as practicable after the cancellation, variation or correction has been made to the record of the contract as maintained by the marketplace and the ~~data consolidator~~ information processor or information vendor shall amend the transaction record accordingly.



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### **7.6 Recorded Prices**

- (1) No Participant acting as agent shall execute a transaction through a marketplace in which the price recorded on the marketplace is:
  - (a) in the case of a purchase by a client, higher than the net cost to the client; or
  - (b) in the case of a sale by a client, lower than the net proceeds to the client.
- (2) No Participant acting as principal shall execute a transaction through a marketplace in which the price recorded on the marketplace is:
  - (a) in the case of a sale to a client, lower than the net cost to the client by more than the usual agency commission that would be charged by that Participant to that client for an order of the same size; and
  - (b) in the case of a purchase from a client, higher than the net proceeds to the client by more than the usual agency commission that would be charged by that Participant to that client for an order of the same size.

### **7.7 Cancelled Trades**

If a trade is cancelled, a subsequent trade on any marketplace which was:

- (a) executed as a result of the price of the cancelled trade; or
- (b) permitted only as a result of the price of the cancelled trade,

shall stand unless cancelled by the consent of the buyer and the seller or by a Market Integrity Official who is of the opinion that the cancellation of the subsequent trade is appropriate under the circumstances.

### **7.8 Restrictions on Trading by a Participant Involved in a Distribution**

~~If a Participant is involved in the distribution of a listed security or quoted security as an underwriter, the Participant shall comply with any restriction or prohibition on the trading of the security and any related security during the distribution as established by the requirements of the Exchange on which the security is listed or the recognized quotation and trade reporting system on which the security is quoted.~~

- (1) [Definitions](#)

[In this Rule:](#)

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“basket trade” means a simultaneous purchase of at least 20 listed securities or quoted securities, provided that any restricted security comprises not more than 10% of the total value of the transaction.

“distribution” means a distribution of any security pursuant to:

- (a) a prospectus;
- (b) a wide distribution in accordance with Marketplace Rules of the TSE; or
- (c) an offering of special warrants.

“distributed security” means the listed security or quoted security of the class that is the subject of the distribution.

“equity security” means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding up of the issuer, in its assets;

“exempt security” means a listed security or quoted security that:

- (a) has traded in total on one or more marketplaces as reported on a consolidated data feed during a 60-day period ending not earlier than 30 days prior to the commencement of the restricted period:
  - (i) an average of at least 100 times per trading day, and
  - (ii) with an average trading value of \$1,000,000 per trading day; or
- (b) is an Index Participation Unit in accordance with the Marketplace Rules of the TSE.

“independent bid” means an order, other than a Special Terms Order, to buy entered on a marketplace by or on behalf of a person who is not involved in the distribution.

“independent trade” means a trade on a marketplace of at least one standard trading unit made by or on behalf of a person who is not involved in the distribution.

“maximum permitted stabilization price” means:

- (a) for the distributed security:
  - (i) the price at which the distributed security will be issued, if that price has been determined, and
  - (ii) the price of the last independent trade, if the price at which the distributed security will be issued has not been determined; and
- (b) for a related security, the highest price of an independent bid for that security at the commencement of the restricted period.



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“related security” means, in respect of a distributed security:

- (a) a listed security or quoted security into which the distributed security is immediately convertible, exchangeable or exercisable unless the price at which the security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the listed security at the commencement of the restricted period;
- (b) a listed security or quoted security that, according to the terms of the distributed security, may significantly determine the value of the distributed security;
- (c) if the distributed security is a special warrant, a listed security which would be issued on the exercise of the special warrant; and
- (d) if the distributed security is an equity security, any other equity security of the issuer that is a listed security or quoted security.

“restricted period” means the period:

- (a) commencing on the earlier of the date:
  - (i) the Participant enters into an underwriting agreement in respect of the distribution of the distributed securities, and
  - (ii) two trading days prior to the day:
    - (A) the receipt is issued for the final prospectus for the distribution of the distributed securities in the case of a distribution pursuant to a prospectus,
    - (B) the TSE consents to the distribution in the case of a wide distribution pursuant to the Marketplace Rules of the TSE, and
    - (C) the offering price of the special warrant is determined in the case of a distribution of special warrants; and
- (b) ending on the earlier of the date:
  - (i) the Participant has sold all of the distributed securities allotted to the Participant, including all restricted securities acquired by the Participant in connection with the distribution, and all stabilization arrangements to which the Participant is a party terminate, and
  - (ii) the distribution terminates pursuant to applicable securities law or the Marketplace Rules of the TSE.

“restricted security” means:

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- (a) the distributed security; and
- (b) any related security

but does not include an exempt security or a related security of an exempt security.

“underwriter” means a Participant involved in a distribution but does not include a Participant which has agreed to sell part of the distribution but is not obligated to purchase any of the distributed securities.

