ONTARIO SECURITIES COMMISSION POLICY HEARING ON THE MAPLE GROUP ACQUISITION CORPORATION APPLICATION TO ACQUIRE TMX GROUP INC., ALPHA TRADING SYSTEMS LIMITED PARTNERSHIP, ALPHA TRADING SYSTEMS INC., THE CANADIAN DEPOSITORY FOR SECURITIES LIMITED AND, INDIRECTLY, CDS CLEARING AND DEPOSITORY SERVICES INC.

H. I. WETSTON (Chair)
M. G. CONDON (Vice-Chair)
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HELD AT: Ontario Securities Commission
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17th Floor
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--- Upon commencing at 9:32 a.m.

OPENING REMARKS BY THE PANEL:

CHAIR: Good morning, everyone. Welcome to the Ontario Securities Commission. My name is Howard Wetston. On my left is Kevin Kelly, who is a commissioner at the Ontario Securities Commission and he's the lead director of the board of directors of the OSC. And on my right is Mary Condon, who is the vice chair, one of our two vice chairs at the Ontario Securities Commission.

And I'm just going to briefly indicate why we're here. I'm sure most of you know. If you don't know, you're in the wrong place. I'll give you about two minutes to leave if you like. So we're here. This is a bit of a formal introduction, but I think it's important for the record.

Maple Group Acquisition corporation has commenced a two-step integrated transaction to acquire 100 percent of the outstanding shares of TMX Group Inc., TMX Group. Maple has also proposed that currently or following the acquisition of the TMX Group, Maple will acquire Alpha Trading Systems Limited Partnership and Alpha Trading Systems Inc., collectively together with any successors thereto.

I'm reading from your application, so I get it right. And the Canadian depository for securities limited, CDS, collectively CDS. And together with the Maple acquisition, entirely called the transactions.

I think most of you are familiar with that, but at least that introduces why we're here. Let me just indicate at the outset this is not an adjudicative hearing. This is a policy hearing. I call it that in public law terms. It's a policy proceeding.

And what it is -- it is an extension of the comment process related to the proposed acquisition by Maple Group Acquisition Corporation. And the reason that we're calling this a policy proceeding and the reason why we're holding this proceeding is because it is a furtherance of the gathering of information with respect to the comment process associated with any recognition order or orders that might be issued by the OSC in the public interest in relation to the Maple acquisition corporation transactions.

So let me also indicate that we do have here some representatives from the securities commissions across the country. I think the BC Commission is represented. I think the AMF from Quebec also has representation here.

And you should also realize, as many of you do, that the regulation of the exchanges and the infrastructure is multi-faceted. We have a number of regulators who have similar but somewhat different responsibilities, depending on the lead relationship role that they have with respect to the infrastructure that is being regulated.

Let me also remind everyone -- I think you are well aware of that -- that that involves regulation of the infrastructure in British Columbia, in Alberta, in Ontario, and as well as in Quebec. And let me also remind you that the Bank of Canada has a very important role with respect to systemically important infrastructure, namely CDS. And they have an important oversight role with respect to CDS. So let us not fail to remember that that responsibility does exist with the Bank of Canada.

Now, we also had the benefit of the proceeding last week in Montreal. We obviously examined the issues there, and we are aware of the important proceeding that occurred before the AMF last week. And I think representatives, obviously, are here again to continue the comment process with respect to this matter.

Now, I have some opening remarks because I want to frame the discussion that we have today with respect to the matters that this Commission needs to deal with with respect to Ontario's capital markets. And let me focus in the following areas. I'm going to talk about the role of the exchange and clearing agencies in our capital markets.

I hope you learn something from this. How these entities are evolving in the global context. And I'm also going to talk about the framework for our consideration, that is, how we are going to consider this application.

Now, both exchanges and clearing agencies play a fundamental role in the efficient and safe operation of the capital markets. And in Canada, exchanges facilitate the efficient raising of capital by providing liquidity and price discovery. They support investment allocation decisions by their provision of trading platforms.

