

B.11

CIRO, Marketplaces, Clearing Agencies and Trade Repositories

B.11.2 Marketplaces

B.11.2.1 OTCX Trading Limited – Application for Exemption from Recognition as Exchange – Notice and Request for Comment

NOTICE AND REQUEST FOR COMMENT

APPLICATION BY OTCX TRADING LIMITED FOR EXEMPTION FROM RECOGNITION AS EXCHANGE

A. Background

OTCX Trading Limited (**OTCX**) has applied to the Commission for an exemption from the requirement to be recognized as an exchange pursuant to subsection 21(1) of the *Securities Act* (Ontario) (**OSA**).

OTCX is a marketplace for trading single and multi-currency interest rate swaps, overnight index swaps, inflation swaps, swaptions, forward rate agreements, constant maturity swaps, caps/floors and total return swaps that are regulated by the U.K. Financial Conduct Authority (**FCA**).

OTCX intends to provide direct access to trading on its marketplace to eligible participants located in Ontario and therefore is considered to be carrying on business in Ontario.

As OTCX will be carrying on business in Ontario, it is required to be recognized as an exchange under the OSA or apply for an exemption from this requirement. OTCX has applied for an exemption from the recognition requirements on the basis that it is already subject to regulatory oversight by the FCA.

B. Application and Draft Exemption Order

In the application, OTCX has outlined how it meets the criteria for exemption from recognition. The specific criteria can be found in Appendix I of the draft exemption order. Subject to comments received, Staff intends to recommend that the Commission grant an exemption order with terms and conditions based on the draft exemption order. The application and draft exemption order are available on our website at www.osc.ca.

C. Comment Process

The Commission is publishing for public comment the OTCX application and the draft exemption order. We are seeking comment on all aspects of the application and draft exemption order.

Please provide your comments in writing, via e-mail, on or before September 2, 2024, to the attention of:

Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

The confidentiality of submissions cannot be maintained as the comment letters and a summary of written comments received during the comment period will be published.

Questions may be referred to:

Mark Delloro
Senior Accountant, Trading & Markets
Email: mdelloro@osc.gov.on.ca

Emily Park
Legal Counsel, Trading & Markets
Email: epark@osc.gov.on.ca

OTCX Trading Limited

APPLICATION FOR EXEMPTION FROM RECOGNITION AS AN EXCHANGE

OTCX Trading Limited
49 Queen Victoria Street
London EC4N 4SA
United Kingdom
01 May 2024

Sent By online form

Attn: Secretary of Ontario Securities Commission

Ontario Securities Commission

20 Queen Street West, 19th Floor

Toronto, Ontario M5H 3S8

Re: OTCX UK MTF – Application for Exemption from Recognition as an Exchange

Dear Sirs and Mesdames,

This application (the “Application”) is being submitted by OTCX Trading Limited (“OTCX” or “Applicant”) as operator of OTCX Trading Limited’s multilateral trading facility (“OTCX UK MTF”) to the Ontario Securities Commission (“Commission”). The Applicant is requesting an order for the following relief (collectively, the “Requested Relief”) in relation to its operation of a multilateral trading facility (an “MTF”) in the province of Ontario:

(a) exempting the Applicant from the requirement to be recognised as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Securities Act (Ontario) (the “Act”); and

(b) exempting the Applicant from the requirements in National Instrument 21-101 Marketplace Operation (“NI 21-101”) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 Trading Rules (“NI 23-101”) pursuant to section 12.1 of NI 23-101 and National Instrument 23-103 Electronic Trading and Direct Electronic Access to Marketplaces (“NI 23-103”) pursuant to section 10 of NI 23-103.

OTCX Trading Limited has been authorised by the Financial Conduct Authority (FCA) as a UK Markets in Financial Instruments Directive (MiFID) investment firm including operating an MTF since 24th July 2023. The MTF offers trading of cleared and uncleared swaps which are regulated as MiFID Financial Instruments by the FCA.

OTCX is planning to provide access to the MTF to sophisticated participants (Eligible Contract Participants or Professional Clients as described in the FCA Handbook) in Ontario. The Applicant does not provide access to retail clients.

OTCX UK MTF intends to provide access to Participants located in Ontario, including such entities with their headquarters or legal address in Ontario (e.g., as indicated by their Legal Entity Identifier (LEI)), and all traders conducting transactions on behalf of a Participant, regardless of the traders’ physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (“Ontario Users”).

Multilateral trading facilities (“MTF”) are considered exchanges (as per OSC Staff Notice 21-711 Multilateral Trading Facilities – Exemption from Requirement to be Recognized as an Exchange). OTCX therefore has a requirement for the Requested Relief from the Commission.

The Applicant has no physical presence and does not otherwise intend to carry on business in Ontario except as described herein.

The Applicant seeks the Requested Relief on the basis that it is already subject to regulatory oversight by the FCA.

This Application is divided into the following Parts I to V, Part III of which describes how OTCX UK MTF satisfies the Commission Staff’s criteria for exemption as an exchange.

Part I Introduction

1. Description of Applicant's Services to Ontario Residents
- 1.1 OTCX has been registered with the FCA (FRN 979952 [OTCX Trading Limited \(fca.org.uk\)](https://www.fca.org.uk)) as a UK MiFID investment firm with authorisation to operate a Multilateral Trading Facility since 24th July 2023. OTCX UK MTF provides clients with a request for quote (RFQ) Trading Protocol (as described in Appendix I of the Applicant's publicly available set of rules "[MTF Rulebook](#)") that enables price discovery and trade execution from investors (buy-side) to banks (sell-side) in interest rate derivatives, credit derivatives and equity derivatives (further detailed in Part II below). Clients are institutional in nature, with OTCX only offering services to [Eligible Counterparties](#) and [Professional clients](#) (as defined in the FCA Handbook COBS 3.5 and 3.6 COBS 3 - FCA Handbook) undertaking a variety of hedging and investing activity to support their clients and investors mandates.
- 1.2 OTCX plans to offer access to the OTCX UK MTF to users located in Ontario ("Ontario Users"). Ontario Users include participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (LEI)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity. To obtain access to the OTCX UK MTF, an Ontario User must be a firm that is eligible to join OTCX UK MTF, has successfully completed all on-boarding requirements (as described in section 4 – Access). Participants and their personnel authorised to access the platform on behalf of the Participant (being either Authorised Traders or Authorised Agent). (The terms "Participant", "Authorised Trader" and "Authorised Agent" are defined in the OTCX Trading Limited [MTF Rulebook](#).)
- 1.3 OTCX obtains a representation from each Ontario User seeking access to OTCX UK MTF that they are appropriately registered under Ontario securities laws to use OTCX UK MTF or are exempt from or not subject to such registration requirements.
- 1.4 OTCX does not have and does not intend to have any offices or maintain other physical installations in Ontario or any other Canadian province or territory.

Part II Background of the Applicant

1. Ownership of the Applicant
- 1.1 OTCX Trading Limited is 100% owned by its parent company OTCX UK Holdings Limited, which is 100% owned by OTCX Limited.
- 1.2 OTCX Ltd is a limited company registered in England and Wales with the details below:

Registered address: 49 Queen Victoria St, London EC4N 4SA
Company Number: 08538579
2. Products on the Applicant's MTF Trading Venue.
- 2.1 MiFID Financial Instruments classification available on the OTCX UK MTF authorised by the FCA (subset available to Ontario Users - see below):

Level 1	Level 2	Level 3
C4 Financial Instruments	Interest Rate Derivatives	Interest rate swaps (single currency): <ul style="list-style-type: none"> • Fixed-to-Fixed 'single currency swaps' and futures/forwards on Fixed-to-Fixed 'single currency swaps' • Fixed-to-Float 'single currency swaps' and futures/forwards on Fixed-to-Float 'single currency swaps' • Float-to-Float 'single currency swaps' and futures/forwards on Float-to-Float 'single currency swap'
		Interest Rate Swaps (multi-currency): <ul style="list-style-type: none"> • Fixed-to-Fixed 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards on Fixed-to-Fixed 'multi-currency swaps' or 'cross-currency swaps' • Float-to-Float 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards on Float-to-Float 'multi-currency swaps' or 'cross-currency swaps' • Fixed-to-Float 'multi-currency swaps' or 'cross-currency swaps' and futures/forwards on Fixed-to-Float 'multi-currency swaps' or 'cross-currency swaps'
		<ul style="list-style-type: none"> • Overnight Index Swap (OIS) 'single currency swaps' and futures/forwards on Overnight Index Swap (OIS) 'single currency swap' • FRA (Forward Rate Agreements) • Inflation 'single currency swaps' and futures/forwards on Inflation 'single currency swaps' • Swaptions
	Other Interest Rate Derivatives	<ul style="list-style-type: none"> • Caps/Floors
	Equity Derivatives	<ul style="list-style-type: none"> • Stock Options • Stock index options
C8 Financial Instruments	Credit Derivatives	<ul style="list-style-type: none"> • Index credit default swap (CDS) • Single name credit default swap (CDS) • Total Return Swaps • Constant Maturity Swaps

OTCX will not provide access to an Ontario User to trading in products other than swaps or security based swaps as defined in section 1a(47) of the United States Commodity Exchange Act (CEA) without prior Commission approval. This product set offered to Ontario Users will be single and multi-currency interest rate swaps, overnight index swaps, inflation swaps, swaptions, forward rate agreements, constant maturity swaps, caps/floors and total return swaps.

2.2 OTCX UK MTF offers a Request for quote (RFQ) Trading Protocol [as defined in UK MiFID] that is described in Appendix I of the OTCX Trading Limited MTF Rulebook.