### **(2) Prohibited Trading**

Except as permitted, an underwriter shall not at any time during the restricted period:

- (a) bid for or purchase for its own account a restricted security on a marketplace; or
- (b) solicit purchase orders from clients for a restricted security.

### **(3) Restricted Trading**

Despite subsection (2), an underwriter involved in a distribution, other than a distribution pursuant to an at-the-market offering as permitted by National Instrument 44-101 or any successor instrument, may, at any time during the restricted period, bid for or purchase a restricted security at a price which does not exceed the maximum permitted stabilization price provided such price also does not exceed:

- (a) if the underwriter has either a long position or no position in the restricted security, the highest independent bid then entered on a marketplace;
- (b) if the underwriter enters the bid prior to the commencement of trading on a trading day, the last sale price of the restricted security on the previous trading day; and
- (c) if the restricted security has not previously traded on a marketplace, the price of the last independent trade of the security on another stock exchange or organized over-the-counter market.

### **(4) Exemptions**

Subsections (2) and (3) do not apply to:

- (a) an order which, if executed, would be:
  - (i) a basket trade, or
  - (ii) a program trade in accordance with the Marketplace Rules of the TSE;

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- (b) a Must-Be-Filled Order in accordance with the Marketplace Rules of the TSE; and
- (c) an order entered solely for the purpose of rebalancing a portfolio, the composition of which is based on an Index as defined in accordance with the Marketplace Rules of the TSE, to reflect an adjustment made in the composition of the Index.

### **(5) Deemed Commencement of a Restricted Period**

If an underwriter receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the distributed securities allotted to or acquired by the underwriter in connection with the distribution then a restricted period shall be deemed to have commenced upon receipt of such notice or notices.

### **(6) Transactions by the Responsible Registered Trader**

A Responsible Registered Trader in accordance with the Marketplace Rules of the TSE who is employed by an underwriter may, for their registered trading account:

- (a) with the prior approval of a Market Integrity Official, enter a bid to move the calculated opening price of a restricted security to a more reasonable level;
- (b) purchase a restricted security pursuant to the responsibility of the Responsible Registered Trader to provide a MGF for a sell order but not including a purchase pursuant to the right of the Responsible Registered Trader to participate in trades with MGF-eligible orders; and
- (c) bid for or purchase a restricted security:
  - (i) that is traded on another market for the purpose of matching a higher-priced bid posted on such market,
  - (ii) that is convertible, exchangeable or exercisable into another listed security for the purpose of maintaining an appropriate conversion, exchange or exercise ratio, and
  - (iii) to cover a short position resulting from sales made under the market making obligations of the Responsible Registered Trader.

### **(7) Transactions by the Options Specialist**

An options specialist in accordance with the Marketplace Rules of the BDM who employed by an underwriter may, for their specialist account, bid for or purchase a restricted security if:

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- (a) the restricted security is the underlying security of the option for which the person is the specialist;
- (b) there is not otherwise a suitable derivative hedge available; and
- (c) such bid or purchase is:
  - (i) for the purpose of hedging a pre-existing options position,
  - (ii) reasonably contemporaneous with the trade in the option, and consistent with normal market-making practice.

### **7.9 Restrictions on Trading During a Securities Exchange Take-over Bid**

- (1) A restricted person shall not bid for nor purchase the offered security at any time from the first public announcement of a securities exchange take-over bid until the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the bid is withdrawn.
- (2) Despite subsection (1), a restricted person may bid for or purchase the offered security as agent for an unsolicited client order provided the client is not:
  - (a) the offeror;
  - (b) an insider of the offeror; or
  - (c) an associate or affiliated entity of the offeror.

### **7.10 Trading in Listed or Quoted Securities by Market Makers and Specialists**

A Participant who performs the function ordinarily associated with a market maker, specialist or restricted permit holder on the BDM shall comply when trading on any marketplace with such additional requirements as may be required by:

- (a) an Exchange when trading on that Exchange in listed securities; and
- (b) a ~~recognized quotation and trade reporting system~~ QTRS when trading on that ~~recognized quotation and trade reporting system~~ QTRS in quoted securities.

## **PART 8 – PRINCIPAL TRADING**

### **8.1 Client-Principal Trading**

- (1) A Participant that receives a client order for 50 standard trading units or less of a security with a value of \$100,000 or less may execute the client order against a

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principal order or non-client order at a better price provided the Participant has taken reasonable steps to ensure that the price is the best available price for the client taking into account the condition of the market at that time.

(2) Subsection (1) does not apply if the client order is:

- (a) [a Call Market Order](#);
- (b) an Opening Order;
- (c) a Market-on-Close Order; or
- (d) a Volume-Weighted Average Price Order.

