

March 31, 2025

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
Nunavut Securities Office
Canadian Investment Regulatory Organization

care of

Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, Ontario M5H 3S8
comments@osc.gov.on.ca

Via Email

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*

Scotiabank appreciates the opportunity to contribute to the CSA Request for Comments regarding the proposed amendments to 23-101 Trading Rules.

General Remarks

In keeping with our previously published views and our response to Staff Notice 23-331 (Request for Feedback on December 2022 SEC Market Structure Proposals and Potential Impact on Canadian Capital Markets), we believe that any policy response to developments in the U.S. market should be considered and assessed with two primary criteria:

1. Maintaining the differentiated characteristics of Canadian capital markets, including the fundamental framework that encourages order flow into a multilateral negotiation.
2. Supporting the competitiveness of Canadian capital markets as a hub for capital formation and long-term investment.

The topic of access fees and trading rebates should be seen from the lens of cross-border order flow competitiveness. A higher cost of accessing quotations in Canada would drive order flow to the U.S. market, and reduce Canada's competitiveness. We therefore support harmonization of the access fee & rebate regime with US market, particularly for interlisted stocks.

Answers to questions posed by the CSA.

Question 1:

a) Do you agree with the proposal to align 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 cap adopted by the SEC:

- i) at CAD 0.0010, as proposed above, without consideration for the current foreign exchange rate, or*
- ii) at CAD 0.0014, which approximates the SEC's adopted access fee cap with consideration for the foreign exchange rate (USD 0.0010 x 1.44)?⁷*

b) Alternatively, do you support aligning the access fee cap for U.S. Inter-listed Securities with the current fee cap for non-U.S. Inter-listed securities (CAD 0.0017)?

c) Do you support any alternatives not listed above? Please provide rationale in support of or against any alternatives above.

We agree with the CSA's proposal to align the maximum fee for executing an order in an interlisted stock at \$0.0010/sh.

We do not agree with setting the Canadian access fee cap at a rate that is FX-adjusted to the USD/CAD exchange rate. The level of access fees and rebates is inextricably linked to the size of the trading increment. The relative value of trading fees on an FX-adjusted basis is, at most, a secondary consideration that is primarily relevant only to the subset of firms that engage in highly rebate-sensitive cross-border trading. Further, if the level of trading fees is benchmarked to the prevailing USD/CAD exchange rate, a process would need to be developed to periodically re-calibrate Canadian access fees on a post-hoc basis. These factors suggest that this approach is overly complex, unnecessary, and primarily benefits a narrow and largely non-Canadian constituency.

Further, we do not agree with aligning to the current non-interlisted fee cap. This fee cap was reduced below the existing \$0.0030/sh interlisted cap for reasons of structural distortion and the observation

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that Canadian non-interlisted stocks trade at typically lower price point than interlisted stocks. If the same analysis was performed using the \$0.0010/sh proposed cap, the result would be a non-interlisted fee cap that is lower, not higher. Therefore, aligning interlisted fees to a higher level adds to distortion and counteracts the robust rationale the CSA put forth to reduce non-interlisted trading fee caps to \$0.0017/sh.

Question 2: *Will the competitiveness of the Canadian capital markets be impaired if only the trading fee caps are lowered for U.S. Inter-listed Securities? Please provide supporting rationale.*

Access fees associated with trading executions is one aspect of the cost to investment in the Canadian marketplace. We encourage policies that work towards removing barriers to entry and overall complexity, including expensive exchange fees for non-interlisted securities. We therefore support a simple, un-tiered and cost effective fee cap for all securities trading in Canada.

As we note above, we believe that the CSA's proposed interlisted cap of \$0.0010/sh is an appropriate policy action. We further believe the CSA's prior argument in favour of reducing non-interlisted trading fees continues to stand. Therefore, we recommend reducing the trading fee cap to \$0.0010/sh for all Canadian stocks. Such an outcome with significantly reduce marketplace fee complexity in Canada.

Question 3: *Should the trading fee caps apply to trading fees paid by passive orders in inverted (taker-maker) markets? Please provide supporting rationale. What would be the costs and benefits of applying the cap to inverted markets?*

We believe the degree of distortion permitted through trading fees and rebates must be limited symmetrically for both traditional and inverted markets. This analysis should assume a bid-ask spread at the minimum trading increment, and distortions should be limited to a small percentage of this minimal bid-ask spread.

We recommend that posting fees on inverted markets are subject to the same access fee cap as active fees on a traditional venue.

While we acknowledge that resting orders on inverted markets is not required, in practice the existence of inverted trading creates externalities on the market at large. These distortions raise overall transactions costs for the market at large, as they encourage fragmentation without a corresponding benefit to price discovery.

Current trading fees in Canada create a difference in total economics of nearly one-half cent for non-interlisted stocks when one compares fees on the highest make-take market with fees on the highest inverted market. For liquidity seekers, the difference between best and worst is 44 mils. In a half-cent trading increment environment, and in the absence of changes to fees for inverted markets and non-

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interlisted stocks, this trade-off approximates the trading increment itself. This distortion would render price discovery at the half-cent increment meaningless, as in some circumstances investors become indifferent between the bid and the ask when all fees are taken into account.

For these reasons, we believe that the CSA should limit the maximum fee for posting on inverted markets in a similar manner to the existing caps on active fees.

Question 4: *As part of the final rules adopted on September 18, 2024, the SEC rules prohibit a national securities exchange from imposing any fee or providing any rebate for the execution of an order in an NMS stock unless such fee or rebate can be determined at the time of execution. Please discuss whether we should take a similar approach in Canada.*

Yes. We believe that pre-trade fee transparency is a net benefit to the investment community. Allowing investors to understand the full extent of execution costs enhances order execution decision-making.

Furthermore, we strongly believe that fees for each execution on all markets should be communicated with each fill on execution reports.

We appreciate the opportunity to comment.

Respectfully,

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