3. Participants

3.1 All Participants of OTCX UK MTF, including Ontario-based Members will be large banks and investors who are sophisticated commercial entities, who are required to meet the criteria of 'Professional Client' or 'Eligible Counterparty' (as those terms are defined by FCA's Handbook COBS 3.5 and 3.6 COBS 3 - FCA Handbook), and meet any equivalent local standards and requirements for investment sophistication in their own local jurisdictions. OTCX UK MTF is not made available to retail investors.

Part III Application of Exemption Criteria to the Applicant

The following is a discussion of how the Applicant meets the criteria of the Commission for exemption of a foreign exchange that allows participants to trade OTC derivatives from recognition as an exchange.

PART 1 REGULATION OF THE EXCHANGE

1.1 *Regulation of the Exchange – The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (Foreign Regulator).*

1.1.1 OTCX UK MTF is an MTF, as defined in the Regulation (EU) No. 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments. Following the UK's exit from the EU this is onshored regulation to the UK by virtue of the European Union (Withdrawal) Act 2018 (EUWA). OTCX UK MTF is authorised and regulated by the FCA under reference number 979952.

1.1.2 MTF operators that are authorised by the FCA must comply with applicable FCA rules contained in the [FCA Handbook](#). In particular:

- Market conduct rules including the UK version of EU Market Abuse Directive 596/2014;
- MiFID MTF requirements in the market conduct rules that include requirements for:
 - o Transparent rules including for financial instruments traded and non-discriminatory rules for client access

- Fair and orderly trading
 - Technical resilience and detailed procedures for operations
 - Identify and manage conflicts of interests
 - Conduct of business requirements;
 - The prudential sourcebook for investment firms, which implements part of the fourth EU capital requirements directive (as onshored into UK law) as it relates to investment firms (including MTF operators)
 - The conduct of business sourcebook, which implements part of MiFID as it relates to firms that carry on designated investment business (including operating an MTF); and
 - High Level Standards and Regulatory Processes, which impose general requirements on FCA-authorized firms, such as MTF operators, and their approved persons.
- 1.2 *Authority of the Foreign Regulator – The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.*
- 1.2.1 The FCA is the United Kingdom’s competent authority that has direct regulatory and oversight responsibility over MTFs as regulated entities providing regulated activities.
- 1.2.2 As an FCA authorised operator of OTCX UK MTF, OTCX is subject to regulatory supervision by the FCA. The FCA’s threshold conditions dictate that a regulated firm must be capable of being effectively supervised by the FCA having regard to all the circumstances. The FCA has the jurisdiction to perform reviews and assess and enforce OTCX UK MTF’s adherence to the FCA Handbook and the rules contained therein on an ongoing basis. Breach of a threshold condition could lead to enforcement action.
- 1.2.3 The Applicant is required to act in accordance with the FCA’s high level Principles for Businesses contained in Chapter 2 of the FCA Handbook ([PRIN 2.1 The Principles - FCA Handbook](#)). These include requirements for the Applicant to conduct its business with integrity, due skill, care and diligence, organize and control its affairs responsibly with adequate risk management systems, maintain adequate financial resources and observe proper standards of market conduct. The Applicant is also required to deal with the FCA in an open and cooperative way and must disclose to the FCA appropriately anything relating to the Applicant of which the FCA would reasonably expect notice.

PART 2 GOVERNANCE

- 2.1 Governance – The governance structure and governance arrangements of the exchange ensure:

Effective oversight of the exchange

- The FCA rules place considerable emphasis on the role and responsibilities of the board of directors (the “Board”) and senior management.

The Board is responsible for the strategy and management, risk and control and financial oversight of the firm.

- The Board will operate through several committees, each of which will operate under Terms of Reference approved by the Board.
- The firm is required to operate according to Group policies which are set out by the Board and those committees which have delegated authority

Responsibilities of the OTCX Board include: -

- Making strategic decisions affecting the future operation of the company.
- Ensuring that between them the directors have the necessary up-to-date experience, skills, and capabilities
- Overseeing the discharge by the executive management of the day-to-day business of the company
- Evaluate Board performance based on clear and relevant objectives, seeking continuous improvement
- Setting appropriate policies to manage risks to the company’s operations and the achievement of its regulatory objectives.

- Ultimate responsibility for the effectiveness of the company's anti-money laundering and financial crime policies, systems, and controls
- Seeking regular assurance that the system of internal control is effective in managing risks in the manner it has approved.
- Maintaining a sound system of financial control.
- Communicate how the company is governed and is performing by maintaining a dialogue with shareholders and other relevant stakeholders
- Establishing and maintaining arrangements to ensure accountability regarding decisions of committees of the Board and executive management, through periodic reporting.
- Promote a corporate culture that is based on ethical values and behaviours
- To discharge its duties effectively the Board meets at least quarterly. Additional meetings of the directors are held as required.
- The Board members may request information from any employee of the company, and this includes calling any employee to attend a Board meeting to answer questions on a particular matter.

Fitness Standards

- The Applicant is subject to the UK's Senior Managers and Certification Regime (SMCR) as detailed in FCA Handbook SYSC 23-27 [SYSC.pdf \(fca.org.uk\)](#). Individuals holding certain Senior Management Functions ("SMFs") for the Applicant must be approved by the FCA. This includes the [FCA controlled functions](#) of chair of the governing body, the chief executive, compliance oversight, executive director and the money laundering reporting officer. Individuals performing these controlled functions are known as senior managers and appear on the FCA's financial services register.

Corporate governance and risk control framework overview:

Governance – audit and risk committee

The firm's audit and risk committee will have a standing quarterly meeting. The chairman will chair the meetings. The standard members of the risk committee will include the following functions:

- Chairman
- One other non-executive director
- Chief operations officer and/or chief technology officer and/or chief financial officer as deemed necessary
- Money laundering reporting officer
- Compliance officer

Other departments may be invited to attend the risk committee.

The audit and risk committee is responsible for exercising risk management oversight of the Firm.

The chair of the audit and risk committee reports into the Board.

Specific responsibilities of the audit and risk committee include:

- Supporting the Board in meeting its responsibilities for an effective system of internal control and financial reporting.
- Monitoring and assessing the role and effectiveness of internal audit in the overall context of the organisation's risk management system and the work of risk and compliance, finance, and the external auditor.
- Overseeing the operation of the company's complaints scheme on behalf of the Board.
- The committee also provides assurance on any additional matters as instructed or delegated by the Board.

Governance – nominations committee

The firms nomination committee will have an annual meeting. The chairman will chair the meetings. The standard members of the nomination committee will include the following functions:

- Chairman (chair)
- Investor director / non-executive director
- Chief Executive Officer (CEO)

The nomination committee is responsible for advising the Board and to make recommendations to the Board on the appointment and removal of the executive directors or the non-executive directors.

Specific responsibilities of the management committee include:

- Ensure there is a robust process for the appointment of new board directors
- The nomination committee should work closely with the Board and the chair to identify the skills, experience, personal qualities, and capabilities required for the next stage in the company's development, linking the company's strategy to future changes on the Board.
- Provide recommendations for succession planning including possible internal candidates for future Board roles.
- If necessary, the nomination committee must provide support to the chair in taking the steps to remove any underperforming executive director or non-executive director.

Governance – remuneration committee

The firms remuneration committee will have an annual meeting. The non-executive director will chair the meetings. The standard members of the remuneration committee will include the following functions:

- Investor director
- Non-executive director

The remuneration committee is responsible for ensuring that there is a formal and transparent procedure for developing policy [UK CDR 2017/565 (EU) Article 27] on executive remuneration and for agreeing the remuneration packages of individual directors. This includes recommending to the Board, the annual budget for pay and incentive awards.

Specific responsibilities of the remuneration committee include:

- All appointments of any employees or consultants having an aggregate annual remuneration or fee exceeding a predetermined limit and the material variation of the terms of employment or engagement of any such employees or consultants.
- Any variation of the terms or amount of any employee remuneration package (including salary, bonuses and options and other incentives) other than increases in basic salary in line with inflation.
- The establishment of any share option or share incentivisation scheme, profit sharing, bonus, pension or other benefit or incentive scheme and the variation of any of the same.
- The grant of options under any scheme established.

Governance – responsible officer

- The responsibility for the day-to-day oversight of the MTF will be delegated by the Board to the trading operations manager
- The trading operations manager will monitor the operation of the MTF against the firm's trading venue policy. The responsible officer reports directly into chief operating officer (SMF16/17 compliance oversight and money laundering reporting officer)

Governance – the compliance department

- The responsibility for the day-to-day oversight of compliance will be delegated by the Board to the compliance officer (SMF16/17 – compliance oversight and money laundering reporting officer). The compliance officer reports directly into the CEO.
- The compliance officer will monitor the operation of the firm against the compliance monitoring programme.
- The compliance monitoring programme is an integral part of assessing compliance to ensure OTCX staff and clients will comply with its policies and procedures. It has been developed in conjunction with the policies and the Risk Management Framework (RMF) to identify and mitigate against the risk of noncompliance.
- The compliance monitoring programme will be subject to periodic operational review by the audit and risk committee and will make recommendations to the Board of any improvements or remedial actions.

(a) that business and regulatory decisions are in keeping with its public interest mandate,

OTCX UK MTF operates on a basis consistent with applicable laws and regulations, and industry best practice. Its rules, policies and activities are designed to ensure continuous fair treatment of clients. As a regulated trading venue OTCX UK MTF has and must maintain processes and procedures that provide for fair and equal access to its systems and information. Key principles required by FCA ([PRIN 2.1 The Principles - FCA Handbook](#)) include “A firm must pay due regard to the interests of its customers and treat them fairly” and “A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.”

