Note: [02 Nov 2026] *- The following is a consolidation of 23-101CP. It incorporates the changes to this document that came into effect on December 31, 2003, December 31, 2006, September 12, 2008, January 28, 2010, February 1, 2011, July 1, 2012, October 1, 2015, July 6, 2016, April 10, 2017 and November 2, 2026. This consolidation is provided for your convenience and should not be relied on as authoritative.*

COMPANION POLICY 23-101
TRADING RULES

TABLE OF CONTENTS

PART	TITLE
PART 1	INTRODUCTION
1.1	Introduction
1.2	Just and Equitable Principles of Trade
PART 1.1	DEFINITIONS
1.1.1	Definition of best execution
1.1.2	Definition of automated trading functionality
1.1.2.1	Application to marketplaces implementing intentional order processing delays
1.1.3	Definition of protected order
1.1.4	Definition of calculated–price order
1.1.5	Definition of directed-action order
1.1.6	Definition of non-standard order
1.1.7	Definition of Trade-through
PART 2	APPLICATION OF THE INSTRUMENT
2.1	Application of the Instrument
PART 3	MANIPULATION AND FRAUD
3.1	Manipulation and Fraud
PART 4	BEST EXECUTION
4.1	Best Execution
PART 5	REGULATORY HALTS
5.1	Regulatory Halts
PART 6	ORDER PROTECTION
6.1	Marketplace Requirements for Order Protection
6.2	Marketplace Participant Requirements for Order Protection
6.3	List of Trade-throughs
6.4	Locked and Crossed Markets
6.4.1	[Deleted]
6.5	Anti-Avoidance Provision

PART 7 MONITORING AND ENFORCEMENT
7.1 Monitoring and Enforcement Requirements Set By a Recognized Exchange or Recognized Quotation and Trade Reporting System
7.2 Monitoring and Enforcement Requirements for an ATS
7.3 Monitoring and Enforcement Requirements for an Inter-Dealer Bond Broker
7.4 Monitoring and Enforcement Requirements for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace
7.5 Agreement between a Marketplace and a Regulation Services Provider
7.6 Coordination of Monitoring and Enforcement

PART 8 AUDIT TRAIL REQUIREMENTS
8.1 Audit Trail Requirements
8.2 Transmission of Information to a Regulation Services Provider
8.3 Electronic Form

COMPANION POLICY 23-101
TRADING RULES

PART 1 INTRODUCTION

1.1 Introduction - The purpose of this Companion Policy is to state the views of the Canadian securities regulatory authorities on various matters related to National Instrument 23-101 *Trading Rules* (the "Instrument"), including

(a) a discussion of the general approach taken by the Canadian securities regulatory authorities in, and the general regulatory purpose for, the Instrument; and

(b) the interpretation of various terms and provisions in the Instrument.

1.2 Just and Equitable Principles of Trade - While the Instrument deals with specific trading practices, as a general matter, the Canadian securities regulatory authorities expect marketplace participants to transact business openly and fairly, and in accordance with just and equitable principles of trade.

PART 1.1 DEFINITIONS

1.1.1 Definition of best execution

(1) In the Instrument, best execution is defined as the "most advantageous execution terms reasonably available under the circumstances". In seeking best execution, a dealer or adviser may consider a number of elements, including:

a. price;

b. speed of execution;

c. certainty of execution; and

d. the overall cost of the transaction.

These four broad elements encompass more specific considerations, such as order size, reliability of quotes, liquidity, market impact (i.e. the price movement that occurs when executing an order) and opportunity cost (i.e. the missed opportunity to obtain a better price when an order is not completed at the most advantageous time). The overall cost of the transaction is meant to include, where appropriate, all costs associated with accessing an order and/or executing a trade that are passed on to a client, including fees arising from trading on a particular marketplace, jitney fees (i.e. any fees charged by one dealer to another for providing trading access) and settlement costs. The commission fees charged by a dealer would also be a cost of the transaction.

(2) The elements to be considered in determining "the most advantageous execution terms reasonably available" (i.e. best execution) and the weight given to each will vary depending on the instructions and needs of the client, the particular security, the

prevailing market conditions and whether the dealer or adviser is responsible for best execution under the circumstances. Please see a detailed discussion below in Part 4.

1.1.2 Definition of automated trading functionality - Section 1.1 of the Instrument includes a definition of "automated trading functionality" which is the ability to:

(1) act on an incoming order;

(2) respond to the sender of an order; and

(3) update the order by disseminating information to an information processor or information vendor.

Automated trading functionality allows for an incoming order to execute immediately and automatically up to the displayed size and for any unexecuted portion of such incoming order to be cancelled immediately and automatically without being booked or routed elsewhere. Automated trading functionality involves no human discretion in determining the action taken with respect to an order after the time the order is received. A marketplace with this functionality should have appropriate systems and policies and procedures relating to the handling of immediate-or-cancel orders.