## **PART 9 – TRADING HALTS, DELAYS AND SUSPENSIONS**

### **9.1 Trading Halts, Delays and Suspensions**

- (1) No order for the purchase or sale of a security shall be [entered on a marketplace or executed on a marketplace or over-the-counter](#), at any time while:
  - (a) an order of a securities regulatory authority to cease trading in the security remains in effect;
  - (b) in the case of a listed security, the Market Regulator of the Exchange on which the security is listed has delayed, halted or suspended trading in the security ~~in accordance with the requirements of the Exchange~~ while such delay, halt or suspension remains in effect;
  - (c) in the case of a quoted security, the Market Regulator of the ~~recognized quotation and trade reporting system~~ [QTRS](#) has delayed, halted or suspended trading in the security ~~in accordance with the requirements of the recognized quotation and trade reporting system~~ while such delay, halt or suspension remains in effect; and
  - (d) in the case of any security ~~listed on a stock exchange or organized market in a foreign jurisdiction in which the securities regulatory authority is a member of the International Organization of Securities Commissions~~, [other than a listed security or a quoted security](#), a Market Regulator [of an ATS on which such security may trade](#) has halted trading for the purposes of the public dissemination of material information [respecting such security or the issuer of such security](#).
- (2) Despite subsection (1), an order may trade on a marketplace, if the Exchange or ~~recognized quotation and trade reporting system~~ [QTRS](#) has:
  - (a) suspended trading in the security by reason only that the issuer of the security has:

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- (i) ceased to meet minimum listing or quotation requirements established by Marketplace Rules, or
- ~~(ii) failed to pay to the Exchange or recognized quotation and trade reporting system QTRS any fees in respect of the listing or quotation of securities of the issuer; or~~
- (b) delayed or halted trading in the security as a result of:
  - (i) technical problems affecting only the trading system of the Exchange or ~~recognized quotation and trade reporting system, QTRS~~ or
  - (ii) the application of a Marketplace Rule.
- (3) If trading in a security has been prohibited on a marketplace in accordance with clauses (1)(b), (c) or (d), a Participant may execute a trade in the security, if permitted by applicable securities legislation, outside of Canada on an exchange or organized regulated market that publicly disseminates details of trades in that market.

## **PART 10 – COMPLIANCE**

### **~~10.1 – Enforcement and Compliance~~**

- ~~(1) Each Participant and Non-Dealer Subscriber shall comply with these Rules and any Policies.~~
- ~~(2) If a Participant which is an Approved Participant, Participating Organization or Member of an Exchange has failed to comply with any requirement of these Rules, the Market Regulator for the Exchange may take such disciplinary and enforcement action in accordance with the established practice and procedure of the Exchange as against the Participant and may impose such penalty or remedy as may be authorized by any requirement of the Exchange.~~
- ~~(3) If a Non-Dealer Subscriber or a Participant which is not an Approved Participant, Participating Organization or Member of an Exchange has failed to comply with any requirement of these Rules, the Market Regulator for the marketplace on which the person has been granted access for trading purposes may take such disciplinary and enforcement action in accordance with the practice and procedure established by Policy and may impose, as the Market Regulator considers appropriate in the circumstances, one or more of the following penalties or remedies:~~
  - ~~(a) a reprimand;~~
  - ~~(b) a fine not to exceed the greater of:
    - ~~(i) \$1,000,000, and~~~~

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- ~~(ii) — an amount equal to triple the financial benefit which accrued to the person as a result of committing the violation;—~~
- ~~(c) — the suspension of access to the marketplace for such period and upon such terms and conditions, if any, considered appropriate; and~~
- ~~(d) — the revocation of access to the marketplace.~~
- ~~(4) — For greater certainty, any enforcement or disciplinary action as against a person by a Market Regulator for failure to comply with these Rules and any applicable Policies shall not affect or limit any enforcement or disciplinary action as against the person by any securities regulatory authority, self-regulatory entity or other Market Regulator with jurisdiction over the Participant.~~
- ~~(5) — If a Market Regulator suspends or revokes the access of any person to a marketplace in accordance with any enforcement or disciplinary action under subsection (2) or (3), such person shall be denied access to any other marketplace and shall have any access to any other marketplace automatically suspended or revoked unless the applicable securities regulatory authority otherwise determines in a review of the decision of the Market Regulator undertaken in accordance with Rule 11.3.~~
- ~~(6) — Upon a Market Regulator suspending or revoking the access of any person to a marketplace, the Market Regulator shall provide notice of such revocation to:
  - ~~(a) — the person whose access has been revoked;~~
  - ~~(b) — each marketplace;~~
  - ~~(c) — each Market Regulator; and~~
  - ~~each applicable securities regulatory authority.~~~~

### **10.1 Compliance Requirement**

- (1) Each Participant and Non-Dealer Subscriber shall comply with the Requirements.
- (2) For the purposes of subsection (1), a Participant or Non-Dealer Subscriber shall, with respect to a particular order, comply with the Marketplace Rules of:
  - (a) the marketplace on which the particular order is entered; and
  - (b) the marketplace on which the particular order is executed.