(b) fair, meaningful and diverse representation on the board of directors (Board) and any committees of the Board, including:

- (i) appropriate representation of independent directors, and**
- (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,**

The Applicant considers several factors in determining the composition of the Board, including whether directors, both individually and collectively, possess the required integrity, experience, judgment, commitment, skills and expertise to exercise their obligations of oversight and guidance over an MTF.

The Applicant has two non-executive directors (NED) with diverse and broad financial market experience that is proportionate to the size and requirements of OTCX Trading Limited operating an MTF. In particular one NED has deep expertise of managing multi jurisdictional trading venues including MTFs.

(c) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and

OTCX adheres to the FCA Principles requirement 8 - A firm must manage conflicts of interest fairly, both between itself and its customers and between a customer and another client.

OTCX achieves this through policies and procedures that have been adopted through a conflicts of interest taxonomy which outlines the conflict types that may arise when undertaking business activities.

The conflicts of interest may arise across the following scenarios:

- o Between separate operating entities within the group.
- o Between the personal interests of the employee and the firm.
- o Between the firm and its clients; and
- o Between the firm’s staff and its suppliers.

OTCX implements the following requirements to mitigate the risks mentioned above:

- OTCX takes all appropriate steps to identify and to prevent or manage conflicts as they arise during the course of business. This is conducted by a general annual Conflict of Interest risk assessment, Outsourcing due diligence and training for personnel;

- All conflicts of interest are recorded in the conflicts of interest register, including the mitigation measures. Compliance includes these mitigation measures as part of ongoing 2nd line monitoring;
- There is awareness among personnel to stimulate identification of conflicts of interest; and;
- Where organisational or administrative arrangements made by OTCX to prevent conflicts of interest from adversely affecting the interest of its clients are not sufficient to ensure, with reasonable confidence, that risks of damage to client interests will be prevented, OTCX shall clearly disclose to the client the general nature and/or sources of conflicts of interest and the steps taken to mitigate those risks. The disclosure shall be made in a durable medium and include sufficient detail, taking into account the nature of the client, to enable that client to take an informed decision with respect to the service in the context of which the conflict arises.

(d) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

As part of the Senior Managers Certification Regime (SMCR) the firm is required to have approved persons performing an FCA controlled function. As mentioned above for OTCX this has led to the chair, the CEO, compliance oversight, executive director and the money laundering reporting officer roles being approved by the FCA. The process involved determining appropriate qualifications in terms of skills and competency assessments as well as learning and development plans to maintain knowledge and improve where required. For other employees a performance management process assesses skills and competency as well as setting goals.

Remuneration is detailed in the governance section above and demonstrates controls and policies to promote performance in line with risk management.

Professional indemnity/civil liability and directors' and officers' liability insurance are in place and reviewed on a yearly basis in line with any business changes.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

As noted above Senior Managers are approved by the FCA. The FCA grants approval based on them being a "fit and proper person" to perform the relevant controlled function. The SMCR process is thorough and detailed. The Applicant must also assess the fitness and propriety of Senior Managers on an annual basis and notify the FCA if it becomes aware of information which would reasonably be material to the assessment of Senior Manager's fitness and propriety. Similarly, whilst not approved by the FCA, the Applicant must ensure that Non-SM NEDs are fit and proper before they commence their appointment.

Senior managers and Non-senior manager NEDs are directly subject to obligations under the FCA's regulatory regime and must comply with the conduct rules

The process for assessing fitness and propriety requirements is an ongoing and at least annual. It is a regulatory requirement and for OTCX the in scope senior management functions are chair, CEO, chief operating officer, head of compliance, money laundering reporting officer, chief technology officer and chief financial officer.

Initial FCA approval is required before commencing these roles. This comprises a rigorous check of the job description and responsibilities including regulatory reference and criminal record checks.

For the annual assessment the senior manager is required to:

- fill out a fit and proper questionnaire. This is reviewed by compliance and signed off by the line manager
- review and confirm the job description and statement of responsibility are up to date
- review and confirm the reporting and management information to address the statement of responsibility are satisfactory including new management information resulting from the risk management framework

Compliance reviews the files for any conduct, management information or learning and development areas to feed into the annual training plan. The results of the review are reported into the nominations committee.

As a result, senior managers are assessed as to whether they are fit and proper and any new training requirements are identified.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

As an MTF operator, the Applicant requires specific permission from the FCA to offer the OTCX UK MTF in respect of each type of financial instrument ("specified investments", as defined in The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001)) traded on the OTCX UK MTF. FCA permission has been granted through an authorization process. Updates will be through a variation of permission process with the FCA ([SUP 6.3 – FCA Handbook](#)). The process is internally governed by the New Business Initiative (NBI) Policy which sets out the controls and governance requirements to implement regulatory changes at OTCX.

The FCA can require the OTCX UK MTF to suspend or remove Financial Instruments.

As part of its initial authorization, the FCA granted permission on July 24, 2023 for the Applicant to offer the OTCX UK MTF in respect of interest rate swaps, credit default swaps and equity derivatives.

The New Business Initiative (NBI) Process is as follows:

When OTCX wants to offer new or modified services to clients, all proposals will need to undergo a formal regulatory impact analysis to identify any new licensing requirements, changes to regulatory obligations, conduct or market risks, and any control enhancements or modifications. This includes any review and approval of products.

The CEO will be ultimately responsible for the NBI process. Compliance will oversee this assessment in conjunction with other functional areas. Any analysis assessment, advice or approval must be documented for audit purposes.

Any business change would go through OTCX's IT change management process which would perform an assessment as to what level of involvement and / or compliance sign-off is required. When the business change requires modifying any of the existing control and supervisory processes, the relevant control functions must be given sufficient budget and resources to enable the control enhancements.

All staff must follow the NBI process and not engage in any new business prior to obtaining approval.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

OTCX has a publicly available MTF Rulebook that is required to provide transparent, non-discriminatory rules based on objective criteria. Any changes must be communicated to all Participants and advance notice is required for material changes. The Rulebook includes a Trading Protocol description that is one of the MiFID trading systems available (Request for quote trading system – see [ANNEX I Description of the type of system and the related information to be made public in accordance with Article 2 Information to be made public in accordance with Article 2 - FCA Handbook](#)). In addition, onboarding procedures require static data set up to enable MiFID compliant trading and reporting.

As a result, the OTCX UK MTF adheres to the usual commercial customs and practices of trading the defined products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

OTCX has detailed monitoring and internal controls, in particular with relation to organisational requirements under MiFID II Article 48 Systems resilience, circuit breakers and electronic trading. These requirements are implemented following detailed analysis in regards to the nature, scale and complexity of OTCX's business and have been reviewed by the FCA during the authorisation process.

Additionally, OTCX has performed a market abuse risk assessment to determine monitoring requirements to detect actual or potential market abuse as well as detecting disorderly trading conditions. The assessment of risk is in the context of the RFQ trading system where Participants quote on a disclosed basis. As a result, OTCX operates a trade surveillance program that provides automated alerts that are reviewed for action or escalation by the operations team.

The automated alerts consist of alerts based on size of trade, price of trade and number of trade requests. Once an alert is generated the following process occurs:

- Operations evaluate and recommend any action to compliance
- Compliance reviews the alert and determines if any action
- Alerts are reviewed for sensitivity to amend threshold if required
- Possible actions:
 - o Suspend Instrument
 - o Suspend entity or individual
 - o Cancel unexecuted orders
 - o Suspicious transaction report (market abuse suspected)
 - o Suspicious activity report (money laundering or terrorist activity suspected)
 - o Report to FCA and publish on OTCX website as appropriate

OTCX adopts a Risk Management Framework ('RMF') to protect the firm and its customers, and to ensure ongoing compliance with regulatory expectations.

The adoption of the RMF enables the firm to identify, monitor, and manage the various risks affecting the firm and to promptly address them before they cause adverse effects on the firm and its customers. The RMF also assists OTCX in applying a consistent approach for the implementation of monitoring and control activities across the firm.

The RMF is articulated via the risk taxonomy and the control framework which are reviewed annually.

On an operational level the trading operations manager provides management of the MTF including:

- Monitoring and maintaining static data requirements of participants,
- Daily monitoring and Issue resolution\escalation across venue controls, reporting obligations and error trades
- 1st line support for any of the downstream trade flow interfaces and reporting processes
- Liaison with the company's compliance officer covering any required market notification
- Market abuse monitoring – including escalation to the compliance officer and assistance with the production of any suspicious trading reports
- User acceptance testing of any changes to the Trade-flow process and technology

As a result, OTCX has demonstrated proportionate controls to mitigate the associated risks with trading products.

PART 4 ACCESS

4.1 Fair Access

- (a) *The exchange has established appropriate written standards for access to its services including requirements to ensure*
- (i) *participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,*
 - (ii) *the competence, integrity and authority of systems users, and*
 - (iii) *systems users are adequately supervised.*
- (b) *The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.*
- (c) *The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.*

- (d) *The exchange does not*
- (i) *permit unreasonable discrimination among participants, or*
 - (ii) *impose any burden on competition that is not reasonably necessary and appropriate.*

In order to fulfil the FCA requirements for a trading venue, participants are required to adhere to rules to ensure a fair, efficient market. Fees are charged on a publicly available rate card with sell side price makers paying a fee based on transaction and/or subscription fees. In order to maintain an orderly market a certain level of technical and product expertise is required.

The model is disclosed relationship based as participants are either sell side price makers or buy side price takers in the request for quote trading system. Provided a participant is able to fulfil the criteria for onboarding there is no preferential treatment or discrimination to the participants.

- (e) *The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.*

The client onboarding procedure ends with an operational confirmation to compliance as to whether a potential participant has been onboarded to the venue. This decision is logged in the compliance portal to be reviewed at the audit and risk committee.