1.1.2.1 Application to marketplaces implementing intentional order processing delays

(1) Paragraph (b) of the definition of "automated trading functionality" refers to the ability of a marketplace to "immediately and automatically execute an order marked as immediate-or-cancel against the displayed volume".

With respect to the application of sections 6.1 and 6.4, Canadian securities regulatory authorities are of the view that where a marketplace has introduced functionality that imposes an intentional order processing delay that is not applied in the same way to all orders, that marketplace does not provide the ability for an immediate execution against the displayed volume and therefore, does not offer "automated trading functionality". As a result, an order on that marketplace would not be a "protected order" as defined in the Instrument.

Delays in the execution of an order on a particular marketplace might result from operational or technological decisions by a marketplace. The determination of whether the marketplace with a delay offers the ability to immediately execute an order would also be based on, among other factors, how the operational model of the marketplace itself is applied, and the impact of the model or delay as it relates to fair and orderly trading. Although these delays generally would be considered intentional, they could still result in "immediate" executions on that marketplace, despite the fact that executions could be achieved faster on marketplaces that make different decisions.

If a marketplace operates more than one market or facility and it implements an intentional delay in order processing on one or more of them, only the market or facility with an intentional processing delay is considered not to provide automated trading functionality.

(2) For greater certainty, an order processing delay that is imposed solely to comply with securities legislation is not considered an intentional delay.

1.1.3 Definition of protected order

(1) A protected order is defined to be a “protected bid or protected offer”. A “protected bid” or “protected offer” is an order to buy or sell an exchange-traded security, other than an option, that is displayed on a marketplace that provides automated trading functionality and about which information is provided to an information processor or an information vendor, as applicable, pursuant to Part 7 of NI 21-101. In addition, a "protected bid" or "protected offer" is a bid or offer displayed on a marketplace that meets or exceeds the market share threshold as set by the regulator, or in Québec, the securities regulatory authority, or on a recognized exchange that does not meet the market share threshold and the bid or offer displayed is for a security listed by and traded on the recognized exchange.

(2) The regulator, or in Québec, the securities regulatory authority, will apply the threshold on an established periodic basis to assess which marketplaces, including which markets or facilities of a marketplace, meet or exceed the market share threshold for the purposes of the definitions of "protected bid" and "protected offer". The market share threshold will be applied at the market or facility level where the marketplace is comprised of more than one visible continuous auction order book, and will not be calculated in aggregate across those different markets or facilities. A list of those that meet or exceed the market share threshold will be published on the websites of the Canadian securities regulatory authorities and the regulation services provider, so that marketplace participants can easily identify the marketplaces on which displayed orders will be considered to be protected orders in accordance with subparagraph (a)(i) of the definitions of "protected bid" and "protected offer". An updated list will be published after each periodic assessment of which marketplaces meet or exceed the market share threshold, and participants will be given an appropriate amount of time before the effective date of the published list to make any changes to operational processes that might be needed.

(3) In accordance with subsection (a)(ii) of the definitions of "protected bid" and "protected offer", a protected order is also an order displayed on a marketplace that has not met the market share threshold where that marketplace is a recognized exchange, and the order being displayed is for a security listed by and traded on the exchange. The published list will also identify any such recognized exchanges.

(4) The market share threshold criteria, including the specifics regarding the time periods covered by the calculation and the effective date and duration of the published lists, will also be made public. The application of these criteria will be monitored and reviewed, and modifications will be made if and where appropriate or necessary. Advance public notice will be made regarding any changes to the market share threshold criteria.

(5) The term “displayed on a marketplace” refers to the information about total disclosed volume on a marketplace. Volumes that are not disclosed or that are “reserve” or hidden volumes are not considered to be “displayed on a marketplace”. The order must be

provided in a way that enables other marketplaces and marketplace participants to readily access the information and integrate it into their systems or order routers.

(6) Subsection 5.1(3) of 21-101CP does not consider orders that are not immediately executable or that have special terms as "orders" that are required to be provided to an information processor or information vendor under Part 7 of NI 21-101. As a result, these orders are not considered to be "protected orders" under the definition in the Instrument and do not receive order protection. However, those executing against these types of orders are required to execute against all better-priced protected orders first. In addition, when entering a "special terms order" on a marketplace, if it can be executed against existing protected orders despite the special term, then the order protection obligation applies.

1.1.4 Definition of calculated-price order - The definition of "calculated-price order" refers to any order where the price is not known at the time of order entry and is not based, directly or indirectly, on the quoted price of an exchange-traded security at the time the commitment to executing the order was made. This includes the following orders:

(a) a call market order – where the price of a trade is calculated by the trading system of a marketplace at a time designated by the marketplace;

(b) an opening order – where each marketplace may establish its own formula for the determination of opening prices;

(c) a closing order – where execution occurs at the closing price on a particular marketplace, but at the time of order entry, the price is not known;

(d) a volume-weighted average price order – where the price of a trade is determined by a formula that measures average price on one or more marketplaces; and

(e) a basis order – where the price is based on prices achieved in one or more derivative transactions on a marketplace. To qualify as a basis order, this order must be approved by a regulation services provider or an exchange or quotation and trade reporting system that oversees the conduct of its members or users respectively.