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### **10.2 Investigations**

- (1) In connection with compliance with the Requirements, the Market Regulator may, at any time, whether or not on the basis of a complaint or other communication in the nature of a complaint, investigate the conduct of:

  - (a) any marketplace for which the Market Regulator is the regulation service provider or was the regulation service provider at the time of the conduct;
  - (b) any Participant or Non-Dealer Subscriber of a marketplace for which the Market Regulator is the regulation service provider or was the regulation service provider at the time of the conduct;
  - (c) any person to whom responsibility for compliance with the Rules by other persons are extended in accordance with Rule 10.3 or to whom responsibility had been extended at the time of the conduct; and
  - (d) any person to whom the application of the Rules are extended in accordance with Rule 10.4 or to whom the Rules had been extended at the time of the conduct.
- (2) Upon the request of the Market Regulator, any person described in subsection (1) shall forthwith:

  - (a) provide any information or records in the possession or control of the person that the Market Regulator determines may be relevant to a matter under investigation and such information or records shall be provided in such manner and form, including electronically, as may be required by the Market Regulator;
  - (b) allow the inspection of, and permit copies to be taken of, any information or records in the possession or control of the person that the Market Regulator determines may be relevant to a matter under investigation; and
  - (c) provide a statement, under oath or otherwise, at a time and place specified by the Market Regulator on such issues as the Market Regulator determines may be relevant to a matter under investigation provided that in the case of a person other than an individual, the statement shall be made by an appropriate officer, director, partner or employee or other individual associated with the person as is acceptable to the Market Regulator.

### **10.3 Extension of Responsibility**

- (1) A Participant or Non-Dealer Subscriber may be found liable by the Market Regulator for the conduct of any director, officer, partner, employee or individual holding a similar position with the Participant or Non-Dealer Subscriber and be



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subject to any penalty or remedy as if the Participant or Non-Dealer Subscriber had engaged in that conduct.

- (2) Any partner or director of a Participant or Non-Dealer Subscriber may be found liable by the Market Regulator for the conduct of the Participant or Non-Dealer Subscriber and be subject to any penalty or remedy as if such person had engaged in that conduct.
- (3) Any officer or employee of a Participant or Non-Dealer Subscriber who has authority over, supervises or is responsible for an employee may be found liable by the Market Regulator for the conduct of the supervised employee and be subject to any penalty or remedy as if such person had engaged in that conduct.
- (4) The imposition of any penalty or remedy against any person who engaged in conduct that contravened a Requirement or against any person to whom responsibility for the conduct has been extended by this section does not prevent or limit in any manner the imposition by the Market Regulator of any penalty or remedy against any other person who engaged in the conduct or to whom responsibility for the conduct has been extended by this section.

### **10.2 10.4 Extension of Restrictions**

- (1) A related entity of a Participant and a director, officer, partner or employee of the Participant or a related entity of the Participant shall:
  - (a) comply with the provisions of these Rules and any Policies with respect to just and equitable principles of trade, manipulative and deceptive method of trading, short sales and frontrunning as if references to “Participant” in Rules 2.1, 2.2, 3.1 and 4.1 included reference to such person; and
  - (b) in respect of the failure to comply with the Rules and Policies referred to in clause (a), be subject to the practice and procedures and to penalties and remedies set out in ~~Rule 10.1(3) unless such person is subject to the jurisdiction of an Exchange~~ this Part.
- (2) A related entity of a Non-Dealer Subscriber and a director, officer, partner or employee of the Non-Dealer Subscriber or a related entity of the Non-Dealer Subscriber shall in respect of trading on a marketplace on behalf of the Non-Dealer Subscriber or related entity of the Non-Dealer Subscriber:
  - (a) comply with the provisions of these rules and any Policies with respect to just and equitable principles of trade, manipulative and deceptive method of trading and short sales as if references to “Non-Dealer Subscriber” in Rules 2.1, 2.2 and 3.1 included reference to such person; and

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- (b) in respect of the failure to comply with the Rules and Policies referred to in clause (a), be subject to the practice and procedures and to the penalties and remedies set out in ~~Rule 10.1(3)~~ [this Part](#).
- (3) If, in the opinion of a Market Regulator, a particular person to whom these Rules apply, including any particular person to whom these Rules have been extended in accordance with subsection (1) and (2), has organized their business and affairs for the purpose of avoiding the application of any provision of these Rules, the Market Regulator may designate any person involved in such business and affairs as a person acting in conjunction with the particular person.
- (4) Upon a Market Regulator making a designation in accordance with subsection (3), the Market Regulator shall provide notice of such designation to:
- (a) the particular person;
  - (b) the designated person;
  - (c) each Market Regulator; and
  - (d) each applicable securities regulatory authority.