OTCX UK MTF has a publicly available MTF Rulebook that is consistent with the FCA's Code of Market Conduct of the FCA Handbook ([MAR 5.3.1\(4\)](#)) meaning that the Applicant provides access to participants on a fair, non-discriminatory and open basis. Participant status, access to, and usage of, the OTCX UK MTF is available to all market participants that meet the criteria set forth by the Applicant. The Applicant onboards prospective participants against the Applicant's eligibility criteria as part of its onboarding procedures.

Specifically, to be eligible for admission as a participant, a participant applicant must demonstrate to the satisfaction of the Applicant that it:

- Is an eligible counterparty or professional client (as those terms are defined by FCA's Handbook COBS 3.5 and 3.6 COBS 3 - FCA Handbook);
- Satisfies "know your customer" checks, sanctions, and anti-money laundering checks;
- Meets eligibility criteria and operational requirements as specified in the OTCX UK MTF Rulebook (see below)

Eligibility criteria ensure that a participant on the venue is able to legally and organisationally operate on the OTCX UK MTF. This includes:

- legal and regulatory authority to transact, clear and settle trades
- operating from a jurisdiction that OTCX is able to provide services

Operational requirements ensure that trading on the system will subject to system and staff requirements to prevent disruption. This includes:

- systems and controls to apply the rules
- meeting OTCX technical standards
- adequately trained staff

For Ontario clients a specific process for onboarding will require the participant to acknowledge that it is appropriately registered under Ontario securities laws, exempt from registration or not subject to registration requirements.

Users are required to be trained as a condition of operation requirements in the OTCX UK MTF Rulebook.

Record keeping requirements as described in the MTF Rulebook (OTCX retains records of all submitted Orders, executed Transactions, services, and activities undertaken on the OTCX UK MTF to meet its ongoing Record Keeping Obligations) will ensure that records of onboarding processes are maintained including approval or denying access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

The requirements of the FCA Handbook and OTCX UK MTF Rulebook ensure that OTCX UK MTF has the authority and processes to perform regulatory functions including governing and monitoring a participant's conduct.

The FCA requirements for OTCX UK MTF approval ensure that resources, capabilities and systems are sufficient to perform its regulatory functions including:

- Clear rules and process for suspension and removal of participants including an appeals process
- Surveillance of activity to detect breaches of the Rulebook, disorderly trading and market abuse,
- Determination of error trades
- Co-operation with FCA
- Temporarily amend or revoke the rules in circumstances that require immediate action

Processes are in place to monitor, escalate and act on alerts via trading operations and compliance.

PART 6 RULEMAKING

6.1 Purpose of Rules

(a) *The exchange has rules, policies and other similar instruments (**Rules**) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.*

Obligations under the FCA rules mean that OTCX UK MTF has implemented a publicly available MTF Rulebook and associated policies that govern the operations and activities of the OTCX UK MTF Participants.

OTCX UK MTF is required to implement non-discriminatory rules that would not impose any burden on competition unless they are reasonably necessary and appropriate because such rules would not meet MTF regulatory requirements.

- (b) *The Rules are not contrary to the public interest and are designed to*
- (i) *ensure compliance with applicable legislation,*
 - (ii) *prevent fraudulent and manipulative acts and practices,*
 - (iii) *promote just and equitable principles of trade,*
 - (iv) *foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,*
 - (v) *provide a framework for disciplinary and enforcement actions, and*
 - (vi) *ensure a fair and orderly market.*

The OTCX UK MTF Rulebook is subject to FCA rules, standards and requirements. All eligible participants that meet the criteria in the Rulebook are eligible to participate. For Ontario clients they must additionally acknowledge it is appropriately registered under Ontario securities laws, exempt from registration or not subject to registration requirements.

These publicly available rules and standards to ensure a fair and orderly market are not contrary to the public interest and ensure compliance with applicable legislation contained within the FCA rules and applicable law. In addition, participants are required to comply with the MTF Rulebook and applicable law. OTCX actively monitors participant's compliance with these rules.

Manipulative practices are specifically prohibited.

As described the non-discriminatory rules for fair and transparent trading promote just and equitable principles of trade.

Co-operation with the FCA is a key principle and rule for the OTCX UK MTF. Participants accessing a clearing house must adhere to the rules and procedures of the clearing house in line with MTF Rulebook.

The OTCX UK MTF has rules to suspend or remove participants in circumstances where

- the participant or its Authorised Trader breaches the rules or its policies and Agreement agreed during onboarding;
- The Participant suffers an insolvency event;
- The Participant suffers a default event;
- The Participant is subject to enforcement action by a Regulator or Competent Authority;
- The Participant no longer meets the eligibility criteria;
- The Operator deems that the Participant is not making appropriate use of the OTCX UK MTF or that restriction, suspension, or removal of the Participant is necessary to ensure a fair and orderly market on the OTCX UK MTF

A participant may appeal against a decision taken to suspend or remove a participant.

The MTF Rulebook provides the framework to ensure a fair and orderly market including the ability to suspend participants, specific instruments, specific asset classes or if required all trading. Additionally the previously mentioned monitoring and surveillance to detect Rule breaking, disorderly trading and market abuse.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

- (a) *parties are given an opportunity to be heard or make representations, and*
- (b) *it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.*

OTCX UK MTF in line with FCA MAR 5 guidelines for systems and controls and for monitoring compliance with the rules of the MTF, OTCX UK MTF has implemented sanctions and an appeal process as detailed in the MTF Rulebook.

OTCX UK MTF may prevent a client becoming a participant if it does not satisfy the eligibility criteria as discussed in section 4 above.

If a participant wishes to make a complaint to OTCX regarding the operation of the OTCX UK MTF or the conduct of a Participant or any suspicion that a Participant has committed a breach of MTF Rules, they may do so in writing or via email as described in the MTF Rulebook.

The MTF Rulebook also details the Market Notice process that requires OTCX to provide Participants if there are any changes to the Rules.

The Applicant will act promptly if a complainant participant accepts any offer of redress or remedial action that the Applicant has offered. The Applicant keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access, along with a record of any breaches of the OTCX UK MTF rules by participants for at least five years.

PART 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.

It is the Applicant's requirement in the MTF Rulebook that participants (including Ontario participants) are either (a) are clearing members of a clearing house and clear directly (provided such clearing house has obtained recognition as a clearing agency in Ontario or an exemption or interim exemption from recognition as a clearing agency in Ontario) or (b) have a relationship with a clearing member on whom the participant relies for clearing.

The participant is required to determine which transactions executed on the OTCX UK MTF are required to be cleared. The transaction is specified as a cleared transaction before pricing and execution. If the participant is not a clearing member OTCX UK MTF facilitates a pre-execution credit check on behalf of the clearing member to verify pre-execution limits. Only if confirmation of limits is received can OTCX confirm the cleared derivative for execution.

Participants accessing a clearing house must adhere to the rules and procedures of the relevant clearing house in respect of the clearing and settlement of the transactions.

In the event a transaction concluded on the OTCX UK MTF is not accepted by the applicable clearing house, OTCX UK MTF shall void such transaction. Where the non-acceptance is due to a technical or clerical problem, the transaction can be submitted for clearing once more within one hour from the previous submission in the form of a new transaction but with the same economic terms, provided that both counterparties have agreed to the second submission.

OTCX's rulebook under section 29 Clearing states:

"29.1 Participants are responsible for:

- i) determining which Transactions executed on the OTCX MTF require to be cleared,
- ii) submitting such Transactions for clearing; and
- iii) fulfilling the Rules of the relevant agreements necessary for clearing the Transactions in line with Applicable Law."

It is the participant's responsibility to ensure any clearing mandate is adhered to. OTCX provides operational support to ensure each cleared trade has a pre-trade credit check (for non-clearing member) and is sent to clearing after the conclusion of the trade. The participant is required to determine if the product is cleared pre-trade.

Note: For US Persons additional clearing-related requirements will be added to the rulebook once CFTC authorisation is obtained by a no action letter (or equivalence). See footnote 13 of the previous no action letter requiring a rulebook update (<https://www.cftc.gov/csl/22-16/download>).

Note also that OTCX UK MTF was authorised by FCA subsequent to the 01 Dec 2022 no action letter.

8.2 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

For all cleared interest rate swap trades OTCX provides connectivity to either LCH Limited or Chicago Mercantile Exchange, Inc. via an established third party middleware provider (MarkitWire). LCH Limited is supervised as a UK Central Counterparty (CCP) by the Bank of England ([Financial market infrastructure supervision | Bank of England](#)). Chicago Mercantile Exchange, Inc. is eligible for temporary deemed recognition in the UK by virtue of the Temporary Recognition Regime established by the Central Counterparties (Amendments, etc., and Transitional Provision) (EU Exit) Regulations 2018 as amended and therefore eligible for temporary deemed recognition pursuant to article 25 of the European Market Infrastructure Regulation (as amended) ('UK EMIR'). [List of non-UK CCPs that are taken to be eligible for temporary deemed recognition in the UK \(bankofengland.co.uk\)](#).

For Ontario clients, LCH Limited is a recognized clearing agency by the Commission. Accordingly LCH Limited is authorized to provide clearing services for interest rate swaps directly to Ontario Users.

CME Inc is an exempted clearing agency by the Commission. CME is registered with the Commodity Futures Trading Commission (the "CFTC") as a "derivatives clearing organization" ("DCO") within the meaning of the Commodity Exchange Act, as amended (the "CEA") and is required to have appropriate risk and control measures.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,

- (d) *trade reporting,*
- (e) *trade comparison,*
- (f) *data feeds,*
- (g) *market surveillance,*
- (h) *trade clearing, and*
- (i) *financial reporting.*

The OTCX UK MTF has appropriate internal controls (that cover all of the critical functions listed above) designed to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and a business continuity plan to enable OTCX UK MTF to properly carry on its business.