1.1.5 Definition of directed-action order

(1) An order marked as a directed-action order informs the receiving marketplace that the marketplace can act immediately to carry out the action specified by either the marketplace or marketplace participant who has sent the order and that the order protection obligation is being met by the sender. Such an order may be marked "DAO" by a marketplace or a marketplace participant. Senders can specify actions by adding markers that instruct a marketplace to:

(a) execute the order and cancel the remainder using an immediate-or-cancel marker,

(b) execute the order and book the remainder,

(c) book the order as a passive order awaiting execution, and

(d) avoid interaction with hidden liquidity using a bypass marker, as defined in IIROC's Universal Market Integrity Rules.

The definition allows for the simultaneous routing of more than one directed-action order in order to execute against any better-priced protected orders. In addition, marketplaces or marketplace participants may send a single directed-action order to execute against the best protected bid or best protected offer. When it receives a directed-action order, a marketplace can carry out the sender's instructions without checking for better-priced protected orders displayed by other marketplaces and implementing the marketplace's own policies and procedures to reasonably prevent trade-throughs.

(2) Regardless of whether the entry of a directed-action order is accompanied by the bypass marker, the sender must take out all better-priced visible protected orders before executing at an inferior price. For example, if a marketplace or marketplace participant combines a directed-action order with a bypass marker to avoid executing against hidden liquidity, the order has order protection obligations regarding the visible protected liquidity. If a directed-action order interacts with hidden liquidity, the requirement to take out all better-priced visible protected orders before executing at a price that is inferior to the best protected bid or best protected offer remains.

1.1.6 Definition of non-standard order - The definition of "non-standard order" refers to an order for the purchase or sale of a security that is subject to terms or conditions relating to settlement that have not been set by the marketplace on which the security is listed or quoted. A marketplace participant, however, may not add a special settlement term or condition to an order solely for the purpose that the order becomes a non-standard order under the definition.

1.1.7 Definition of Trade-through – The definition of 'trade-through' applies only to a trade executed at a price that is inferior to the best protected bid or best protected offer. It is a trade-through regardless of whether the trade occurs on a marketplace that displays protected orders, or one that does not display protected orders. For example, a trade-through would occur if executing against an order that is displayed on an ATS that does not meet the market share threshold and at a price that is inferior to the best-priced protected order. However, a trade-through would not occur if executing against a best-priced protected order despite there being a better-priced order displayed on an ATS that does not meet the market share threshold.

PART 2 APPLICATION OF THE INSTRUMENT

2.1 Application of the Instrument - Section 2.1 of the Instrument provides an exemption from subsection 3.1(1) and Parts 4 and 5 of the Instrument if a person or company complies with similar requirements established by a recognized exchange that monitors and enforces the requirements set under subsection 7.1(1) of the Instrument directly, a recognized quotation and trade reporting system that monitors and enforces requirements set under subsection 7.3(1) of the Instrument directly or a regulation services provider. The requirements are filed by the recognized exchange, recognized quotation and trade reporting system or regulation services

provider and approved by a securities regulatory authority. If a person or company is not in compliance with the requirements of the recognized exchange, recognized quotation and trade reporting system or the regulation services provider, then the exemption does not apply and that person or company is subject to subsection 3.1(1) and Parts 4 and 5 of the Instrument. The exemption from subsection 3.1(1) does not apply in Alberta, British Columbia, Ontario, Québec and Saskatchewan and the relevant provisions of securities legislation apply.

PART 3 MANIPULATION AND FRAUD

3.1 Manipulation and Fraud

(1) Subsection 3.1(1) of the Instrument prohibits the practices of manipulation and deceptive trading, as these may create misleading price and trade activity, which are detrimental to investors and the integrity of the market.

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

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

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

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

(i) establish a predetermined price or quotation,

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

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

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

same price for the sale or purchase, respectively, of that security has been or will be entered by or for the same or different persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

PART 4 BEST EXECUTION

4.1 Best Execution

(1) The best execution obligation in Part 4 of the Instrument does not apply to an ATS that is registered as a dealer provided that it is carrying on business as a marketplace and is not handling any client orders other than accepting them to allow them to execute on the system. However, the best execution obligation does otherwise apply to an ATS acting as an agent for a client.

(2) Section 4.2 of the Instrument requires a dealer or adviser to make reasonable efforts to achieve best execution (the most advantageous execution terms reasonably available under the circumstances) when acting for a client. The obligation applies to all securities.

