March 24, 2025

VIA E-MAIL

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission, New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Office of the Superintendent of Securities, Service NL
Northwest Territories Office of the Superintendent of Securities
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Nunavut

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Dear Sirs/Mesdames:

Re: CSA Notice and Request for Comment – Proposed Amendments to National Instrument 23-101 Trading Rules and Proposed Changes to Companion Policy 23-101 Trading Rules (the "Request for Comment")

TMX Group Limited ("**TMX**" or "**we**"), welcomes the opportunity to comment on the Request for Comment regarding the Canadian Securities Administrators' ("**CSA**") proposal to reduce trading fee caps (or "access fee caps") in Canada for U.S. inter-listed securities, as described below (the "**Proposed Amendments**"). TMX strongly opposes reducing Canadian access fee caps as contemplated under the Proposed Amendments, as doing so will negatively impact market liquidity and competition with the U.S., overlooking the distinct Canadian market and the crucial role of market makers. Instead, we believe that a more market-driven approach that allows flexible fees will enhance liquidity and overall Canadian market competitiveness.

All capitalized terms used but not defined in this letter have the meaning as set out in the Request for Comment.

TMX

TMX Group Limited ("**TMX**" or "**we**") is an integrated, multi-asset-class exchange group with global operations. TMX's key subsidiaries operate cash and derivatives markets for multiple asset classes, including equities and fixed income, and provide clearing facilities, data driven solutions and other services to domestic and global financial and energy markets. Toronto Stock Exchange ("**TSX**"), TSX Venture Exchange ("**TSXV**"), Alpha Exchange ("**Alpha**"), The Canadian Depository for Securities, Montreal Exchange, Canadian Derivatives Clearing Corporation, Shorcan Brokers Limited, TMX Trayport, TMX VettaFi and other TMX companies provide securities listing markets, trading markets, clearing facilities, depository services, technology solutions, data products and other services to the global financial community, and play a central role in Canadian capital and financial markets.

The Request for Comment

The CSA is proposing certain changes to National Instrument 23-101 *Trading Rules* to lower the active trading fee cap applicable to trades in U.S. inter-listed securities. In particular, the Proposed Amendments seek to mimic the maximum fee for executing an order involving a U.S. inter-listed security priced at CAD 1.00 or more with the reduced access fee caps (i.e. $0.0010 (or "10 mils") per security traded)[1] adopted by the U.S. Securities Exchange Commission ("**SEC**").[2]

Rather than fostering competition, the reduction in access fee caps for inter-listed securities set out in the Proposed Amendments risks diminishing market liquidity, widening spreads, and driving order flow to U.S. venues. The Proposed Amendments overlook the critical role of market makers and the potential for unintended consequences resulting from a uniform regulatory approach that disregards the distinct economic and political landscape of Canada. Furthermore, we believe that a market-driven fee structure that respects the unique characteristics of the Canadian market allows for flexibility in pricing access fees for U.S. inter-listed securities may present opportunities for improved liquidity provision in Canada, and increase the competitiveness of our markets.

[1] The Proposed Amendments will not apply to non-U.S. inter-listed securities and the trading fee cap will remain at $0.0017 (or "17 mils") per traded security where the security is priced at CAD 1.00 or more.
[2] The reduced trading fee caps were adopted by the SEC on September 18, 2924, and were originally planned to be implemented on November 3, 2025. However, December 12, 2024, the SEC issued an order staying the implementation of the amended rules pending completion of judicial review.

Constraints on Competition

TMX believes that the Proposed Amendments will trigger a cascade of negative consequences. A reduction in trading fee caps in Canada in an attempt to align with the U.S. trading fee structure may inadvertently diminish the competitive landscape in Canada instead of fostering it. The Canadian market operates in a distinct economic and regulatory environment, with inherent differences in size and liquidity compared to the U.S. By reducing trading fee caps in Canada, we risk reducing the crucial ability of Canadian marketplaces to differentiate themselves, which could have adverse effects on the overall competition within Canada's trading ecosystem.