The internal controls are summarised in OTCX platform control strategy processes. The processes are to ensure that the capacity and capability of the system is considered within all key processes that execute transactions.

The roles, responsibilities and stakeholders are defined to support system configuration of platform controls and business training. The controls are:

- Planning and development
 - New business initiative- impact assessment
 - Product development-unit testing and volume testing
 - Technology strategy setting
- Transaction processing
 - Client onboarding
 - Product transaction flow-cleared and non-cleared products
 - Product transaction flow-errors
 - Platform management controls-services
 - Platform management controls-load balancing and replication
 - Platform management controls-processing queue
- Monitoring and response management
 - Platform status monitoring and management
 - Volume threshold monitoring
 - Incident capture, management and logging (Priority 1)
 - Incident notification process
 - Simulation and stress testing
 - Annual technology evaluation and remediation
 - Periodic testing of kill functionality
- Oversight
 - Management reporting
 - Independent review and validation

FCA requirements include capacity and resilience, in particular OTCX UK MTF has had to demonstrate conformance with RTS 7 Capacity and Resilience of Trading Venues and a detailed IT Controls process. This includes detailed processes for:

- System Testing for any deployments
- System Capacity
- System Monitoring
- Performance Review
- Business Continuity Process
- Disorderly Trading
- Pre-trade and Post-trade controls
- Security and Limits to system access

This detailed analysis of capacity and resilience requirements with associated governance and processes to support the requirements is contained in RTS 7 ([UK Version of EU CDR 2017/584](#)) that formed part of the detailed approval process for MTF authorisation.

9.2 System Capability/Scalability

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

- (a) *makes reasonable current and future capacity estimates;*

OTCX UK MTF ensures that trading systems have sufficient capacity to perform their functions without systems failures, outages or errors in matching transactions at least at the highest number of messages per second recorded on that system during the previous five years multiplied by two. [RTS 7 Art 11(1)]

- (b) *conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;*

OTCX has processes to review the capacity and performs stress tests resulting in promptly and effectively remedy any deficiencies identified. OTCX simulate adverse scenarios to verify the performance of the hardware, software and communications and identify the scenarios under which the trading system or parts of the trading system perform their functions with systems failures, outages or errors in matching transactions. Stress tests cover all trading phases, trading segments and types of instruments traded by OTCX.

- (c) *reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;*

OTCX monitors its data centre as a critical outsource provider and has an IT Security Policy that includes Protection from Environmental Threats.

- (d) *ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;*

OTCX IT Security Policy includes physical safeguards and security standards to protect the system. The data centre that houses the OTCX estate is fully ISO 27001 and ISO 9001 compliant and includes detailed requirements for protection of the data centre from unlawful and unauthorised physical intrusion as well as protection from malicious software.

- (e) *ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;*

OTCX UK MTF has a change management process that identifies and mitigates the risk of failures caused by faulty code or configuration changes. In particular as part of the security and data protection strategy it has policies to address configuration of network devices and user systems.

- (f) *maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and*

As part of OTCX Trading Limited Platform Control Processes OTCX performs a periodic review of the performance and capacity of the trading systems.

- (g) *maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.*

A fundamental requirement of the FCA under MiFID rules is “to have in place effective systems, procedures and arrangements to ensure its trading systems are resilient, have sufficient capacity to deal with peak order and message volumes, are able to ensure orderly trading under conditions of severe market stress, are fully tested to ensure such conditions are met and are subject to effective business continuity arrangements to ensure continuity of its services if there is any failure of its trading systems”.

These requirements are detailed in RTS 7 and MiFID IT controls forms including OTCX Trading Limited - Business Continuity Management and Disaster Recovery Policy.

9.3 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.

The Board requires the Firm to adopt a risk management framework to protect the Firm and its customers, and to ensure ongoing compliance with regulatory expectations (see section 3.3).

OTCX has conducted a market abuse risk assessment and integrated it into a surveillance program that monitors for disorderly trading and potential trading errors. As part of the MTF Rulebook OTCX may take action where it appears required for the orderly functioning of the OTCX UK MTF and for the safety and integrity of the market, including;

- Suspending, halting or constraining all or part of trading on the OTCX UK MTF;
- Changing the Trading Hours;
- Temporarily changing or suspending the provision of the Rules.

Monitoring and operational procedures are in place to take appropriate action.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

The Applicant has adequate financial and staff resources to carry on its activities in full compliance with its regulatory requirements and with best practices. The Applicant is subject to prudential regulation, including minimum regulatory capital requirements, and must submit quarterly financial reports to the FCA.

OTCX Trading Limited is required to undergo an Internal Capital and Risk Assessment (ICARA) that is repeated annually or earlier should there be a significant change to OTCX’s operating model. This process is detailed in FCA Handbook under [MiFIDPRU 7.4](#) as described below;

ICARA process: baseline obligations

MIFIDPRU 7.4.9R

(1) A firm must have in place appropriate systems and controls to identify, monitor and, if proportionate, reduce all material potential harms:

- (a) that the ongoing operation of the firm’s business may cause to:
- (i) the firm’s clients and counterparties;
 - (ii) the markets in which the firm operates; and
 - (iii) the firm itself; and

- (b) that may result from winding down the firm's business, to ensure that the firm can be wound down in an orderly manner.

(2) If any material potential harms remain after a firm has implemented the systems and controls in (1), the firm must assess whether to:

- (a) hold additional own funds to address the harms in accordance with MIFIDPRU 7.6.2R; and
- (b) hold additional liquid assets to address the harms in accordance with MIFIDPRU 7.7.2R.

(3) The requirements in this rule apply to a firm's entire business, including:

- (a) all regulated activities, irrespective of whether they are MiFID business; and
- (b) any unregulated activities.

(4) The systems, controls and procedures operated by a firm to comply with the requirements in this rule are known as the ICARA process.

OTCX has performed the analysis and determined the capital and liquidity resourced required. This includes a capital requirement equivalent to the Fixed Overhead Requirement (FOR) and liquid assets equivalent to one third of FOR. The ICARA is approved by the Board.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

FCA requirements are that trading practices are fair, properly supervised and not contrary to public interest.

In particular, the FCA Code of Market Conduct (MAR) requires "transparent and non-discretionary rules and procedures for fair and orderly trading." OTCX has a publicly available MTF Rulebook that all participants are required to adhere to as part of the onboarding process.

OTCX is required to supervise trading and participants are required to have appropriate trade monitoring systems.

Market abuse (insider trading and market manipulation) is monitored by OTCX UK MTF under UK version of EU Market Abuse Regulation 596/2014 and OTCX is required to report to the FCA suspected market abuse, disorderly trading and a significant breach of the MTF rules.

These requirements result in a fair and transparent market available to all eligible participants that is properly supervised and operated in line with the public interest.

11.2 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

The only available Trading Protocol is request-for-quote which is available to all and described in the publicly available MTF Rulebook. There are no specific rules for order size and limits, but trading is monitored for market abuse and disorderly trading which includes size and price parameters for validation and/or review. Participants can agree trade size and limits (except for cleared trades that are determined by the clearing member and ultimately the clearing house).

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

OTCX UK MTF is subject to Pre-Trade transparency requirements in accordance with MiFIR and will make public, on a continuous basis during Trading Hours, details of Orders, including bid and offer prices and the depth of the trading interest. OTCX has obtained Pre-Trade Transparency Waivers from the publication of all or part of the Pre-Trade data. Where the Transparency Waivers have been granted full details of orders on the OTCX UK MTF may not be made available to non-Participants.

OTCX UK MTF is subject to Post-Trade Transparency requirements in accordance with MiFIR and will make public, as close to real-time as technically possible, the price, volume and time of Transactions executed on the OTCX UK MTF. The Operator has

obtained a Post-Trade Transparency Deferrals from the publication of all or part of the Post-Trade Data. Where the Deferrals have been received from the FCA, OTCX may defer the publication of Post-Trade Data as provided by the applicable Deferral.

PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

An MTF is required under the FCA Handbook to set rules, conduct compliance reviews, monitor participants' trading activity and take enforcement action against participants when appropriate.

OTCX must ([FCA Handbook MAR 5.6.1](#)):

(1) report to the FCA any:

- (a) significant breaches of the firm's rules;
- (b) disorderly trading conditions;
- (c) conduct that may involve market abuse; and
- (d) system disruptions in relation to a financial instrument;

(2) supply the information required under this rule without delay to the FCA and any other authority competent for the investigation and prosecution of market abuse; and

(3) provide full assistance to the FCA, and any other authority competent for the investigation and prosecution of market abuse, in its investigation and prosecution of market abuse occurring on or through the firm's systems.

OTCX has Rules, policies, and procedures to comply with this requirement.

12.2 Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

Please see the responses to Sections 5.1 (Regulation), 6.1 (Rulemaking), 11.1 (Trading Practices) and 12.1 (Jurisdiction) and the OTCX UK MTF Rulebook that require OTCX UK MTF to have systems in place to monitor compliance by participants with view to identify any breaches of the Rules, eligibility criteria and misleading acts, conduct and prohibited practices.

12.3 Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

12.1 describes the scope of information made available to the FCA on a timely basis. Please see section 16 below for further details.

PART 13 RECORD KEEPING

13.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

OTCX has implemented policies designed to ensure that the FCA has ready access to the records that it is required to maintain under MiFID, from which the FCA should be able to reconstruct each key stage of a transaction on the OTCX UK MTF if required, in particular under RTS 24 – Order Record Keeping Requirements ([UK version of Commission Delegated Regulation \(EU\) 2017/580](#)).

OTCX also keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access, along with a record of any breaches of the OTCX UK MTF Rulebook by its participants.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

Outsourcing means an arrangement of any form between OTCX and a service provider by which that service provider performs a process, a service or an activity which would otherwise be undertaken by OTCX itself.