(3) What constitutes "best execution" will vary depending on the particular circumstances, and is subject to a "reasonable efforts" test that does not require achieving best execution for each and every order. To meet the "reasonable efforts" test, a dealer or adviser should be able to demonstrate that it has, and has abided by, policies and procedures that (i) require it to follow the client's instructions and the objectives set, and (ii) outline the process it has designed toward the objective of achieving best execution. The policies and procedures should describe how the dealer or adviser evaluates whether best execution was obtained and should be regularly and rigorously reviewed. The policies outlining the obligations of the dealer or adviser will be dependent on the role it is playing in an execution. For example, in making reasonable efforts to achieve best execution, the dealer should consider the client's instructions and a number of factors, including the client's investment objectives and the dealer's knowledge of markets and trading patterns. An adviser should consider a number of factors, including assessing a particular client's requirements or portfolio objectives, selecting appropriate dealers and marketplaces and monitoring the results on a regular basis. In addition, if an adviser is directly accessing a marketplace, the factors to be considered by dealers may also be applicable.

(4) Where securities listed on a Canadian exchange or quoted on a Canadian quotation and trade reporting system are inter-listed either within Canada or on a foreign exchange or quotation and trade reporting system, in making reasonable efforts to achieve best execution, the dealer should assess whether it is appropriate to consider all marketplaces upon which the security is listed or quoted and where the security is traded, both within and outside of Canada.

(5) In order to meet best execution obligations where securities trade on multiple marketplaces in Canada, a dealer should consider information from all appropriate

marketplaces, and not just marketplaces where the dealer is a participant. This does not mean that a dealer must have access to real-time data feeds from each marketplace. However, its policies and procedures for seeking best execution should include the process for considering activity on appropriate marketplaces and an evaluation of whether steps should be taken to access orders on a market place to which it does not have access. The steps to access orders may include making arrangements with another dealer who is a participant of a particular marketplace.

(6) As part of an evaluation of whether steps should be taken to access orders on a marketplace to which it does not have access, a dealer should consider how the decision to access or not access orders on that marketplace will impact its ability to achieve best execution for its clients, taking into consideration those clients' objectives and needs. This applies in relation to decisions as to whether to access marketplaces that do not provide pre-trade transparency of orders, as well as those that do display orders that are not protected orders. We expect that documented best execution policies and procedures would include the rationale for accessing or not accessing orders on particular marketplaces, and that the rationale will be reviewed for continued reasonableness at least annually, and more frequently if needed because of changes to the trading environment and market structure. This review might require an analysis of historical data relating to the order and trade activity on marketplaces to which the dealer does not have access. We expect that the factors to be considered in such an analysis would generally include the frequency at which a better price is available, size and depth of quotes, traded volumes, potential market impact, and market share (considering the types and classes of securities traded by clients, generally).

(7) For foreign exchange-traded securities, if they are traded on a marketplace in Canada, dealers should include in their best execution policies and procedures a regular assessment of whether it is appropriate to consider the marketplace as well as the foreign markets upon which the securities trade.

(8) Section 4.2 of the Instrument applies to registered advisers as well as registered dealers that carry out advisory functions but are exempt from registration as advisers.

(9) Section 4.3 of the Instrument requires that a dealer or adviser make reasonable efforts to use facilities providing information regarding orders and trades. These reasonable efforts refer to the use of the information displayed by the information processor or, if there is no information processor, an information vendor.

PART 5 REGULATORY HALTS

5.1 Regulatory Halts - Section 5.1 of the Instrument applies when a regulatory halt has been imposed by a regulation services provider, a recognized exchange, or a recognized quotation and trade reporting system. A regulatory halt, as referred to in section 5.1 of the Instrument, is one that is imposed to maintain a fair and orderly market, including halts related to a timely disclosure policy, or because there has been a violation of regulatory requirements. In the view of the Canadian securities regulatory authorities, an order may trade on a marketplace despite the fact that trading of the security has been suspended because the issuer of the security has ceased

to meet minimum listing or quotation requirements, or has failed to pay to the recognized exchange, or the recognized quotation and trade reporting system any fees in respect of the listing or quotation of securities of the issuer. Similarly, an order may trade on a marketplace despite the fact that trading of the security has been delayed or halted because of technical problems affecting only the trading system of the recognized exchange, or recognized quotation and trade reporting system.

PART 6 ORDER PROTECTION

6.1 Marketplace Requirements for Order Protection

(1) Subsection 6.1(1) of the Instrument requires a marketplace to establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs by orders entered on that marketplace regardless of whether the marketplace on which that order is entered displays orders that are protected orders. A marketplace may implement this requirement in various ways. For example, the policies and procedures of a marketplace may reasonably prevent trade-throughs via the design of the marketplace's trade execution algorithms (by not allowing a trade-through to occur), or by voluntarily establishing direct linkages to other marketplaces. Marketplaces are not able to avoid their obligations by establishing policies and procedures that instead require marketplace participants to take steps to reasonably prevent trade-throughs.

(2) It is the responsibility of marketplaces to regularly review and monitor the effectiveness of their policies and procedures and take prompt steps to remedy any deficiencies in reasonably preventing trade-throughs and complying with subsection 6.1(2) of the Instrument. In general, it is expected that marketplaces maintain relevant information so that the effectiveness of its policies and procedures can be adequately evaluated by regulatory authorities. Relevant information would include information that describes:

(a) steps taken by the marketplace to evaluate its policies and procedures;

(b) any breaches or deficiencies found; and

(c) the steps taken to resolve the breaches or deficiencies.