### **10.5 Powers and Remedies**

- (1) The Market Regulator may, following a hearing and a determination that a person described in subsection (1) of Rule 10.2 has contravened a Requirement or is liable for the contravention of a Requirement in accordance with Rule 10.3, by an order impose on such person one or more of the following penalties or remedies as the Market Regulator considers appropriate in the circumstances:
- (a) a reprimand;
  - (b) a fine not to exceed the greater of:
    - (i) \$1,000,000, and
    - (ii) an amount equal to triple the financial benefit which accrued to the person as a result of committing the contravention;
  - (c) the restriction of access to the marketplace for such period and upon such terms and conditions, if any, considered appropriate;
  - (d) the suspension of access to the marketplace for such period and upon such terms and conditions, if any, considered appropriate; and
  - (e) the revocation of access to the marketplace.
- (2) If the Market Regulator has determined that a person described in subsection (1) of Rule 10.2 has engaged in, or may engage in, any course of conduct detrimental to

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the public interest, the Market Regulator may, if the Market Regulator considers it is necessary for the protection of the public interest by an interim order without notice or hearing, order the restriction or suspension of access to the marketplace upon such terms and conditions, if any, considered appropriate provided such interim order shall expire 15 days after the date on which the interim order is made unless:

- (a) a hearing is commenced within that period of time to confirm or set aside the interim order;
  - (b) the person against which the interim order is made consents to an extension of the interim order until a hearing of the matter is held; or
  - (c) an applicable securities regulatory authority directs that the interim order be rescinded or extended.
- (3) For the purposes of this section, the restriction, suspension or revocation of access of a person to a marketplace may be imposed directly on the person and, if the person is an individual, in their capacity as a director, officer, partner, employee or associate of a person with access to a marketplace.
- (4) For greater certainty, any enforcement or disciplinary proceeding or any order or interim order as against a person by a Market Regulator for contravention of a Requirement shall not affect or limit any enforcement or disciplinary action as against the person by any securities regulatory authority, self-regulatory entity or other Market Regulator with jurisdiction over the person.
- (5) If a Market Regulator restricts, suspends or revokes the access of any person to a marketplace in accordance with this section, such person shall be denied access to any other marketplace and shall have any access to any other marketplace automatically restricted, suspended or revoked unless the applicable securities regulatory authority otherwise determines in a review of the decision of the Market Regulator undertaken in accordance with Rule 11.3.
- (6) If a Market Regulator restricts, suspends or revokes the access of any person to a marketplace, the Market Regulator shall provide notice forthwith of such suspension or revocation to:
- (a) the person whose access has been restricted, suspended or revoked;
  - (b) each marketplace;
  - (c) each Market Regulator; and
  - (d) each applicable securities regulatory authority.

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### **10.6 Exercise of Authority**

- (1) A Hearing Panel shall make any determination, hold any hearing and make any order or interim order required or permitted of a Market Regulator under this Part.
- (2) A member of the Hearing Committee shall not be a member of any Hearing Panel with respect to any matter if the member:
  - (a) is an officer, partner, director, employee or an associate of any person that is a subject of the hearing, order or interim order;
  - (b) has such other relationship to the person or matter as may be reasonably considered to give rise to a potential conflict of interest.
- (3) Subject to any limitations, restrictions, conditions and requirements that the Board may impose or which may be imposed by applicable securities legislation or any recognition order or registration in respect of the particular marketplace for which the Market Regulator is the regulation service provider, any determination, order or interim order made by a Hearing Panel may be appealed to the Board by a party to the hearing.
- (4) The Board may delegate the power of the Board to hear an appeal to a committee of the Board comprised of not less than three members of the Board.
- (5) On an appeal, the Board may:
  - (a) confirm, reject or vary any determination, order, interim order made by a Hearing Panel; and
  - (b) assess costs of the appeal to any party to the appeal based on the expenses set out in subsection (1) of Rule 10.7.
- (6) If the powers of the Board have been delegated to a committee of the Board in accordance with subsection (3), the committee shall report to the Board at the next meeting of the Board with respect to any exercise of such powers by the committee.
- (7) A member of the Board shall not participate in the consideration of an appeal by the Board or any committee of the Board with respect to any matter if the member:
  - (a) is an officer, partner, director, employee or an associate of any person that is a subject of the hearing, order or interim order;
  - (b) has such other relationship to the person or matter as may be reasonably considered to give rise to a potential conflict of interest.

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### **10.7 Assessment of Expenses**

(1) Any order made under this Part may assess the person against whom the order is made any one or more of the following expenses incurred by the Market Regulator as a result of the investigation and the proceedings resulting in the order:

- (a) recording or transcription fees;
- (b) expenses of preparing transcripts;
- (c) witness fees and reasonable expenses of witnesses;
- (d) professional fees for services rendered by expert witnesses, legal counsel or accountants retained by the Market Regulator;
- (e) expenses of staff time incurred by the Market Regulator;
- (f) travel costs;
- (g) disbursements; or
- (h) any other expenses determined to be appropriate under the circumstances.

(2) Where the Market Regulator conducts an investigation of a complaint or other communication in the nature of a complaint that was made by a person described in subsection (1) of Rule 10.2 and the Market Regulator determines that the complaint or other communication in the nature of a complaint was frivolous, the Market Regulator may assess the expenses incurred by the Market Regulator as a result of the investigation against that person.