Outsourcing does not include where:

- the process, service or activity is not part of the service offering of OTCX, such as provision of legal advice, security management of the OTCX office premises;
- standardised services such as market information services; and
- services that are part of the market structure, e.g. clearing.

Critical or important Outsourcing

An outsourcing agreement is defined as critical or important if a failure in its operations would:

- create systemic implications;
- undermine OTCX's compliance with regulatory obligations;
- create significant impact on OTCX's financial performance; and,
- severely undermine OTCX's ability to provide core products and services.

OTCX is bound by the FCA's outsourcing rules applicable to critical or important functions ([SYSC 8.1](#)). If OTCX chooses to outsource a critical process or service, it must notify the FCA and demonstrate how the firm is able to retain effective control of the outsourced activity. Compliance is in charge of notifying the FCA of any critical outsourcing arrangements.

OTCX has one important outsourcing arrangement: the hosting of OTCX servers to a data centre specialist. The datacentre is UK based, ISO 27001 and ISO 9001 compliant, OTCX review the standards of the host provider on an annual basis, ensuring they adhere to expected OTCX standards on disaster recovery (DR), BCP and service availability.

Risk based sourcing and selection process - OTCX's operates to an internally defined outsourcing policy that allows OTCX to engage in outsourcing agreements when the arrangement offers access to superior expertise and execution than might be attainable in-house. When OTCX decides to rely on a third party for the performance of operational activities, it must ensure that reasonable steps are taken to avoid undue operational risk. The outsourcing principles are applicable to both external vendors and intra-group arrangements part of OTCX. The following principles must be complied with:

- Quality impairment / risk degradation - No outsourcing should take place if that would impair the quality of OTCX's internal controls or ability to comply with relevant regulatory obligations;
- No degradation of OTCX responsibilities - No outsourcing should result in any delegation of responsibility by Senior Management;
- Diligence mandate - OTCX must exercise due skill, care, and diligence when entering into, managing and terminating an outsourcing agreement.

Contract specific requirements with current data centre provider:

- Access management - Data centres must be safeguarded against unlawful and unauthorised physical intrusion
- Data protection controls - Onsite and offsite locations where removable media is stored must provide access controls and protection which reduce the risk of loss or damage to an acceptable level. (Printed output if created is to be protected at all times.)
- Disaster recovery plans - for all systems are developed, tested, and implemented regularly.
- Protection from environmental threats - When locating data centres, suitable precautions are to be taken to guard against the environmental threats of power outages, fire, flood, and excessive ambient temperature and humidity.

- Backup power - An uninterruptible power supply (UPS) are installed to ensure the continuity of services during power outages. With appropriate long term power generation available on site, such as diesel generators and fuel for 48 hours.
- Protection from theft, fire, flood, + other hazards - The sites chosen to locate computers and store data are suitably protected from physical intrusion, theft, fire, flood, and other hazards.
- Service level agreements - are defined for the data centre (critical outsource) as per [SYSC 8](#) of the FCA Handbook and are in place or planned.

PART 15 FEES

15.1 Fees

- (a) *All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.*
- (b) *The process for setting fees is fair and appropriate, and the fee model is transparent.*

The key requirement for OTCX UK MTF is in the FCA Handbook ([MAR 5.3A.11](#))

“A firm’s fee structure, for all fees it charges and rebates it grants in relation to the MTF, must:

- (1) be transparent, fair and non-discriminatory;
- (2) not create incentives to place, modify or cancel orders, or execute transactions, in a way which contributes to disorderly trading or market abuse;”

OTCX publishes a publicly available transparent rate card with a fee structure that applies equally to all participants. Any change to the rate card will be notified by a market notice.

PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

16.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

OTCX has an open and cooperative policy to respond promptly to any regulatory enquiry in a timely manner.

The MTF Rulebook states:

- “In the event of an information request, regulatory investigation or any other action by any Regulator or Competent Authority in relation to activity conducted on the OTCX UK MTF, the Participant must provide access to any information and documentation relevant to the request and co-operate with OTCX and the relevant Regulator unless the Participant is restricted by Applicable Law.”
- “The Operator will share information with the FCA or any other relevant Competent Authority with oversight of any regulated activity to which the OTCX UK MTF relates as required”

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

The Commission is party to a memoranda of understanding with each of the FCA and the Bank of England (the “MOUs”). The MOUs came into effect on August 21, 2013. The MOUs provide a comprehensive framework for consultation, cooperation and information-sharing related to the day-to-day supervision and oversight of cross-border regulated entities.

PART 17 IOSCO PRINCIPLES

17.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the "Principles for the Regulation and Supervision of Commodity Derivatives Markets" (2011).

OTCX UK MTF adheres to the standards of IOSCO in that it must comply with the MiFID II and the FCA rules set down in the FCA Handbook, which reflect the IOSCO standards.

Part IV Submissions by the Applicant

Commission Staff Notice 21-711 Multilateral Trading Facility Exemption from Requirement to be Recognized as an Exchange states:

“Because MTFs have self-regulatory responsibilities, they are considered ‘exchanges’ under Ontario securities law. If an MTF provides access to participants in Ontario, it is considered to be doing business in Ontario and must be recognized as an exchange or obtain an exemption from recognition.”

The MTF Instruments that the Applicant intends to make available to trade on the OTCX UK MTF fall under the definition of “derivative” as set forth in subsection 1(1) of the Act. The OTCX UK MTF falls under the definition of “marketplace” set out in subsection 1(1) of the Act because it brings together buyers and sellers of securities and derivatives and uses established, non-discretionary methods under which orders interact with each other.

An “exchange” is not defined under the Act; however, subsection 3.1(1) of the companion policy to National Instrument 21-101 – Marketplace Operation provides that a “marketplace” is considered to be an “exchange” if it, among other things, sets requirements governing the conduct of marketplace participants or disciplines marketplace participants. An MTF is a self-regulatory organization under FCA rules and has certain obligations to monitor participants' trading activity. Because an MTF regulates the conduct of its participants, it is considered by the Commission to be an exchange for purposes of the Act.

A multilateral trading facility (MTF) is a multilateral system, operated in the UK by an investment firm or market operator, which brings together multiple third-party buying and selling interests in financial instruments in accordance with non-discretionary rules in a way that results in a contract.

OTCX is authorised to operate a multilateral trading facility (MTF) by the FCA and as discussed in Part III of this Application satisfies the criteria for exemption from recognition as an exchange.

OTCX submits that the Requested Relief from the requirement to be recognized as an exchange under the Act is appropriate because OTCX UK MTF is registered as an MTF with the FCA, the regulator in its home jurisdiction.

Ontario market participants that trade in swaps would benefit from the ability to trade on the Applicant's MTF, as they would have access to a depth of liquidity in a range of swaps with swap counterparties that otherwise may not be available in Ontario

Based on the foregoing, we submit that it would not be prejudicial to the public interest to grant the Requested Relief.

Part V Consent to Publication

The Applicant consents to the publication of this application for public comment.

Yours very truly,

“Paul Stones”
COO
OTCX Trading Limited

OTCX UK MTF – Draft Order

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S. 5,
AS AMENDED
(the Act)**

AND

**IN THE MATTER OF
OTCX TRADING LIMITED**

**ORDER
(Section 147 of the Act)**

WHEREAS OTCX Trading Limited (**Applicant**) has filed an application dated May 01, 2024 (**Application**) with the Ontario Securities Commission (**Commission**) requesting an order for the following relief (collectively, the **Requested Relief**):

(a) exempting the Applicant from the requirement to be recognized as an exchange under subsection 21(1) of the Act pursuant to section 147 of the Act; and

(b) exempting the Applicant from the requirements in National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) pursuant to section 15.1 of NI 21-101, the requirements of National Instrument 23-101 *Trading Rules* (**NI 23-101**) pursuant to section 12.1 of NI 23-101 and the requirements of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) pursuant to section 10 of NI 23-103;

AND WHEREAS the Applicant has represented to the Commission that:

1. The Applicant is a private limited company organized under the laws of England and Wales. The ultimate parent company of the Applicant is OTCX Limited, a private limited company organized under the laws of England and Wales;
2. OTCX Trading Limited provides electronic trading capabilities in OTC derivatives and structured products;
3. On July 24, 2023 the U.K. Financial Conduct Authority (the **FCA** or **Foreign Regulator**), a financial regulatory body in the United Kingdom (**U.K.**), authorized the Applicant to act as the operator of the OTCX UK MTF, a multilateral trading facility (**MTF**). The Applicant currently has approval from the FCA to offer the following products for trading on the OTCX UK MTF: UK MiFID Financial Instruments; C4 Derivatives (interest rate, other interest rate, equity) and C8 Credit Derivatives (credit default swaps, total return swaps, constant maturity swaps). The OTCX UK MTF began operations on December 11, 2023. Structured products do not trade on the OTCX UK MTF and are not part of this order;
4. The financial products included in this order are single and multi-currency interest rate swaps, overnight index swaps, inflation swaps, swaptions, forward rate agreements, constant maturity swaps, caps/floors and total return swaps. These are swaps or security based swaps as defined in section 1a(47) of the United States Commodity Exchange Act (**CEA**). The above product set will be restricted to Ontario Users unless otherwise approved by the Commission;
5. The OTCX UK MTF supports a request for quote trading platform for trading derivatives;
6. The Applicant is subject to regulatory supervision by the FCA and is required to comply with the FCA's Handbook, which includes rules on business conduct, market conduct, systems controls, technical resilience, fair and orderly trading, and identifying and managing conflicts of interest;
7. The FCA has direct regulatory oversight of U.K. MTFs and OTCX is subject to the FCA's threshold conditions and principles. The FCA Handbook has specific MTF requirements, including reporting to the FCA any significant breaches of MTF rules, disorderly trading conditions and market abuse. As a result, OTCX UK MTF operates real time trade surveillance with policy and procedures to escalate potential breaches.

