

## CSA Notice and Request for Comment

### Proposed Amendments to National Instrument 21-101 *Marketplace Operation* and National Instrument 23-101 *Trading Rules*

April 24, 2014

#### *Introduction*

The Canadian Securities Administrators (the CSA or we) are publishing for a 90 day comment period proposed amendments (the Proposed Amendments) to the following materials:

- National Instrument 21-101 *Marketplace Operation* (NI 21-101) and Companion Policy 21-101CP (21-101CP);
- National Instrument 23-101 *Trading Rules* (NI 23-101) and Companion Policy 23-101CP (23-101CP and, together with NI 21-101, 21-101CP and NI 23-101, the Marketplace Rules);
- Form 21-101F1 *Information Statement Exchange or Quotation and Trade Reporting System* (Form 21-101F1);
- Form 21-101F2 *Initial Operation Report Alternative Trading System* (Form 21-101F2);
- Form 21-101F3 *Quarterly Report of Marketplace Activities* (Form 21-101F3);
- Form 21-101F4 *Cessation of Operations Report for Alternative Trading System* (Form 21-101F4)
- Form 21-101F5 *Initial Operation Report for Information Processor* (Form 21-101F5), and
- Form 21-101F6 *Cessation of Operations Report for Information Processor* (Form 21-101F6 and, together with Form 21-101F1, Form 21-101F2, Form 21-101F3, Form 21-101F4, and Form 21-101F5, the Forms).

The text of the Proposed Amendments is contained in Annexes B through D of this notice and is also available on websites of CSA jurisdictions, including:

[www.lautorite.qc.ca](http://www.lautorite.qc.ca)  
[www.albertasecurities.com](http://www.albertasecurities.com)  
[www.bcsc.bc.ca](http://www.bcsc.bc.ca)  
[www.gov.ns.ca/nssc](http://www.gov.ns.ca/nssc)  
[www.fcnb.ca](http://www.fcnb.ca)  
[www.osc.gov.on.ca](http://www.osc.gov.on.ca)  
[www.fcaa.gov.sk.ca](http://www.fcaa.gov.sk.ca)  
[www.msc.gov.mb.ca](http://www.msc.gov.mb.ca)

#### **Background**

The Marketplace Rules have been in place since 2001 and have been regularly updated since then. The last set of revisions to the Marketplace Rules came into force on July 1, 2012 (the

2012 Amendments), with the exception of amendments to Form 21-101F3, which came into force on December 31, 2012.

### **Substance and purpose**

The purpose of the Proposed Amendments is to update the Marketplace Rules to reflect developments that have occurred since they were last revised, in the following main areas:

- Requirements applicable to marketplaces' and information processors' systems and business continuity planning;
- Government debt transparency; and
- Other various areas where we identified that updates or additional guidance are required.

The Proposed Amendments apply to marketplaces, including alternative trading systems (ATSS), recognized quotation and trade reporting systems (QTRSs), recognized exchanges, and information processors.

### *Summary of the Proposed Amendments*

The Proposed Amendments:

- Extend the existing exemption from the transparency requirements applicable to government debt securities in section 8.6 of NI 21-101 until January 1, 2018;
- Revise the existing requirements applicable to marketplaces' and information processors' systems and business continuity planning;
- Change the provision in section 5.10 of NI 21-101 that currently prohibits a marketplace from disclosing a marketplace participant's order and trade information without the marketplace participant's consent in order to allow the marketplace to provide it to researchers if certain terms and conditions are met;
- Require a marketplace that has co-location arrangements with a third-party service provider to publicly disclose that it has the arrangement along with the name of the provider on its website and ensure each third party that provides a form of access complies with the marketplace's criteria for access;
- Revise the information in Exhibit G in Form 21-101F1 and Form 21-101F2 to ensure we receive relevant information regarding marketplace systems and contingency planning;
- Introduce requirements in Part 13 *Clearing and Settlement* of NI 21-101 to assist in the operation of multiple clearing agencies;
- Make a number of amendments to Form 21-101F3 in order to facilitate the reporting of information in electronic form;
- Provide additional clarification on existing requirements, including guidance on what is considered to be a significant change to Form 21-101F1 and Form 21-101F2; and
- Clarify the obligations of a recognized exchange to its regulation services provider (RSP).

## **Local Matters**

Certain jurisdictions are publishing other information required by local securities legislation. In Saskatchewan, this information is contained in Annex E of this Notice.

## **Annexes**

- A. Description of changes to the Marketplace Rules and Forms;
- B. The Proposed Amendments;
- C. A blackline of NI 21-101, 21-101CP and the Forms, revised with the Proposed Amendments, against the existing NI 21-101, 21-101CP and Forms;
- D. A blackline of NI 23-101 and 23-101CP, revised with the Proposed Amendments, against the existing NI 23-101 and 23-101CP; and
- E. Local matters.