### **10.8 Practice and Procedure**

The practice and procedure governing hearings and appeals pursuant to this Part shall be made by a Policy.

### **~~10.3~~ 10.9 Power of Market Integrity Officials**

(1) A Market Integrity Official may, in governing trading in securities on the marketplace:

- (a) delay, halt or suspend trading in a security at any time and for such period of time as such Market Integrity Official may consider appropriate in the interest of a fair and orderly market;

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- (b) refuse to allow any bid price or ask price to be recorded at any time if, in the opinion of such Market Integrity Official, such quotation is unreasonable or not in compliance with these Rules or any Policy;
  - (c) settle any dispute arising from trading in securities on the marketplace where such authority is not otherwise provided for in any requirement governing trading on the marketplace;
  - (d) disallow or cancel any trade which, in the opinion of such Market Integrity Official, is unreasonable or not in compliance with these Rules or any Policy;
  - (e) vary or cancel any trade upon application of the buyer and seller provided such application has been made by the end of trading on the day following the day on which the trade was made or such earlier time as may be established in any ~~requirement~~ Marketplace Rule of the marketplace on which the trade was executed;
  - (f) in respect of any trade which has not complied with the requirements of Part 5, correct the price of the trade to a price at which the trade would have complied with such requirement, or
  - (g) require the Participant to satisfy the better bid or offer up to the volume of the trade which failed to comply with the requirements of Part 5;
  - (h) provide to any person an interpretation of any provision of these Rules and any Policy in accordance with the purpose and intent of provision and shall ensure that any such interpretation is observed by such person;
  - (i) exercise such powers as are specifically granted to a Market Regulator or Market Integrity Official by these Rules and any Policy; and
  - (j) exercise such powers as are specifically granted to the Market Regulator by the marketplace where the marketplace is entitled to grant such powers.
- (2) In determining whether any quotation or trade in a security is unreasonable, the Market Regulator shall consider:
- (a) prevailing market conditions;
  - (b) the last sale price of the security as displayed in ~~the~~ a consolidated market display;
  - (c) patterns of trading in the security on the marketplace including volatility, volume and number of transactions;
  - (d) whether material information concerning the security is in the process of being disseminated to the public; and
  - (e) the extent of the interest of the person for whose account the order is entered in changing the price or quotation for the security.

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### **10.4 10.10 Report of Short Positions**

- (1) A Participant shall calculate, as of 15th day and as of the last day of each calendar month, the aggregate short position of each individual account in respect of each listed security and quoted security.
- (2) Unless a Participant maintains the account in which a Non-Dealer Subscriber has the short position in respect of a listed security or quoted security, the Non-Dealer Subscriber shall calculate, as of the 15th day and as of the last day of each calendar month, the aggregate short position of the Non-Dealer Subscriber in respect of each listed security and quoted security.
- (3) Unless otherwise provided, each Participant and Non-Dealer Subscriber shall file a report of the calculation with ~~[RS Inc.]~~ [RS Inc.](#) in such form as may be required by ~~[RS Inc.]~~ [RS Inc.](#) not later than two trading days following the date on which the calculation is to be made.

### **10.5 10.11 Audit Trail Requirements**

- (1) **Recording Requirements for Receipt or Origination of an Order** – Immediately following the receipt or origination of an order, a Participant shall record:
  - (a) the order identifier;
  - (b) the trading symbol of the security;
  - (c) the number of units of the security to which the order applies;
  - (d) the strike date and strike price, if the security is a derivative instrument;
  - (e) whether the order is a buy or sell order;
  - (f) all order designations required by ~~Rules 6.2(1)(b) and (c)~~ [clause \(b\) of subsection \(1\) of Rule 6.2](#);
  - (g) whether the order is a market order, limit order or other type of order, and if the order is other than a market order, the price at which the order is to trade;
  - (h) the date and time the order is originated or received by the Participant;
  - (i) the client account number or client identifier or, in the case of a jitney order, the identifier of the Participant placing the order;
  - (j) the identifier of any investment adviser or registered representative receiving the order;
  - (k) the date and time that the order expires;

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- (l) any client instructions or consents respecting the handling or trading of the order, if applicable;
  - (m) any information respecting the special terms attaching to the order required by ~~Rule 6.2(2)~~ [subsection \(2\) of Rule 6.2](#), if applicable; and
  - (n) the currency of the order.
- (2) **Recording Requirements for Entry of an Order** – Immediately following the entry of an order to trade on a marketplace, a Participant shall add to the record maintained in accordance with subsection (1):
- (a) the identifier of the Participant through which any trade would be cleared and settled;
  - (b) the identifier assigned to the Participant entering the order;
  - (c) the [identifier assigned to the](#) marketplace on which the order is entered; and
  - (d) the date and time the order is entered.
- (3) **Recording Requirements for Variation, Correction or Cancellation of an Order** – Immediately following the modification or cancellation of an order, a Participant shall add to the record maintained in accordance with subsection (1):
- (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;
  - (c) in the case of variation or correction, 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 in whole or in part of an order, a Participant shall add to the record maintained in accordance with subsection (1):
- (a) the marketplace where the order was executed or the identifier of the Participant executing the order if the order has not been executed on a marketplace;
  - (b) the date and time of the execution of the order;
  - (c) whether the Participant has executed the order as principal;
  - (d) if the order has been partially executed, the number of units of the security bought or sold if shares or contracts;



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- (e) the price at which the order was executed; and
- (f) in the case of a client order, the commission charged.