OTCX has the following policies and procedures to monitor participants' adherence to these FCA rules:

- a compliance monitoring program that reviews activity in respect of compliance with the MTF rulebook that results in immediately notifying the FCA any significant breaches of MTF rules; and
- operational and compliance procedures to detect disorderly trading, system disruptions and conduct that may involve market abuse and to notify the FCA immediately if detected.

B.11: CIRO, Marketplaces, Clearing Agencies and Trade Repositories

8. An MTF must submit all trades that are required or requested to be cleared to a clearing house for clearing. OTCX UK MTF provides connectivity to LCH Limited and CME Inc via established third party middleware. For Ontario clients LCH Limited is a recognized clearing agency and CME is an exempted clearing agency by the OSC, as a consequence both can provide clearing services for interest rate swaps directly to Ontario users;
9. The Applicant requires that its participants be "professional clients" or "eligible counterparties," as defined by the FCA in COBS 3 of the FCA Handbook. OTCX UK MTF has onboarding requirements and procedures to ensure regulatory, compliance, operational and technical set up is completed before participants are enabled to participate on the venue. These include know your client, anti-money laundering checks and subsequent verification of conduct and technical capabilities as required by the Applicant's rulebook;
10. All participants that are located in Ontario, including participants with their headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (**LEI**)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario Participants**) are required to be registered under Ontario securities laws, exempt from registration or not subject to registration requirements. All participants are permitted clients as defined by National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. An Ontario Participant is required to immediately notify the Applicant if it ceases to meet any of the above criteria represented by it on an ongoing basis;
11. Because an MTF regulates the conduct of its participants, OTCX UK MTF is considered by the Commission to be an exchange for purposes of the Act;
12. Because the Applicant has participants that are Ontario Participants, it is considered by the Commission to be carrying on business as an exchange in Ontario and is required to be recognized as such or exempted from recognition pursuant to section 21 of the Act;
13. The Applicant has no physical presence in Ontario and does not otherwise carry on business in Ontario except as described above;
14. OTCX UK MTF does not offer access to retail clients; and
15. The Applicant satisfies the exemption criteria as described in Appendix I to Schedule "A".

AND WHEREAS the products traded on the OTCX UK MTF are not commodity futures contracts as defined in the *Commodity Futures Act* (Ontario) and the Applicant is not considered to be carrying on business as a commodity futures exchange in Ontario;

AND WHEREAS the Commission will monitor developments in international and domestic capital markets and the Applicant's activities on an ongoing basis to determine whether it is appropriate for the Requested Relief to continue to be granted subject to the terms and conditions set out in Schedule "A" to this order;

AND WHEREAS the Applicant has acknowledged to the Commission that the scope of the Requested Relief and the terms and conditions imposed by the Commission set out in Schedule "A" to this order, or the determination whether it is appropriate that the Applicant continue to be exempted from the requirement to be recognized as an exchange, may change as a result of the Commission's monitoring of developments in international and domestic capital markets or the Applicant's activities, or as a result of any changes to the laws in Ontario affecting trading in derivatives or securities;

AND WHEREAS based on the Application, together with the representations made by and acknowledgments of the Applicant to the Commission, the Commission has determined that the Applicant satisfies the criteria set out in Appendix I to Schedule "A" and that the granting of the Requested Relief would not be prejudicial to the public interest;

IT IS HEREBY ORDERED by the Commission that

- (i) pursuant to section 147 of the Act, the Applicant is exempt from recognition as an exchange under subsection 21(1) of the Act; and
- (ii) (ii) pursuant to sections 15.1 of NI 21-101, 12.1 of NI 23-101 and 10 of NI 23-103, the Applicant is exempt from the requirements in NI 21-101, NI 23-101 and NI 23-103.

PROVIDED THAT the Applicant complies with the terms and conditions contained in Schedule "A".

DATED

SCHEDULE "A"

TERMS AND CONDITIONS

Meeting Criteria for Exemption

1. The Applicant will continue to meet the criteria for exemption included in Appendix I to this Schedule.

Regulation and Oversight of the Applicant

2. The Applicant will maintain its permission to operate a multilateral trading facility (**MTF**) with the U.K. Financial Conduct Authority (**FCA**) in the United Kingdom (**U.K.**) and will continue to be subject to the regulatory oversight of the FCA.
3. The Applicant will continue to comply with the ongoing requirements applicable to it as an operator of an MTF registered with the FCA.
4. The Applicant will promptly notify the Commission if its authorization as an operator of an MTF has been revoked, suspended, or amended by the FCA, or the basis on which its authorization as an operator of an MTF has been granted has significantly changed.
5. The Applicant must do everything within its control, which includes cooperating with the Commission as needed, to carry out its activities as an exchange exempted from recognition under subsection 21(1) of the Act in compliance with Ontario securities law.

Access

6. The Applicant will not provide direct access to a participant in Ontario including a participant with its headquarters or legal address in Ontario (e.g., as indicated by a participant's Legal Entity Identifier (**LEI**)) and all traders conducting transactions on its behalf, regardless of the traders' physical location (inclusive of non-Ontario branches of Ontario legal entities), as well as any trader physically located in Ontario who conducts transactions on behalf of any other entity (**Ontario User**) unless the Ontario User is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, and qualifies as a "professional client" or an "eligible counterparty", as defined by the FCA in COBS 3 of the FCA's Handbook.
7. For each Ontario User provided direct access to its MTF, the Applicant will require, as part of its application documentation or continued access to the MTF, the Ontario User to represent that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements.
8. The Applicant may reasonably rely on a written representation from the Ontario User that specifies either that it is appropriately registered as applicable under Ontario securities laws or is exempt from or not subject to those requirements, provided the Applicant notifies such Ontario User that this representation is deemed to be repeated each time it enters an order, request for quote or response to a request for quote or otherwise uses the Applicant's MTF.
9. The Applicant will require Ontario Users to notify the Applicant if their registration as applicable under Ontario securities laws has been revoked, suspended, or amended by the Commission or if they are no longer exempt from or become subject to those requirements and, following notice from the Ontario User and subject to applicable laws, the Applicant will promptly restrict the Ontario User's access to the Applicant's MTF if the Ontario User is no longer appropriately registered or exempt from those requirements.

Trading by Ontario Users

10. The Applicant will not provide access to an Ontario User to trading in products set out in Representation 4, without prior Commission approval.
11. Trading in the approved products by Ontario Users must be cleared and settled through a clearing agency or clearing house that is regulated as a clearing agency or clearing house by the applicable regulator.

Submission to Jurisdiction and Agent for Service

12. With respect to a proceeding brought by the Commission arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the activities of the Applicant in Ontario, the Applicant will submit to the non-exclusive jurisdiction of (i) the courts and administrative tribunals of Ontario and (ii) an administrative proceeding in Ontario.
13. The Applicant will submit to the Commission a valid and binding appointment of an agent for service in Ontario upon whom the Commission may serve a notice, pleading, subpoena, summons or other process in any action, investigation

or administrative, criminal, quasi-criminal, penal or other proceeding arising out of, related to, concerning or in any other manner connected with the Commission's regulation and oversight of the Applicant's activities in Ontario.

Prompt Reporting

14. The Applicant will notify staff of the Commission promptly of:
- (a) any authorization to carry on business granted by the FCA is revoked or suspended or made subject to terms or conditions on the Applicant's operations;
 - (b) the Applicant institutes a petition for a judgment of bankruptcy or insolvency or similar relief, or to wind up or liquidate the Applicant or has a proceeding for any such petition instituted against it;
 - (c) a receiver is appointed for the Applicant or the Applicant makes any voluntary arrangement with creditors;
 - (d) the Applicant marketplace is not in compliance with this Order or with any applicable requirements, laws or regulations of the FCA where it is required to report such non-compliance to the FCA;
 - (e) any known investigations of, or disciplinary action against, the Applicant by the FCA or any other regulatory authority to which it is subject; and
 - (f) the Applicant makes any material change to the eligibility criteria for Ontario Users.

Semi-Annual Reporting

15. The Applicant will maintain the following updated information and submit such information in a manner and form acceptable to the Commission on a semi-annual basis (by July 31 for the first half of the calendar year and by January 31 of the follow year for the second half), and at any time promptly upon the request of staff of the Commission:
- (a) a current list of all Ontario Users and whether the Ontario User is registered under Ontario securities laws or is exempt from or not subject to registration, and, to the extent known by the Applicant, other persons or companies located in Ontario trading on the Applicant's MTF as customers of participants (**Other Ontario Participants**);
 - (b) the legal entity identifier assigned to each Ontario User, and, to the extent known by the Applicant, to Other Ontario Participants in accordance with the standards set by the Global Legal Entity Identifier System;
 - (c) a list of all Ontario Users against whom disciplinary action has been taken since the previous report by the Applicant or its regulation service provider (**RSP**) acting on its behalf, or, to the best of the Applicant's knowledge, by the FCA with respect to such Ontario Users' activities on the Applicant's MTF and the aggregate number of disciplinary actions taken against all participants since the previous report by the Applicant or its RSP acting on its behalf;
 - (d) a list of all active investigations since the last report by the Applicant relating to Ontario Users and the aggregate number of active investigations since the last report relating to all participants undertaken by the Applicant;
 - (e) a list of all Ontario applicants for status as a participant who were denied such status or access to the Applicant since the last report, together with the reasons for each such denial; and
 - (f) for each product,
 - (i) the total trading volume and value originating from Ontario Users, and, to the extent known by the Applicant, from Other Ontario Participants, presented on a per Ontario User or per Other Ontario Participant basis; and
 - (ii) the proportion of worldwide trading volume and value on the Applicant's MTF conducted by Ontario Users, and, to the extent known by the Applicant, by Other Ontario Participants, presented in the aggregate for such Ontario Users and Other Ontario Participants;

provided in the required format.