Exchanges may also carry out regulatory responsibilities by setting standards for the listing of securities and by imposing ongoing requirements on listed issuers. Clearing agencies, which include entities providing clearing, settlement, and depository services, ensure the safe and efficient clearing and settlement of markets, of market participants' obligations, and mitigate risks for participants. They provide critical protection against counterparties and systemic risk and ensure that transactions are effected in a safe and efficient manner.

Now, the mandate of the OSC, you all are aware of, or many of you are. It's to provide protection to investors and to foster fair and efficient capital markets and confidence in those markets. I want to underline confidence. It is in the context of this mandate that we oversee marketplaces, including exchanges and clearing agencies.

Regulatory oversight is critical to maintaining confidence in the market as a whole and specifically in the operations of exchanges. Oversight also ensures that exchanges conduct their business in a manner that supports overall market quality and integrity. Indeed, the backbone of any economy is a liquid, transparent, and well-regulated capital market.

Now, oversight of clearing agencies ensures fair access to clearing, settlement, and depository services, which are often seen as essential services in ensuring appropriate management of risks in the settlement system. It's apparent that both exchanges and clearing agencies are critical to the proper functioning of our capital markets.

Changes to their structure or operations have the potential to affect the efficiencies in our markets and the confidence in those markets. That is why the OSC believes that it is critically important to conduct a thorough examination of the proposed Maple acquisition of TMX Group and its subsidiaries, including Alpha and CDS.

As part of this proposal, we need to understand the evolution of exchanges and clearing agencies in a global context. Exchanges, not just in Canada, but globally have undergone significant changes in recent years. Exchanges have demutualized, moving from a member-owned to shareholder-owned entity.

They've gone public. They've listed their own securities. Exchanges are subject to competition from alternative trading venues and have seen a decrease in market share as a result.

Clearing agencies, on the other hand, have generally not been subject to competition, although this has changed to some extent in some jurisdictions. Clearing agencies that are part of a vertical structure often operate on a for-profit basis, whereas those that are not operate on a cost recovery basis.

Many exchanges that compete have positioned themselves by merging and consolidating with other exchanges and/or clearing agencies. This consolidation is creating huge exchange clearing groups whose intention is to take advantage of economies of scale and scope to better compete in a complex and evolving global landscape.

In Canada, we've experienced some of these trends. Some of you were part of this, obviously. The TSX demutualized in 2000. It became self-listed in 2002. The framework for competition between marketplaces was introduced in 2001, and marketplace competition began in 2005.

And in the context of this application, we are now examining issues surrounding the consolidation of clearing and trading into a vertically integrated model. As such, we have been immersed in market structure issues for over ten years.

While consolidation is occurring in different jurisdictions, each model must be evaluated in the context of the market within which it is occurring. The market structure of the jurisdiction itself impacts greatly on the issues that are raised. I cannot emphasize that too much.

Among the key questions that need to be

addressed here are: Is there competition in the provision of trading or clearing services? Who are the owners of the exchanges? Is there concentration of trading in a few firms? Are there fair access requirements imposed on exchanges or clearing agencies? What are the market structure rules underlying the trading in the market? What is the impact of a particular structure on investors?

The answers to these and other questions help shape the public interest resolution to the complex and novel issues that are raised by the consolidation of marketplaces, clearing agencies, or, in our case, both.

So in Canada, we have before us an application that raises many faceted issues for our capital markets. The infrastructure that is under consideration in this transaction is critical to our markets.

The Canadian market structure has been evolving over the past few years, but the one constant has been a clearing agency that has been user-owned, user-governed, and operates on a not-for-profit basis. It has provided access to all marketplaces as we have developed a multiple marketplace environment.

We have multiple marketplaces trading

the same securities, but offering different services. We have a very concentrated market where a small number of players are responsible for the majority of the order flow. The Maple proposal may result in the consolidation of some of the trading venues that have been introduced over the past several years.

We have participated in the global trends, and yet we also are unique. While the U.S. and Europe have a multiple marketplace environment, their structure is different from ours. In some jurisdictions that have vertically integrated models, there's no competition for trading.