(5) Additional Recording Requirements under Trading Rules – In addition to any information required to be recorded under subsections (1) to (4), a Participant shall add to the record any information as may be required in accordance with the Trading Rules.

**(5)(6) Transmittal of Order Information to a Marketplace** - The Participant shall transmit the record of the order required to be maintained by the Participant by this section to:

- (a) the Market Regulator for the marketplace on which the trade was executed; or
- (b) if the order was not executed on a marketplace,
  - (i) a Market Regulator if the security is not listed on an Exchange or traded on a ~~recognized quotation and trade reporting system~~, QTRS and
  - (ii) the Market Regulator for the Exchange or the ~~recognized quotation and trade reporting system~~ QTRS on which the security is listed or quoted,

at the time and in such manner and form as may be required by the Market Regulator.

**(7) Provision of Additional Information** – In addition to any information provided by a Participant to a Market Regulator in accordance with subsection ~~(5)~~ (6), the Participant shall provide to the Market Regulator forthwith upon request in such form and manner as may be reasonably required by the Market Regulator:

- (a) any additional information respecting the order or trade reasonably requested; and
- (b) information respecting any prior or subsequent order or trade in the security or a related security undertaken by the Participant whether or not such order was entered or executed on the marketplace of the Market Regulator.

**(8) Provision of Information by a Non-Dealer Subscriber** – Where an order has been entered on a marketplace by a Non-Dealer Subscriber, the Non-Dealer Subscriber shall provide to the Market Regulator of the marketplace on which the order was entered or the Market Regulator of the marketplace on which the order was executed forthwith upon request in such form and manner as may be reasonably required by the Market Regulator:

- (a) any information respecting the order or trade reasonably requested; and

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- (b) information respecting any prior or subsequent order or trade in the security or a related security undertaken by the Non-Dealer Subscriber whether or not such order was entered or executed on the marketplace of the Market Regulator making the request.

### **10.6 10.12 Retention and Inspection of Records and Instructions**

- (1) A Participant shall retain:
  - (a) the record of each order as required by Rule ~~10.5~~ 10.11; and
  - (b) sufficient information to identify the beneficial owner of each account for which a record of an order is retained,

for a period of not less than seven years from the creation of the record of the order, and for the first two years, such record and information shall be kept in a readily accessible location.

- (2) A Participant shall allow the Market Regulator of the marketplace:
  - (a) of which the Participant is a ~~Member, Participating Organization, Approved Participant~~ member, user or subscriber;
  - (b)      on which the Participant entered the order ~~was entered~~; or
  - (c)      on which the order of the Participant was executed,

to inspect and make copies of the record of an order, any record related to the order required to be maintained by the Participant in accordance with applicable securities legislation or the requirements of any self-regulatory organization of which the Participant is a member and information on the beneficial owner of the account at any time during ordinary business hours during the period that such record and information is required to be retained by the Participant.

- (3) A Non-Dealer Subscriber shall allow the Market Regulator of the marketplace:
  - (a) of which the Non-Dealer Subscriber is a subscriber; or
  - (b) on which the order of the Non-Dealer Subscriber was executed,

to inspect and make copies of any information respecting an order at any time during ordinary business hours during the period of not less than seven years from the date of the origination of the order, and for the first two years, such information shall be kept in a readily accessible location.



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### **10.7 10.13 Exchange and Provision of Information by Market Regulators**

Each Market Regulator shall provide information and other forms of assistance for market surveillance, investigative, enforcement and other regulatory purposes including the administration and enforcement of these Rules to:

- (a) a self-regulatory entity;
- (b) a self-regulatory organization in a foreign jurisdiction;
- (c) a securities regulatory authority;
- (d) a securities regulatory authority in a foreign jurisdiction; and
- (e) another Market Regulator.

### **10.8 10.14 Synchronization of Clocks**

Each marketplace, and each Participant ~~Market Regulator~~ shall synchronize the clocks used for recording the time and date of any event that must be recorded pursuant to these Rules to the clock used by the ~~data consolidator~~ Market Regulator for this purpose.

### **10.9 10.15 Assignment of Identifiers and Symbols**

- (1) Each Participant and marketplace shall be assigned a unique identifier for trading purposes.
- (2) Unless otherwise provided, the TSE shall assign each identifier for the purposes of subsection (1) after consultation with BDM and CDNX.
- (3) Each security that trades on a marketplace shall be assigned a unique symbol for trading purposes.
- (4) Unless otherwise provided, the TSE shall assign each symbol for the purposes of subsection (3) after consultation with BDM and CDNX.