(3) As part of the policies and procedures required in subsection 6.1(1) of the Instrument, a marketplace is expected to include a discussion of their automated trading functionality and how they will handle potential delayed responses as a result of an equipment or systems failure or malfunction experienced by any other marketplace displaying protected orders. In addition, marketplaces should include a discussion of how they treat a directed-action order when received and how it will be used.

(4) Order protection applies whenever two or more marketplaces that display orders subject to the pre-trade transparency requirements in Part 7 of NI 21-101 are open for trading, and the displayed orders of at least one of those marketplaces are protected orders. Some marketplaces provide a trading session at a price established by that marketplace during its regular trading hours for marketplace participants who are required to benchmark to a certain closing price. In these circumstances, under subparagraph 6.2(e)(iii) of the

Instrument, a marketplace that provides such sessions would not be required to take steps to reasonably prevent trade-throughs of protected orders on another marketplace.

6.2 Marketplace Participant Requirements for Order Protection

(1) For a marketplace participant that wants to use a directed-action order, section 6.4 of the Instrument requires a marketplace participant to establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs of protected orders, regardless of whether the marketplace on which it is entering the directed-action order displays orders that are protected orders. In general, it is expected that a marketplace participant that uses a directed-action order would maintain relevant information so that the effectiveness of its policies and procedures can be adequately evaluated by regulatory authorities. Relevant information would include information that describes:

(a) steps taken by the marketplace participant to evaluate its policies and procedures;

(b) any breaches or deficiencies found; and

(c) the steps taken to resolve the breaches or deficiencies.

The policies and procedures should also outline when it is appropriate to use a directed-action order and how it will be used as set out in paragraph 6.4(1)(a) of the Instrument.

(2) Order protection applies whenever two or more marketplaces that display orders subject to the pre-trade transparency requirements in Part 7 of NI 21-101 are open for trading, and the displayed orders of at least one of those marketplaces are protected orders. Some marketplaces provide a trading session at a price established by that marketplace during its regular trading hours for marketplace participants who are required to benchmark to a certain closing price. In these circumstances, under paragraph 6.4(1)(a)(iv)(C) of the Instrument, a marketplace participant would not be required to take steps to reasonably prevent trade-throughs of protected orders on other marketplaces that result from an execution of the closing-price order.

6.3 List of Trade-throughs - Section 6.2 and paragraphs 6.4(1)(a)(i) to 6.4(1)(a)(v) of the Instrument set forth a list of "permitted" trade-throughs that are primarily designed to achieve workable order protection and to facilitate certain trading strategies and order types that are useful to investors.

(a) (i) Paragraphs 6.2(a) and 6.4(1)(a)(i) of the Instrument would apply where a marketplace or marketplace participant, as applicable, has reasonably concluded that the marketplace displaying the protected order that has been traded through is experiencing a failure, malfunction or material delay of its systems, equipment or ability to disseminate marketplace data. A material delay occurs when a marketplace repeatedly fails to respond immediately after receipt of an order. This is intended to provide marketplaces and marketplace participants with flexibility when dealing with a marketplace that is experiencing systems problems (either of a temporary nature or a longer term systems issue).

(ii) Under subsection 6.3(1) of the Instrument, a marketplace that is experiencing systems issues is responsible for informing all other marketplaces, its marketplace participants, any information processor, or if there is no information processor, an information vendor disseminating its information under Part 7 of NI 21-101 and regulation services providers when a failure, malfunction or material delay of its systems, equipment or ability to disseminate marketplace data occurs. This applies both to marketplaces that display orders that are protected orders and marketplaces that display orders that are not protected orders. However, if a marketplace that displays orders that are protected orders fails repeatedly to provide an immediate response to orders received and no notification has been issued by that marketplace that it is experiencing systems issues, the routing marketplace or a marketplace participant may, pursuant to subsections 6.3(2) and 6.3(3) of the Instrument respectively, reasonably conclude that the marketplace is having systems issues and may therefore rely on paragraph 6.2(a) or 6.4(1)(a)(i) of the Instrument respectively. This reliance must be done in accordance with policies and procedures that outline processes for dealing with potential delays in responses by a marketplace and documenting the basis of its conclusion. If, in response to the notification by the routing marketplace or a marketplace participant, the marketplace confirms that it is not actually experiencing systems issues, the routing marketplace or marketplace participant may no longer rely on paragraph 6.2(a) or paragraph 6.4(1)(a)(i) of the Instrument respectively.

(b) Paragraph 6.2(b) of the Instrument provides an exception from the obligation on marketplaces to use their policies and procedures to reasonably prevent trade-throughs when a directed-action order is received. Specifically, a marketplace that receives a directed-action order may immediately execute or book the order (or its remaining volume) and not implement the marketplace's policies and procedures to reasonably prevent trade-throughs. However, the marketplace will need to describe its treatment of a directed-action order in its policies and procedures. Paragraphs 6.2(c) and 6.4(1)(a)(iii) of the Instrument provide an exception where a marketplace or marketplace participant simultaneously routes directed-action orders to execute against the total displayed volume of any protected order traded through. This accounts for the possibility that orders that are routed simultaneously as directed-action orders are not executed simultaneously causing one or more trade-throughs to occur because an inferior-priced order is executed first.