Specifically with respect to clearing and settlement, some view their clearing agencies as essential services, and therefore, competition is restricted. The Europeans have competition in clearing, whereas the U.S. and Canada largely each have a monopoly. There are fair access requirements for trading and clearing currently in place in Canada, whereas they do not apply in other jurisdictions, or at least not to the same extent.

When you look at the characteristics of the Canadian capital market, they are unique. We can't just follow what others have done. Our focus has to be the best interest of the Canadian capital markets as a whole and take into account the interests of all key groups of stakeholders in the markets, including investors.

I'd like to emphasize investors. We seem to leave them out of the equation and not talk about investors very often. Perhaps we'll address that issue.

It cannot be about what is good for a particular segment of the market. We are talking about the future of the Canadian trading and clearing and settlement infrastructure for securities and derivatives. The nature of these markets is global. They are not entirely local.

This transaction will have an impact on our competitiveness globally, and we need to make sure that we get it right. So how are we going to examine this transaction that is by its very nature local but will impact our status on the global stage?

Our review is guided by the Securities Act that provides that an exchange or clearing agency may be recognized if the Commission is satisfied that to do would be in the public interest. The public interest is considered in the context of our legislative mandate, which includes providing protection to investors, fostering fair and efficient capital markets and confidence in those markets.

This would include looking at the impact on the structure of the capital market, for example, competition and innovation, access to the services by market participants, the efficiency of trading, clearing, and settlement processes, the operations of the key infrastructures and services to the Canadian markets, especially during periods of extreme market stress.

Issues raised by the Maple proposal include those that affect the Canadian market structure as a whole and those that are specific to Maple's ownership and governance model. They relate to, among other things, vertical versus horizontal models of clearing, competition for and concentration of order flow, the governance and ownership structure, the management of conflict of interest through independent directors and other means and fair access.

These issues have been highlighted in the notice that was published with respect to the Maple application. In order to determine if issuing the relevant recognition orders is in the public interest, we believe, among other things, the following questions are critical.

Should there be a return to significant

dealer ownership and governance and control in the exchange context? Should there be a vertically integrated model for trading, clearing, and settlement? Should there be a for-profit model for clearing? How will conflicts of interest be managed?

Is the context of an exchange and its public interest mandate so different from the standard corporate context of certain types of entities that would otherwise be considered independent when considering the appointment of independent directors should be excluded in the exchange context?

What does the multiple regulator model mean for the efficiency and effectiveness of regulation in our capital markets?

To answer these questions, we are thoroughly analyzing the proposed transaction and the comments we have received. It's important to emphasize that this hearing constitutes, as I indicated previously, a continuation of the comment process, and a decision relating to this matter will be made by the Commission.

So I would now like to invite Maple and TMX Group to make their presentation to us this morning. I remind everyone that this hearing is being simultaneously translated, and I may have already broken the first rule, which is I needed to speak clearly and slowly. So if I haven't, I'll ask for your forgiveness, and you can put that on the record.

So welcome. I see Mr. Bertrand, Mr. Kloet here and your colleagues, obviously. Who will begin on behalf of Maple Acquisition Corporation?

MR. BERTRAND: Thank you, Mr. Chairman, and good morning. We appreciate, Mr. Chairman and members of the Commission, the opportunity of being here today. Before I begin the formal --

CHAIR: Excuse me, Mr. Bertrand. Unfortunately, you need to switch places, I think.

Okay. Thank you very much.

PRESENTATION BY MAPLE GROUP:

MR. BERTRAND: Okay. All set. Before I begin the formal presentation, I would like to briefly address the release issue Tuesday evening regarding our ongoing dialogue with the competition bureau.

We would like to thank the commissioner for her candid comments and for providing us with the opportunity to address the issues she raised. Our work with the competition bureau continues, and we will update the market on its progress at the appropriate time.

Last week, we appeared before the AMF and presented our case to the Quebec regulatory authorities. For -- some of what you will hear today is similar, of course, to what we presented last week. However, we will take time to comment on a number of the issues raised specifically by the OSC and by those who submitted letters in response to your request for comments.