A key consideration related to the Proposed Amendments is the potential for shifts in order flow from Canadian to U.S. markets. U.S. capital markets, with their greater liquidity, broader institutional participation, and economies of scale, offer inherent advantages. Reducing Canadian access fee caps could further incentivize Canadian investors and traders, particularly those handling large orders and institutional trading, to utilize U.S. venues, leading to decreased order flow in Canada as liquidity migrates to the U.S., where potentially higher rebates could be offered. This potential shift in liquidity could lead to a reduction in market depth and price discovery within Canadian markets. This may disproportionately affect retail investors and smaller institutional investors who rely on the efficiency of Canadian capital markets. The absence of active market makers and liquidity providers would result in reduced liquidity, widening spreads and increasing trading costs. This, in turn, would negatively impact price discovery, impairing market stability.

Additionally, a migration of trading activity to U.S. venues could impact Canadian issuers' access to domestic capital, potentially affecting the growth and sustainability of the Canadian economy. Furthermore, increased trading costs and reduced liquidity would disincentivize listings on Canadian markets, making them less attractive to both existing and potential issuers. We must strategically calibrate Canadian capital markets policies in a way that maximizes the competitiveness of our markets, particularly against the backdrop of the current geopolitical landscape.

U.S. and Canadian Competitive and Political Landscape

TMX cautions against a uniform approach to access fees, emphasizing the critical differences between Canadian and U.S. markets. Applying a blanket 10 mils cap on U.S. inter-listed securities, as proposed, does not serve Canadian interests and disregards Canada's unique economic and regulatory environment, potentially crippling our marketplaces' ability to utilize competitive rebates for liquidity. The current geopolitical landscape, marked by heightened U.S. protectionism where U.S. policy prioritizes domestic interests and trade tensions, necessitates a strategic calibration of Canada's capital market policies. While collaboration remains important, mimicking U.S. regulations, such as trading fee caps, risks undermining our competitive advantage. We must critically assess each proposal through the lens of Canadian market health, prioritizing policies that attract investment and trading flow to our marketplaces, and foster a uniquely competitive environment.

Furthermore, given the recent political tensions surrounding the U.S., particularly with the ongoing trade and tariff disputes, it is critical for Canada to maintain a competitive edge in the financial markets. Reducing trading fee caps at this time could undermine Canada's position as an attractive market for both investors and market participants. This is particularly important as Canada needs to stay competitive not only with the U.S. but also globally, in attracting capital and ensuring that its markets remain robust and resilient. If Canada becomes less attractive due to regulatory changes that harm competition, we risk further disadvantaging our market and potentially losing both domestic and international investment.

The Proposed Amendments also do not account for the fluctuating currency exchange rate between the Canadian and U.S. dollars. While a simple numerical harmonization of trading fee caps might suggest parity, the reality is that currency exchange rates introduce a layer of complexity and must be considered. Attempting to align trading fee caps in Canada with U.S. levels without considering the impact of currency fluctuations could disproportionately impact Canadian market participants as currency differences would effectively grant U.S. marketplaces a significant advantage in rebate offerings, further exacerbating the outflow of liquidity from Canada.

Safeguarding the well-being of Canadian capital markets requires a nuanced approach and therefore, we must be prepared to diverge from U.S. practices when it strengthens our position, ensuring that our markets remain vibrant, competitive, and resilient in the face of evolving global dynamics. Ultimately, maintaining a unique and competitive trading fee structure tailored to Canada's specific market conditions will help preserve the strength and independence of Canada's financial infrastructure.

Impact on Market Makers

Market makers are fundamental to the efficient operation of markets, providing essential liquidity, facilitating accurate price discovery, and contributing to overall market efficiency. As such, the relationship between trading fee caps and marketplace rebates is crucial for market maker participation, and must be carefully considered by the CSA. The Request for Comment states that lower access fees will lead to lower rebates paid by marketplaces, however, the assumption that capping trading fees will directly translate to lower rebates offered by marketplaces overlooks the critical role rebates play on market makers.