(c) Paragraphs 6.2(d) and 6.4(1)(a)(ii) of the Instrument provide some relief due to moving or changing markets. Specifically, the exception allows for a trade-through to occur when immediately before executing the order that caused the trade-through, the marketplace on which the execution occurred had the best price but at the moment of execution, the market changes and another marketplace has the best price protected order. The "changing markets" exception allows for the execution of an order on a marketplace, within the best bid or offer on that

marketplace but outside the best protected bid or best protected offer displayed across all marketplaces that display protected orders, in certain circumstances. This could occur for example:

(i) where orders are entered on a marketplace but by the time they are executed, the best protected bid or best protected offer displayed across marketplaces changed; and

(ii) where a trade is agreed to off-marketplace and entered on a marketplace within the best protected bid and best protected offer across marketplaces, but by the time the order is executed on the marketplace (i.e. printed) the best protected bid or best protected offer as displayed across marketplaces may have changed, thus causing a trade-through.

(d) The basis for the inclusion of calculated-price orders, non-standard orders and closing-price orders in paragraphs 6.2(e) and 6.4(1)(a)(iv) of the Instrument is that these orders have certain unique characteristics that distinguish them from other orders. The characteristics of the orders relate to price (calculated-price orders and closing-price orders) and non-standard settlement terms (non-standard orders) that are not set by an exchange or a quotation and trade reporting system.

(e) Paragraphs 6.2(f) and 6.4(1)(a)(v) of the Instrument include a transaction that occurred when there is a crossed market between protected orders in the exchange-traded security. Without this allowance, no marketplace could execute transactions where the best protected bid and best protected offer are crossed because it would constitute a trade-through. With order protection only applying to displayed protected orders or parts of protected orders, hidden or reserve orders may remain in the book after all displayed protected orders are executed. Consequently, crossed markets between protected orders may occur. Intentionally crossing the best protected bid or best protected offer to take advantage of paragraphs 6.2(f) and 6.4(1)(a)(v) of the Instrument would be a violation of section 6.5 of the Instrument.

6.4 Locked and Crossed Markets

(1) Section 6.5 of the Instrument provides that a marketplace participant or a marketplace that routes or reprices orders must not intentionally lock or cross a protected order by entering a displayed order on any marketplace to either buy a security at a price that is the same as or higher than the best protected offer or sell a security at a price that is the same as or lower than the best protected bid. he intention of section 6.5 of the Instrument is to prevent intentional locks and crosses of protected orders. This applies regardless of whether the locking or crossing order is entered on a marketplace that displays orders that are protected orders. This provision is not intended to prohibit the use of marketable limit orders. Paragraphs 6.2(f) and 6.4(1)(a)(v) of the Instrument allow for the resolution of crossed markets that occur unintentionally.

The Canadian securities regulatory authorities consider an order that is routed or repriced to be "entered" on a marketplace. The Canadian securities regulatory authorities do not consider the triggering of a previously-entered on-stop order to be an "entry" or "repricing" of that order.

(2) Section 6.5 of the Instrument does not restrict the ability for a marketplace participant or a marketplace that routes or reprices orders from routing or entering a displayed order that will lock or cross with another displayed order that is not a protected order.

If the entry of a protected order locks or crosses with a displayed order on another marketplace that is not a protected order, section 6.5 of the Instrument would restrict the ability for additional orders to be entered that would lock or cross with the protected order. This should help to minimize the duration of a locked or crossed markets in these circumstances.

A displayed order that is not a protected order that becomes locked or crossed with a subsequently entered protected order does not need to be repriced or cancelled. If, however, the marketplace subsequently reprices the non-protected displayed order, as might occur with a pegged order, it will be considered to be "entered" upon repricing and subject to the restrictions against locking or crossing with a protected order.

If a marketplace participant deliberately attempts to circumvent section 6.5 of the Instrument by first entering a displayed order on a marketplace that is not a protected order, followed by the entry of a protected order on another marketplace that locks or crosses with the first displayed non-protected order it entered, the Canadian securities regulatory authorities would consider this to be a violation of section 6.5

(3) An intentional locking or crossing of a protected order could occur where a marketplace system is programmed to reprice orders without checking to see if the new price would lock a protected order or where the marketplace routes orders to another marketplace that results in a lock with a protected order. It could also occur where the intention of the marketplace participant was to lock or cross a protected order to avoid fees charged by a marketplace or to take advantage of rebates.