The challenge before us is straightforward. Canada must enhance its efficiency in a world of global and mobile capital. We are a relatively modest market, representing roughly 3 percent of global GDP and a comparable level of available global capital. And to ourselves, we have a competitor that is many times larger than we are.

Our proposal represents a unique opportunity to strengthen Canada's capital markets and to do so in a responsible and careful manner. The Maple investors came together due to our belief in the future of TMX Group and a shared desire to see the company and our capital markets overall reach their full potential.

We are very pleased that the board and the management of TMX Group support this proposal and that Mr. Tom Kloet and Mr. Kevan Cowan are here with us this morning.

TMX Group represents and manages critical infrastructure that daily supports capital markets activities. However, there is one important component missing. The incorporation of CDS and Alpha with TMX Group's other assets will help build a competitive capital marketplace for the benefit of all participant.

This incorporation is particularly timely post the 2008 credit crisis. We believe that an integrated exchange and clearing group across a full spectrum of cash and derivatives products in both equity and fixed income markets offers significant benefits for all market participants and contributes to the ongoing stability of Canada's financial system.

Further, it is our belief that the model we are proposing will strengthen TMX Group's international position and enhance our capital market's ability to grow and attract new activity in an increasingly global and hypercompetitive financial marketplace.

The integration of CDS's cash clearing and depository services with the TMX Group will provide important potential benefits such as cross margining and capital redeployment opportunities for participants and, very importantly, improved risk management.

To unlock this potential, it is imperative that CDS adopt a for-profit business model to create the necessary incentives for innovation and growth inherent in that type of structure.

For-profit does not mean high prices. On the contrary, it means a focus on growth, on new ideas, and on innovations that will attract new customers and expand the business.

We have seen this work successfully in the demutualization of exchanges, and we will use that experience to build a more successful CDS. It will motivate cost reduction and help fund investment and technology and infrastructure innovation and will allow us to deliver a more efficient clearing house for Canada's capital markets.

It will also motivate the expansion of product offering, help CDS deliver new value added services to the marketplace in the same way that other commercially oriented clearing houses have done so around the world. For example, brokerage houses trading equities and derivatives do not today have the ability to view a consolidated report on a single screen.

By integrating information services and

systems and risk management reporting to CDS and CDCC, we will change that and offer unprecedented simplicity and efficiency to the dealer community while lowering their back office technology and connectivity costs.

Also, dealers in the clearing agencies will have access to the information they need to more effectively net aggregate positions. This can only improve capital allocation while ensuring appropriate risk management.

CDS, once incorporated with the activities of TMX Group, will be able to develop new innovative products that take advantage of this more integrated approach. Over time, this will contribute to increased scale of operations, further strengthening of the group and its ability to compete internationally and acquire new assets.

I want to stress here that we expect the anticipated benefits and new capabilities to support the success of all participants, large or small, whether they're associated with Maple or not.

A TMX Group that clears cash and derivatives will assist and complement regulatory authorities and the Bank of Canada to more effectively monitor risk throughout the system and establish early warning triggers to help prevent escalation.

This has the potential to deliver far-reaching benefits for everyone, including millions of investors across Canada. Furthermore, with CDS and Montreal exchange's derivatives clearing house, the CDCC, under one common ownership, we can provide a possible long-term solution to over-the-counter derivatives clearing.

G20 countries have pledged to bring business solutions to the OTC markets by the end of 2012. Today, CDS and CDCC are collaborating on a solution for the repo market. Tomorrow, through a more integrated platform, they can provide a more effective and robust solution for central counterparty clearing of OTC derivatives.

If implemented, this would have the added benefit of additional scale which would provide value to all dealers through lower costs and improved capital management. The expected positive impacts to liquidity can ease the pressure of heightened collateral requirements under Basel III.

To further demonstrate our commitment to an inclusive environment, we will, consistent with existing regulatory requirements, maintain our fees at fair and reasonable levels and guarantee open access to all participants, all venues to CDS.

CDS and CDCC will build upon the existing advisory committees comprised of market participants to further improve responsiveness to the needs of these participants for new and improved products and services.