Market makers are crucial for maintaining market liquidity and price stability, and the rebates they receive in maker-taker markets are essential for offsetting the costs associated with their continuous quoting obligations. These rebates directly support their ability to provide tight spreads and ensure efficient price discovery. A reduction in rebates offered by a marketplace to counteract the lower trading fee caps could affect a market maker's willingness and ability to meet their existing quoting and trading obligations, which in turn could negatively impact liquidity and result in wider bid-ask spreads for Canadian investors. Prioritizing trading fee caps over market maker incentives risks triggering a domino effect, where reduced market maker participation

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diminishes overall market efficiency and quality. Therefore, it is imperative to avoid unintended consequences by ensuring that any regulatory changes to trading fee caps do not inadvertently undermine the vital role of market makers.

Market-Driven Fees

We believe that market forces will foster trading fee structures in Canada that are competitive with those of the U.S., while allowing for a tailored approach that effectively balances investor protection with the promotion of a robust Canadian capital markets, and respects the unique characteristics of the Canadian market. The view that reduced fee caps in the U.S. may result in a migration of active order flow to the U.S., while understandable, is overly simplistic in that it fails to account for the compelling pressure of market forces. This market-driven principle is illustrated by TMX, where the application of the current fee cap is primarily confined to ETFs trading on TSX. Notably, a substantial majority, over 90%, of lit CLOB trading on Alpha, AlphaX, TSX, and TSXV is conducted at fees below the proposed cap. This demonstrates the capacity of marketplaces to establish competitive fee structures, including in competition with U.S. markets, while remaining responsive to market dynamics. Unlike the U.S., where trade location may be less critical, Canadian exchanges are committed to ensuring order flow remains within our borders, and will continue to leverage competitive trading fee structures to maintain a thriving domestic market.

Allowing market forces to determine the appropriate level for trading fees fosters a dynamic and efficient marketplace. In a competitive environment, marketplaces are incentivized to attract order flow by offering fee structures that balance profitability with competitive pricing. This natural competition leads to innovation and responsiveness to market demands, ensuring that fees reflect the true costs of providing services and enable marketplaces to operate effectively. For example, Canadian marketplaces invest significant resources in providing innovation and tailored services to Canadian investors, market makers, and institutional participants. A flexible fee structure that enables marketplaces to generate revenue necessary for innovation and incentivize active market participation is crucial. Furthermore, by permitting market-driven fee structures, market participants are empowered to choose the venues that best meet their needs, ultimately promoting a more robust and adaptable trading ecosystem.

Regulatory trading fee caps, while intended to protect market participants, if miscalibrated, risk stifling innovation and limit the ability of Canadian marketplaces to compete effectively with global platforms and could lead to market inefficiencies, as they remove the ability of marketplaces to respond dynamically to market conditions. Rather than reducing fee caps as reaction to U.S. regulatory developments, the CSA should focus on creating a regulatory environment that allows Canadian exchanges to thrive and provide valuable services to investors.

Conclusion

TMX strongly believes that the Proposed Amendments could harm competition, reduce liquidity in Canadian markets, and ultimately disadvantage Canadian investors and market participants. A one-size-fits-all approach that fails to account for the distinct dynamics of the Canadian landscape, including the crucial role of market makers who rely on rebates to support liquidity provision, undermines efforts to keep Canada's capital markets competitive on the global stage. Furthermore, the Proposed Amendments fail to strike the right balance between regulatory requirements and natural competitive forces, ultimately hindering the long-term health and vitality of our financial ecosystem. The CSA must prioritize the unique needs of the Canadian market and allow for greater flexibility in access fee pricing to ensure that Canada remains a robust and attractive destination for capital formation.

We appreciate the opportunity to respond to the Request for Comment. We look forward to continuing to engage with the CSA on this important issue.

Sincerely,

"Doug Clark"

Doug Clark
Managing Director, Equity Product Design, TMX Markets, Equity Trading Products
TMX Group Limited