There are situations where a lock or cross of a protected order may occur unintentionally. For example:

(a) the locking or crossing order was displayed at a time when the marketplace displaying the locked or crossed protected order was experiencing a failure, malfunction or material delay of its systems, equipment or ability to disseminate marketplace data;

(b) the locking or crossing order was displayed at a time when a protected bid was higher than a protected offer;

(c) the locking or crossing order was posted after all displayed protected liquidity was executed and a reserve order generated a new visible protected bid above the displayed protected offer or new visible protected offer below the displayed bid;

(d) the locking or crossing order was entered on a particular marketplace in order to comply with securities legislation requirements such as Rule 904 of Regulation S of the *Securities Act of 1933* that requires securities subject to resale restrictions in the United States to be sold in Canada on a "designated offshore securities market";

(e) the locking or crossing order was displayed due to "race conditions" when competing orders, at least one of which is a protected order, are entered on marketplaces at essentially the same time with neither party having knowledge of the other order at the time of entry;

(f) the locking or crossing order was a result of the differences in processing times and latencies between the systems of the marketplace participant, marketplaces, information processor and information vendors;

(g) the locking or crossing order was a result of marketplaces having different mechanisms to "restart" trading following a halt in trading for either regulatory or business purposes; and

(h) the locking or crossing order was a result of the execution of an order during the opening or closing allocation process of one market, while trading is simultaneously occurring on a continuous basis on another market displaying protected orders.

(4) If a marketplace participant using a directed-action order chooses to book the order or the remainder of the order not immediately executed, then it is responsible for ensuring that the booked portion of the directed-action order does not lock or cross a protected order. The Canadian securities regulatory authorities would consider a directed-action order or remainder of a directed-action order that is booked and that locks or crosses a protected order to be an intentional locking or crossing of a protected order and a violation of section 6.5 of the Instrument.

6.4.1 [Deleted]

6.5 Anti-Avoidance Provision - Section 6.7 of the Instrument prohibits a person or company from sending an order to an exchange, quotation and trade reporting system or alternative trading system that does not carry on business in Canada in order to avoid executing against better-priced protected orders on a marketplace in Canada. The intention of this section is to prevent the routing of orders to foreign marketplaces only for the purpose of avoiding the order protection regime in Canada.

PART 7 MONITORING AND ENFORCEMENT

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

quotation and trade reporting system can monitor and enforce these requirements either directly or indirectly through a regulation services provider. A regulation services provider is a person or company that provides regulation services and is either a recognized exchange, recognized quotation and trade reporting system or a recognized self-regulatory entity.

If a recognized exchange or recognized quotation and trade reporting system has entered into a written agreement with a regulation services provider, it is expected that the requirements adopted by the recognized exchange or recognized quotation and trade reporting system under Part 7 of the Instrument will consist of all of the rules of the regulation services provider that relate to trading. For example, if a recognized exchange or recognized quotation and trade reporting system has entered into a written agreement with IIROC, the rules adopted by the recognized exchange or recognized quotation and trade reporting system are all of IIROC's Universal Market Integrity Rules. Clock synchronization, trade markers and trading halt requirements would be examples of these adopted rules that relate to the regulation services provider's monitoring of trading on the recognized exchange or recognized quotation and trade reporting system and across marketplaces.

We are of the view that all of the rules of the regulation services provider related to trading must be adopted by a recognized exchange or recognized quotation and trade reporting system that has entered into a written agreement with the regulation services provider given the importance of these rules in the context of effectively monitoring trading on and across marketplaces. We note that the regulation services provider is required to monitor the compliance of, and enforce, the adopted rules as against the members of the recognized exchange or users of the recognized quotation and trade reporting system. The regulation services provider is also required to monitor the compliance of the recognized exchange or recognized quotation and trade reporting system with the adopted rules but it is the applicable securities regulatory authority that will enforce these rules against the recognized exchange or recognized quotation and trade reporting system.

Sections 7.2 and 7.4 of the Instrument require the recognized exchange or recognized quotation and trade reporting system that chooses to have the monitoring and enforcement performed by the regulation services provider to enter into an agreement with the regulation services provider in which the regulation services provider agrees to enforce the requirements of the recognized exchange or recognized quotation and trade reporting system adopted under subsection 7.1(1) and 7.3(1).

Specifically, sections 7.2 and 7.4 require the written agreement between a recognized exchange or recognized quotation and trade reporting system and its regulation services provider to provide that the regulation services provider will monitor and enforce the requirements set under subsection 7.1(1) or 7.3(1) and monitor the requirements adopted under subsection 7.1(3) or 7.3(3).

Paragraph 7.2.1(a)(i) mandates that a recognized exchange must transmit information reasonably required by the regulation services provider to effectively monitor the conduct of and trading by marketplace participants on and across marketplaces. The reference to monitoring trading "across marketplaces" refers to the instance where particular securities are

traded on multiple marketplaces. Where particular securities are only traded on one marketplace, the reference to "across marketplaces" may not apply in all circumstances.

Paragraph 7.2.1(a)(ii) requires that a recognized exchange must transmit information reasonably required by the regulation services provider to effectively monitor the compliance of the recognized exchange with the requirements adopted under subsection 7.1(3). As well, subsection 7.2.1(b) requires a recognized exchange to comply with all orders or directions of its regulation services provider that are in connection with the conduct and trading by the recognized exchange's members on the recognized exchange and with the regulation services provider's oversight of the compliance of the recognized exchange with the requirements adopted under 7.1(3).