CDS is an international price leader in the delivery of cash market clearing. To remain competitive and to attract new activity to Canada, it is imperative that CDS's competitive clearing costs be maintained and enhanced.

We will not introduce two-tier pricing models at CDS for clearing and settlement, and will implement a meaningful pricing policy that will reinforce our commitment to serve the markets and deliver value to all participants. In fact, an announcement is expected on this in the days ahead.

We believe that it is important for the Commission, Maple, TMX Group, and CDS to have a common understanding of the overall regulatory framework at the outset. This includes the rules regarding access, fees, and the for-profit model. Therefore, we have asked that regulatory authorities, including the OSC, approve these transactions concurrently.

Today, both the OSC and the AMF co-regulate CDS. We are confident that Maple can work effectively with both regulators as you seek to extend this regulatory cooperation to TMX Group and Maple overall.

All TMX Group exchanges have a history of working constructively with multiple securities regulators. A proposal -- our proposal is about moving forward, capturing new opportunity and growing the market for the benefit of all participants for partnership, cooperation, and sound oversight will help us to succeed.

In conclusion, post the 2008 crisis, credit crisis, key themes and areas of focus for participants and investors in general are transparency and counterparty and liquidity risks. This is against the backdrop of technology, which has made capital mobile.

The battle to win investment dollars and attract market activity has never been more intense. The proposal before you today is a step forward at meeting the demands of this global reality. It is also a step in line with the specialization and structural evolution of the Canadian capital markets that began in 1999.

And as part of this ongoing process which has been to the benefit of the Canadian capital markets, we will bring in CDS and Alpha, offer new solutions, and further maximize our capital markets operational effectiveness and efficiency.

Then we will use this enhanced capability in offering to attract new capital and new activity to Canada's markets. And finally, the additional scale in activity will better position TMX Group not only to compete internationally, but to grow both organically and through strategic partnerships and acquisitions that will further strengthen Canada's capital markets.

My colleague, Mr. Bill Royan, from the Ontario Teachers Pension Plan will now walk you through what we believe to be a fair and inclusive governance structure that will ensure neutrality, enhance both performances, and maintain TMX Group's ability to serve all market participants and fulfill its critical public interest mandate.

So I look forward to answering your questions, Mr. Chairman. Thank you very much.

CHAIR: Thank you so much, Mr. Bertrand. Appreciate it. So I guess we'll wait for all of the presentations, and then we'll proceed. Does that makes sense to you all?

MR. KLOET: Yes. Yes, it does,

Mr. Chairman.

CHAIR: Mr. Royan?

MR. ROYAN: Good morning. Thank you, Luc, and thank you to the Commission for your time today.

The investors in Maple all recognize TMX Group's unique role. It was discussed at length with the TMX Group over a number of weeks, and their contribution helped us to refine a governance structure proposal that delivers on a number of important criteria.

First, the TMX Group and all relevant businesses, including CDS, preserve their ability to carry out their public interest mandate.

Second, that the new board be comprised of a fair, meaningful, and diverse group of directors capable of serving the needs and interests of the diverse group of relevant stakeholders.

Third, that the governance structure and policies ensure that the expected benefits of this transaction flow through to all market participants, whether associated with Maple or not.

And fourth, that the investors in Maple, who collectively are allocating significant resources to this transaction, are represented in a manner that is both equitable and fair as shareholders of the company.

Each of the Maple investors agrees that the TMX Group is a strong company with excellent future prospects for growth, and we believe that the proposal we have submitted will further strengthen both the company as well as the benefits it delivers to all market participants.

Regarding board composition, we believe that the proposed board meets the criteria for fair, meaningful, and diverse representation. The board will balance and include representation from bank-owned dealers who are the users of the exchanges in part, four pension fund investors, an individual selected from an independent investment dealer, an independent chair, four independent directors from the current TMX Group, and the chief executive officer.

Eight of the 15 directors will have no connection to management of the TMX Group or to any of the participating organizations using the facilities of the exchanges in any significant manner. In addition, pursuant to the undertakings made to various regulators across Canada, the board will include representation that ensures both regional and subject matter expertise, such as in derivatives and in public venture markets.