## **Authority of the Proposed Amendments**

In those jurisdictions in which the Proposed Amendments are to be adopted, the securities legislation provides the securities regulatory authority with rule-making or regulation-making authority in respect of the subject matter of the amendments.

In Saskatchewan, the proposed amendments to NI 21-101 and the Forms are being made under the following provisions of *The Securities Act, 1988* (Saskatchewan) (Act):

- Paragraph 154(1)(f) authorizes the Authority to make regulations prescribing requirements in respect of the disclosure or furnishing of information to among others the public or the Authority by among others registrants.
- Paragraph 154(1)(h) authorizes the Authority to make regulations prescribing requirements in respect of the books, records and other documents to be kept by market

participants, including the form in which and the period for which the books, records and other documents are to be kept.

- Paragraph 154(1)(i) authorizes the Authority to make regulations regulating the listing or trading of among others publicly traded securities including requiring reporting of trades and quotations.
- Paragraphs 154(1)(k) and (ee.11) authorizes the Authority to make regulations regulating recognized or designated entities.
- Paragraph 154(1)(l) authorizes the Authority to make regulations regulating trading or advising in securities and exchange contracts to prevent trading or advising that it is fraudulent, manipulative, deceptive or unfairly detrimental to investors.
- Paragraph 154(1)(ii) authorizes the Authority to make regulations requiring or respecting the media, format, preparation, form, content. execution, certification, dissemination, and other use, filing and review of all documents required under or governed by the Act, the regulations and all documents, determined by the regulations to be ancillary to the documents.

In Saskatchewan the proposed amendments to NI 23-101 are being made under the following provisions of the Act:

- Paragraph 154(1)(h) authorizes the Authority to make regulations prescribing requirements in respect of the books, records and other documents to be kept by market participants, including the form in which and the period for which the books, records and other documents are to be kept.
- Paragraph 154(1)(k) and (ee.11) authorizes the Authority to make regulations regulating recognized or designated entities.
- Paragraph 154(1)(l) authorizes the Authority to make regulations regulating trading or advising in securities and exchange contracts to prevent trading or advising that it is fraudulent, manipulative, deceptive or unfairly detrimental to investors.

### *Deadline for Comments*

Please submit your comments to the Proposed Amendments, in writing, on or before July 24, 2014. If you are not sending your comments by email, please send a CD containing the submissions (in Microsoft Word format).

### **Where to Send Your Comments**

Address your submission to all of the CSA as follows:

British Columbia Securities Commission  
Alberta Securities Commission  
Financial and Consumer Affairs Authority of Saskatchewan  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers

Financial and Consumer Services Commission (NB)  
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland and Labrador  
Superintendent of Securities, Northwest Territories  
Superintendent of Securities, Yukon Territory  
Superintendent of Securities, Nunavut

Deliver your comments **only** to the addresses below. Your comments will be distributed to the other participating CSA jurisdictions.

The Secretary  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, Ontario M5H 3S8  
Fax: 416-593-2318  
[comments@osc.gov.on.ca](mailto:comments@osc.gov.on.ca)

M<sup>e</sup> Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
800, square Victoria, 22e étage  
C.P. 246, tour de la Bourse  
Montréal (Québec) H4Z 1G3  
Fax : 514-864-6381  
[consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

### **Comments Received will be Publicly Available**

Please note that we cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period. In this context, you should be aware that some information which is personal to you, such as your e-mail and address, may appear on certain CSA websites. It is important that you state on whose behalf you are making the submission.

All comments will be posted on the Ontario Securities Commission website at [www.osc.gov.on.ca](http://www.osc.gov.on.ca) and on the Autorité des marchés financiers website at [www.lautorite.qc.ca](http://www.lautorite.qc.ca).

### *Questions*

Please refer your questions to any of the following:

<p>Sonali GuptaBhaya  Senior Legal Counsel  Market Regulation  Ontario Securities Commission  416-593-2331</p>	<p>Ruxandra Smith  Senior Accountant  Market Regulation  Ontario Securities Commission  416-593-8322</p>
<p>Serge Boisvert  Senior Policy Advisor  Direction des bourses et des OAR  Autorité des marchés financiers  514-395-0337 ext. 4358</p>	<p>Maxime Lévesque  Policy Advisor  Direction des bourses et des OAR  Autorité des marchés financiers  514-395-0337 ext. 4324</p>
<p>Bonnie Kuhn  Manager, Legal  Alberta Securities Commission  403-355-3890</p>	<p>Sarah Corrigan Brown  Senior Legal Counsel  British Columbia Securities Commission  604-899-6738</p>