7.2 Monitoring and Enforcement Requirements for an ATS - Section 8.2 of the Instrument requires the regulation services provider to set requirements that govern an ATS and its subscribers. Before executing a trade for a subscriber, the ATS must enter into an agreement with a regulation services provider and an agreement with each subscriber. These agreements form the basis upon which a regulation services provider will monitor the trading activities of the ATS and its subscribers and enforce its requirements. The requirements set by a regulation services provider must include requirements that the ATS and its subscribers will conduct trading activities in compliance with the Instrument. The ATS and its subscribers are considered to be in compliance with the Instrument and are exempt from the application of most of its provisions if the ATS and the subscriber are in compliance with the requirements set by a regulation services provider.

7.3 Monitoring and Enforcement Requirements for an Inter-Dealer Bond Broker - Section 9.1 of the Instrument requires that a regulation services provider set requirements governing the conduct of an inter-dealer bond broker. Under section 9.2 of the Instrument, the inter-dealer bond broker must enter into an agreement with the regulation services provider providing that the regulation services provider monitor the activities of the inter-dealer bond broker and enforce the requirements set by the regulation services provider. However, section 9.3 of the Instrument provides inter-dealer bond brokers with an exemption from sections 9.1 and 9.2 of the Instrument if the inter-dealer bond broker complies with the requirements of IIROC Rule 2800 Code of Conduct for Corporation Dealer Member Firms Trading in Wholesale Domestic Debt Markets, as amended, as if that policy was drafted to apply to the inter-dealer bond broker.

7.4 Monitoring and Enforcement Requirements for a Dealer Executing Trades of Unlisted Debt Securities Outside of a Marketplace - Section 10.1 of the Instrument requires that a regulation services provider set requirements governing the conduct of a dealer executing trades of unlisted debt securities outside of a marketplace. Under section 10.2 of the Instrument, the dealer must also enter into an agreement with the regulation services provider providing that the regulation services provider monitor the activities of the dealer and enforce the requirements set by the regulation services provider.

7.5 Agreement between a Marketplace and a Regulation Services Provider -The purpose of subsections 7.2(c) and 7.4(c) of the Instrument is to facilitate the monitoring of trading by marketplace participants on and across multiple marketplaces by a regulation services provider. These sections of the Instrument also facilitate monitoring of the conduct of a recognized

exchange and recognized quotation and trade reporting system for particular purposes. This may result in regulation services providers monitoring marketplaces that have retained them and reporting to a recognized exchange, recognized quotation and trade reporting system or securities regulatory authority if a marketplace is not meeting regulatory requirements or the terms of its own rules or policies and procedures. While the scope of this monitoring may change as the market evolves, we expect it to include, at a minimum, monitoring clock synchronization, the inclusion of specific designations, symbols and identifiers, order protection requirements and audit trail requirements.

7.6 Coordination of Monitoring and Enforcement

(1) Section 7.5 of the Instrument requires regulation services providers, recognized exchanges and recognized quotation and trade reporting systems to enter into a written agreement whereby they coordinate the enforcement of the requirements set under Parts 7 and 8. This coordination is required in order to achieve cross-marketplace monitoring.

(2) If a recognized exchange or recognized quotation and trade reporting system has not retained a regulation services provider, it is still required to coordinate with any regulation services provider and other exchanges or quotation and trade reporting systems that trade the same securities in order to ensure effective cross-marketplace monitoring.

(3) Currently, only IIROC is the regulation services provider for both exchange-traded securities, other than options and in Québec, other than standardized derivatives, and unlisted debt securities. If more than one regulation services provider regulates marketplaces trading a particular type of security, these regulation services providers must coordinate monitoring and enforcement of the requirements set.

PART 8 AUDIT TRAIL REQUIREMENTS

8.1 Audit Trail Requirements - Section 11.2 of the Instrument imposes obligations on dealers and inter-dealer bond brokers to record in electronic form and to report certain items of information with respect to orders and trades. Information to be recorded includes any markers required by a regulation services provider (such as a significant shareholder marker). The purpose of the obligations set out in Part 11 is to enable the entity performing the monitoring and surveillance functions to construct an audit trail of order, quotation and transaction data which will enhance its surveillance and examination capabilities.

8.2 Transmission of Information to a Regulation Services Provider - Section 11.3 of the Instrument requires that a dealer and an inter-dealer bond broker provide to the regulation services provider information required by the regulation services provider, within ten business days, in electronic form. This requirement is triggered only when the regulation services provider sets requirements to transmit information.

8.3 Electronic Form - Subsection 11.3 of the Instrument requires any information required to be transmitted to the regulation services provider and securities regulatory authority in electronic form. Dealers and inter-dealer bond brokers are required to provide information in a form that is accessible to the securities regulatory authorities and the regulation services provider (for example, in SELECTR format).