This reflects the current regulatory requirements and board composition commitments of the TMX Group as well as an enhanced focus on specialized expertise. We believe this structure appropriately balances the skills and expertise needed today with the flexibility to address future needs as the business grows and evolves.

A strong, diverse, and highly knowledgeable board is being proposed with broad experience in capital markets and in financial services. Each of the individuals nominated to the board brings the highest integrity to the work ahead and has a track record of performance and service that is exemplary.

To further enshrine the principles of independence, the finance and audit committee and the governance committee will have only independent directors. Two existing TMX Group directors will be members of the governance committee. Among the responsibilities that key committee will have will be to approve all board nominees, regardless of nomination rights.

In addition, our governance structure ensures that no single institution or group of shareholders would control or have undue influence over the organization. The Maple investors are committed to working together to facilitate the transactions, but we have made no agreements and will not act either jointly or in concert in the future.

The Maple ownership structure maintains and respects the existing 10 percent ownership cap currently in place with both the AMF and the OSC. We believe that taken together, these considerations provide the right balance and respect the corporation's public interest mandate and support the development of exchanges and businesses that will benefit a broad stakeholder community, including shareholders, employees, listed issuers, market participants, and the public capital markets overall.

We are very pleased that our proposed board composition and our definition of independence are supported by the Canadian Coalition for Good Governance. With regard to CDS's governance, we believe that it is critically important that the clearing board include directors with technical expertise, industry experience, and a commitment to the successful and efficient operations and evolution of the clearing house.

The 11-person board of CDS will include

five Maple nominated directors, five independent directors, and the CEO of CDS. We invite the IIAC and IIROC to propose a nominee to the board. In addition, to ensure the necessary technical expertise, at least four of these CDS directors must be active users of the clearing house.

This structure, along with the advisory committee mentioned by Luc, provides the right balance of independence and deep market know-how needed to effectively govern the CDS for the benefit of all participants.

I want to point out that the proposed ownership structure of TMX Group provides for a broad constituency of shareholders and also preserves the company's public listing and all of the rules and regulations associated to it.

Depending on the final tally of shares tendered, approximately 26 percent of the company will be widely held by the public. Approximately 46 percent will be owned by four of Canada's top pension funds, Canada's largest insurance company, two independent dealers, Canada's leading financial cooperative, and a leading Quebec capital development fund. The remaining 28 percent will be held by the four bank-owned dealers.

Following the acquisition of TMX Group

and Alpha, each investor, including participating organizational shareholders, will remain free to direct transactions to any marketplace as they feel appropriate to serve their clients, advance their own business goals, and respect Canadian securities laws and best price and execution requirements.

And with limited non-compete agreements in place among the Maple investors regarding significant equity investments in alternative trading venues, the risks for conflict of interest are further minimized.

Fundamentally, there is a clear alignment of interests between the shareholders and the exchange's public interest mandate. Shareholder value will be created by ensuring that we continue to operate high quality markets that benefit all participants, preserve open access and low fees, increase capital flows, improve liquidity, and compete more effectively on the international stage.

This can only be achieved -- can only be achieved by acting in the public interest, without which investors and participants alike would seek alternate venues through which to conduct business.

Thank you for your time. We look forward to any questions you may have. And with that, Kevan Cowan will provide further comments.

CHAIR: Thank you, Mr. Royan. Thank you.

MR. COWAN: Thank you, Bill, and good morning to everyone. I'll address two topics today, which I suppose I would refer to as the two C's, competition and then exchange level conflicts.

The competitive forces at work in our equity markets have never been stronger. This is the case in both of our trading and our listings markets, and it's particularly true of technology enabled capital and order flow to be increasingly mobile and as the forces of globalization accelerate.

Competition in trading is increasing due to the accelerating impact of a variety of converging forces, including the regulatory regime itself, the multi-market environment, both domestic and international, technological change, the advent of highly sophisticated and highly mobile electronic traders, the worldwide trend to both dark and off-exchange trading, and most importantly or not least significantly, direct customer pressure.

