



IN THE MATTER OF THE *SECURITIES ACT*, S.N.B. 2004, c. S-5.5 (the Act)

AND

IN THE MATTER OF
EXEMPTION FROM CERTAIN REQUIREMENTS IN PART 6 OF
NATIONAL INSTRUMENT 23-101 *TRADING RULES*

Blanket Order 21-506

Section 208

Definitions

1. Terms defined in National Instrument 23-101 *Trading Rules* (NI 23-101) and National Instrument 14-101 *Definitions* have the same meaning in this Order.

Background

2. NI 23-101 contains the order protection rule (OPR), which is designed to ensure that all immediately accessible, visible, better-priced limit orders are executed before inferior-priced limit orders and are not traded through.
3. As defined in NI 23-101, a “trade-through” occurs when an order is executed at a price that is, in the case of a purchase, higher than any “protected offer” or, in the case of a sale, lower than any “protected bid”.
4. As defined in NI 23-101, “protected bid” and “protected offer” means respectively a bid or an offer that must be displayed on a marketplace that provides “automated functionality” and about which information must be provided to an information processor or information vendor.
5. As defined in NI 23-101, a marketplace that is offering an “automated functionality” must have the ability to “immediately and automatically execute an order marked as immediate-or-cancel against the displayed volume”.
6. Section 6.1 of NI 23-101 requires that marketplaces establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs.
7. Section 6.4 of NI 23-101 prohibits market participants from entering directed-action orders unless they establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs.



8. Alpha Exchange Inc. (**Alpha**) is an exchange which has been recognized as an exchange by the Ontario Securities Commission (**OSC**), its lead regulator under the *Memorandum of Understanding Respecting the Oversight of Exchanges and Quotation and Trade Reporting Systems*.
9. Alpha has been exempted from recognition as an exchange by each of the Canadian securities regulatory authorities other than the OSC.
10. On 16 April 2015, the OSC approved amendments to Alpha's Trading Policies pertaining to Alpha's introduction of a speed-bump on its market, subject to the conditions that the orders displayed in the Alpha order book will not be considered to be protected under OPR and that Alpha provides OSC with analyses of the impact of its speed bump on the market.
11. On 12 June 2015, the Canadian Securities Administrators (**CSA**) published for comment a proposal to amend the Companion Policy to NI 23-101 (**23-101 CP**) to address the introduction of speed bumps by marketplaces and their impact on the application of OPR.
12. The CSA will not complete its review of comments and determine the next step with respect to order processing delays before Alpha's Trading Policies pertaining to implementation of a speed bump comes into force.
13. To allow Alpha's implementation of a speed bump in an harmonized way across all CSA jurisdictions, some of the Canadian securities regulatory authorities must provide marketplaces and market participants with exemptive relief from the requirement to establish, maintain and ensure compliance with policies and procedures that are reasonably designed to prevent trade-throughs of offers and bids displayed on Alpha's order book.
14. The Financial and Consumer Services Commission (the "**Commission**") has delegated to the Executive Director of Securities the Commission's power under section 208 of the *Act* to exempt, in whole or in part, a person or class of persons from any requirement of any National Instrument, Multilateral Instrument, or Local Instrument, subject to such terms and conditions considered appropriate.
15. The Executive Director of Securities considers that it would not be prejudicial to the public interest to make the following Order.



IT IS ORDERED pursuant to section 208 of the Act:

16. The Commission, considering that it would be in the public interest, orders that:

- (a) marketplaces are exempt from the requirement in Section 6.1 of NI 23-101 to establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs of offers and bids displayed on Alpha's order book; and
- (b) market participants that enter directed-action orders are exempt from the requirement in Section 6.4 of NI 23-101 to establish, maintain and ensure compliance with written policies and procedures that are reasonably designed to prevent trade-throughs of offers and bids displayed on Alpha's order book.

17. This Order comes into effect on 21 September 2015 and expires on the earlier of the date when:

- (a) NI 23-101 is amended to account for speed bumps by marketplaces;
- (b) 23-101 CP is amended to account for speed bumps by marketplaces.

DATED at Saint John, New Brunswick this 18th day of September, 2015.

"Original signed by"

Kevin Hoyt
Executive Director of Securities