## **PART 11 – ADMINISTRATION OF RULES**

### **11.1 General Exemptive Relief**

A Market Regulator may exempt any particular person or particular transaction from the application of a Rule, if in the opinion of the Market Regulator, the provision of such exemption:

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- (a) would not be contrary to the provisions of any applicable securities legislation and the regulation and rules thereunder;
- (b) would not be prejudicial to the public interest or to the maintenance of a fair and orderly market; and
- (c) is warranted after due consideration of the circumstances of the particular person or transaction.

### **11.2 General Prescriptive Power**

- (1) A Market Regulator may, from time to time, make or amend a Policy.
- (2) A Policy or an amendment to a Policy shall not become effective without the approval of the applicable securities regulatory authority.

### **11.3 Review of Market Regulator Decisions**

Any person directly affected by any direction, order or decision of a Market Regulator or Market Integrity Official made in connection with the administration and enforcement of these Rules and any Policy may apply to the applicable securities regulatory authority for a hearing and review of such direction, order or decision in accordance with the procedure for a hearing and review as established from time to time by the securities regulatory authority.

### **11.4 Method of Giving Notice**

- (1) Unless otherwise specifically provided in any Requirement, notice to any person shall be sufficiently given if:
  - (a) delivered personally to the person to whom it is to be given;
  - (b) delivered or mailed by pre-paid ordinary mail to the last address of such person as recorded by the Market Regulator or any securities regulatory authority or recognized self-regulatory organization;
  - (c) provided by telephone transmission or any other form of transmitted or recorded communication or in any other manner which may, in all the circumstances, could be reasonably expected to come to the attention of such person.
- (2) The Market Regulator may change the address of any person on the records of the Market Regulator in accordance with any information believed by the Market Regulator to be reliable.

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- (3) A notice delivered in accordance with this section shall be deemed to have been given when the notice is delivered personally or at the address aforesaid; a notice so mailed shall be deemed to have been given when deposited in a post office or public letter box; and a notice sent by any means of wire or wireless or any other form of transmitted or recorded communication shall be deemed to have been given when delivered to the appropriate communication company or agency or its representatives for dispatch.

### **11.5 Computation of Time**

- (1) In computing the time when a notice must be given or for the doing of anything or taking any proceeding under any provision of a Requirement requiring that a notice be given a specified number of days prior to any meeting, hearing, action or proceeding or that any action be done or proceeding taken within a specified number of days after some event, the date of giving of the notice or of such event shall be excluded and the date of the meeting, hearing, doing of the act or taking of the proceedings shall be included.
- (2) Where the time limited for a proceeding or the doing of anything under any provision of a Requirement expires or falls upon a day that is not a trading day, the time so limited extends to and the thing may be done on the next day following that is a trading day.

### **11.6 Waiver of Notice**

Any person may waive any notice that is required to be given to such person and such waiver, whether given before or after the meeting, hearing or other event of which notice is required to be given, shall cure any default in giving such notice.

### **11.7 Omissions or Errors in Giving Notice**

The accidental omission to give any notice to any person or the failure of a person to receive any notice or an error in any notice not affecting the substance of the notice does not invalidate any action founded or taken on the basis of such notice.

### **11.8 Transitional Provisions**

- (1) Subject to subsection (2), any provision of any rule, policy, ruling, decision or direction of a marketplace in effect immediately prior to the coming into effect of these Rules shall remain in full force and effect until such provision, rule, policy, ruling, decision or direction has been repealed.

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- (2) In the event of a conflict between these Rules and the provisions of any rule, policy, ruling, decision or direction of a marketplace that remains in effect after these Rules come into effect, the provisions of these Rules shall prevail.
- (3) Where a marketplace has retained a Market Regulator to be the regulation service provider for that marketplace in accordance with the Trading Rules, any disciplinary proceedings commenced:
  - (a) prior to the date the marketplace retained the Market Regulator shall be continued by the marketplace in accordance with the rules, policies, rulings, decisions or directions of the marketplace in effect and applicable to such disciplinary proceedings; and
  - (b) on or after the date the marketplace retained the Market Regulator in respect of the breach or failure to comply with any rule, policy, ruling, decision or direction of the marketplace shall be undertaken in accordance with Part 10 and be subject to the imposition of any penalty or remedy under Rule 10.5 as if the breach or failure to comply had been a breach or failure to comply with a Marketplace Rule after the date the marketplace retained the Market Regulator to be the regulation service provider.

### **11.9 Non-Application of Rules**

These Rules do not apply to:

- (a) any order entered and executed on a marketplace provided the order has been entered and executed in compliance with the Marketplace Rules of that marketplace as adopted in accordance with Part 7 of the Trading Rules; and
- (a) any order entered and executed on a marketplace or otherwise provided the order has been entered and executed in compliance with the rules of an applicable regulation service provider as adopted in accordance with Part 8, 9 or 10 of the Trading Rules.