Information Sharing

16. The Applicant will provide such information as may be requested from time to time by, and otherwise cooperate with, the Commission or its staff, subject to any applicable privacy or other laws (including solicitor-client privilege) governing the sharing of information and the protection of personal information.

APPENDIX I

CRITERIA FOR EXEMPTION OF A FOREIGN EXCHANGE TRADING OTC DERIVATIVES FROM RECOGNITION AS AN EXCHANGE

PART 1 REGULATION OF THE EXCHANGE

1.1 Regulation of the Exchange

The exchange is regulated in an appropriate manner in another jurisdiction by a foreign regulator (**Foreign Regulator**).

1.2 Authority of the Foreign Regulator

The Foreign Regulator has the appropriate authority and procedures for oversight of the exchange. This includes regular, periodic oversight reviews of the exchange by the Foreign Regulator.

PART 2 GOVERNANCE

2.1 Governance

The governance structure and governance arrangements of the exchange ensure:

- (a) effective oversight of the exchange,
- (b) that business and regulatory decisions are in keeping with its public interest mandate,
- (c) fair, meaningful and diverse representation on the board of directors (**Board**) and any committees of the Board, including:
 - (i) appropriate representation of independent directors, and
 - (ii) a proper balance among the interests of the different persons or companies using the services and facilities of the exchange,
- (d) the exchange has policies and procedures to appropriately identify and manage conflicts of interest for all officers, directors and employees, and
- (e) there are appropriate qualifications, remuneration, limitation of liability and indemnity provisions for directors, officers and employees of the exchange.

2.2 Fitness

The exchange has policies and procedures under which it will take reasonable steps, and has taken such reasonable steps, to ensure that each director and officer is a fit and proper person and past conduct of each officer or director affords reasonable grounds for belief that the officer or director will perform his or her duties with integrity.

PART 3 REGULATION OF PRODUCTS

3.1 Review and Approval of Products

The products traded on the exchange and any changes thereto are submitted to the Foreign Regulator, and are either approved by the Foreign Regulator or are subject to requirements established by the Foreign Regulator that must be met before implementation of a product or changes to a product.

3.2 Product Specifications

The terms and conditions of trading the products are in conformity with the usual commercial customs and practices for the trading of such products.

3.3 Risks Associated with Trading Products

The exchange maintains adequate provisions to measure, manage and mitigate the risks associated with trading products on the exchange that may include, but are not limited to, daily trading limits, price limits, position limits, and internal controls.

PART 4 ACCESS

4.1 Fair Access

- (a) The exchange has established appropriate written standards for access to its services including requirements to ensure
 - (i) participants are appropriately registered as applicable under Ontario securities laws, or exempted from these requirements,
 - (ii) the competence, integrity and authority of systems users, and
 - (iii) systems users are adequately supervised.
- (b) The access standards and the process for obtaining, limiting and denying access are fair, transparent and applied reasonably.
- (c) The exchange does not unreasonably prohibit, condition or limit access by a person or company to services offered by it.
- (d) The exchange does not
 - (i) permit unreasonable discrimination among participants, or
 - (ii) impose any burden on competition that is not reasonably necessary and appropriate.
- (e) The exchange keeps records of each grant and each denial or limitation of access, including reasons for granting, denying or limiting access.

PART 5 REGULATION OF PARTICIPANTS ON THE EXCHANGE

5.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions, whether directly or indirectly through a regulation services provider, including setting requirements governing the conduct of its participants, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

PART 6 RULEMAKING

6.1 Purpose of Rules

- (a) The exchange has rules, policies and other similar instruments (**Rules**) that are designed to appropriately govern the operations and activities of participants and do not permit unreasonable discrimination among participants or impose any burden on competition that is not reasonably necessary or appropriate.
- (b) The Rules are not contrary to the public interest and are designed to
 - (i) ensure compliance with applicable legislation,
 - (ii) prevent fraudulent and manipulative acts and practices,
 - (iii) promote just and equitable principles of trade,
 - (iv) foster co-operation and co-ordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in the products traded on the exchange,
 - (v) provide a framework for disciplinary and enforcement actions, and
 - (vi) ensure a fair and orderly market.

PART 7 DUE PROCESS

7.1 Due Process

For any decision made by the exchange that affects a participant, or an applicant to be a participant, including a decision in relation to access, exemptions, or discipline, the exchange ensures that:

- (a) parties are given an opportunity to be heard or make representations, and

- (b) it keeps a record of, gives reasons for, and provides for appeals or reviews of its decisions.

PART 8 CLEARING AND SETTLEMENT

8.1 Clearing Arrangements

The exchange has or requires its participants to have appropriate arrangements for the clearing and settlement of transactions for which clearing is mandatory through a clearing house.

8.2 Risk Management of Clearing House

The exchange has assured itself that the clearing house has established appropriate risk management policies and procedures, contingency plans, default procedures and internal controls.

PART 9 SYSTEMS AND TECHNOLOGY

9.1 Systems and Technology

Each of the exchange's critical systems has appropriate internal controls to ensure completeness, accuracy, integrity and security of information, and, in addition, has sufficient capacity and business continuity plans to enable the exchange to properly carry on its business. Critical systems are those that support the following functions:

- (a) order entry,
- (b) order routing,
- (c) execution,
- (d) trade reporting,
- (e) trade comparison,
- (f) data feeds,
- (g) market surveillance,
- (h) trade clearing, and
- (i) financial reporting.

9.2 System Capability/Scalability

Without limiting the generality of section 9.1, for each of its systems supporting order entry, order routing, execution, data feeds, trade reporting and trade comparison, the exchange:

- (a) makes reasonable current and future capacity estimates;
- (b) conducts capacity stress tests to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
- (c) reviews the vulnerability of those systems and data centre computer operations to internal and external threats, including physical hazards and natural disasters;
- (d) ensures that safeguards that protect a system against unauthorized access, internal failures, human errors, attacks and natural catastrophes that might cause improper disclosures, modification, destruction or denial of service are subject to an independent and ongoing audit which should include the physical environment, system capacity, operating system testing, documentation, internal controls and contingency plans;
- (e) ensures that the configuration of the system has been reviewed to identify potential points of failure, lack of back-up and redundant capabilities;
- (f) maintains reasonable procedures to review and keep current the development and testing methodology of those systems; and
- (g) maintains reasonable back-up, contingency and business continuity plans, disaster recovery plans and internal controls.

9.3 Information Technology Risk Management Procedures

The exchange has appropriate risk management procedures in place including those that handle trading errors, trading halts and respond to market disruptions and disorderly trading.

PART 10 FINANCIAL VIABILITY

10.1 Financial Viability

The exchange has sufficient financial resources for the proper performance of its functions and to meet its responsibilities.

PART 11 TRADING PRACTICES

11.1 Trading Practices

Trading practices are fair, properly supervised and not contrary to the public interest.

11.2 Orders

Rules pertaining to order size and limits are fair and equitable to all market participants and the system for accepting and distinguishing between and executing different types of orders is fair, equitable and transparent.

11.3 Transparency

The exchange has adequate arrangements to record and publish accurate and timely information as required by applicable law or the Foreign Regulator. This information is also provided to all participants on an equitable basis.

PART 12 COMPLIANCE, SURVEILLANCE AND ENFORCEMENT

12.1 Jurisdiction

The exchange or the Foreign Regulator has the jurisdiction to perform member and market regulation, including the ability to set rules, conduct compliance reviews and perform surveillance and enforcement.

12.2 Member and Market Regulation

The exchange or the Foreign Regulator maintains appropriate systems, resources and procedures for evaluating compliance with exchange and legislative requirements and for disciplining participants.

12.3 Availability of Information to Regulators

The exchange has mechanisms in place to ensure that the information necessary to conduct adequate surveillance of the system for supervisory or enforcement purposes is available to the relevant regulatory authorities, including the Commission, on a timely basis.

PART 13 RECORD KEEPING

13.1 Record Keeping

The exchange has and maintains adequate systems in place for the keeping of books and records, including, but not limited to, those concerning the operations of the exchange, audit trail information on all trades, and compliance with, and/or violations of exchange requirements.

PART 14 OUTSOURCING

14.1 Outsourcing

Where the exchange has outsourced any of its key services or systems to a service provider, it has appropriate and formal arrangements and processes in place that permit it to meet its obligations and that are in accordance with industry best practices.

PART 15 FEES

15.1 Fees

- (a) All fees imposed by the exchange are reasonable and equitably allocated and do not have the effect of creating an unreasonable condition or limit on access by participants to the services offered by the exchange.

(b) The process for setting fees is fair and appropriate, and the fee model is transparent.

PART 16 INFORMATION SHARING AND OVERSIGHT ARRANGEMENTS

16.1 Information Sharing and Regulatory Cooperation

The exchange has mechanisms in place to enable it to share information and otherwise co-operate with the Commission, self-regulatory organizations, other exchanges, clearing agencies, investor protection funds, and other appropriate regulatory bodies.

16.2 Oversight Arrangements

Satisfactory information sharing and oversight agreements exist between the Commission and the Foreign Regulator.

PART 17 IOSCO PRINCIPLES

17.1 IOSCO Principles

To the extent it is consistent with the laws of the foreign jurisdiction, the exchange adheres to the standards of the International Organisation of Securities Commissions (IOSCO) including those set out in the "Principles for the Regulation and Supervision of Commodity Derivatives Markets" (2011).