For example, under existing regulatory rules, dealers are required to route orders through whichever trading system offers the best price. To attract and facilitate this flow, our competitors have established the capacity to handle large trading volumes from across the dealer community.

In addition, with the development of the ever smarter smart order routers in use among both our competitors and increasingly among our customers and their ability to navigate the fragmented marketplace and realtime events in submilliseconds, the aggregation of liquidity is increasingly occurring within the smart order routers themselves.

This provides an important mechanism through which our competitors can attract liquidity. Market participants, both domestic and international, now view different trading venues as a single interconnected source of liquidity. This is an example of the technological change that has lowered barriers to entry for new alternative trading systems.

We expect existing alternative trading systems as well as potential new domestic and internationally owned entrants to take advantage of these existing technology solutions to rapidly gain traction as competitors and apply ongoing pricing pressures to our business. Of further benefit to AGSs, high-frequency traders that use algorithms to trade and form liquidity in both lit and dark markets, can quickly contribute to the successful growth of incumbent and potential competitors.

Domestically, in addition to Alpha, a number of alternative trading systems compete with us daily for order flow. For example, in October, the number of trades executed on Chi-X surpassed Alpha's, demonstrating their continued traction in the market.

And in just August of this year, Goldman Sachs announced the launch of SIGMA X Canada, which is a platform that has been tremendously successful in the United States.

To quote a senior executive of Goldman Sachs, the growth potential of the Canadian equity market is significant. We believe unique alternative pools of liquidity will continue to play an important role in the Canadian market's development.

And of course, other competitors such as Omega, ATS, and Pure Trading, which is owned by CNSX, continue to hold market share and have connectivity across the dealer community. All of these alternatives have proven to be sustainable. All have excess capacity. And all exert competitive pricing pressure, even at relatively low levels of market share.

In addition, we are facing increasing

competitive pressure from off-exchange trading, including trading in dark pools and, increasingly importantly, on dealer based crossing networks. This is trading volume or liquidity that cannot be seen by investors, but can map with other investors' orders.

This activity is often conducted directly between dealers, does not trade on any exchange, and provides a fast-growing source of competitive pressure to TMX Group exchanges.

In the United States, and despite declining equity volumes overall, dark liquidity has grown in recent years, and this demonstrates the future potential for dark trading in Canada. Dark trading in Canada has grown from approximately 1.5 percent to 5 percent just within 2011. And it is expected to grow to approximately 15 percent of total market volume within the next five years.

Equity trading competition is also coming directly from international venues. TSX listed securities interlisted with the United States exchanges now see an important level of activity conducted south of the border. Repatriating that order flow back to Canada is an ongoing and active effort, and we believe the additional scale and efficiency proposed by Maple will assist us in bringing equities trading activity back to Canadian exchanges.

As customers implement and take advantage of advancing technology, for example, smart order routers that I referred to, they are increasingly empowered to exert direct pressure on exchange-based trading fees.

Given the rapid growth of trading alternatives, trading customers have more options, both internal within their own businesses and external from providers and both on exchanges and off exchanges than at any point in their history. The competitive forces have never been stronger, particularly as technology enables capital to be increasingly global and mobile.

In terms of equity listings, this is an international business by its very nature. Every day, we compete with markets in the United States and around the world for both Canadian and international issuers. The Toronto Stock Exchange teams work around the world to promote the value of Canadian capital markets and to attract business and activity to Canada, activity that the Toronto Financial Services Alliance estimates employs roughly 20,000 people, directly or indirectly, in the Toronto region alone. This is successful work that we will continue to do and must continue to do on this front.

Before I pass this over to Tom, I do want to comment very briefly on one additional topic. The OSC's request for comments raises our issuer regulation obligations in relation to our commercial objectives as a for-profit exchange.

As the OSC itself points out, even a perception of conflict could be detrimental. We have made careful note of your comments and look forward to addressing these in accordance with our ongoing dialogue and in accordance with the recent OSC audit.

However, I do firmly believe that rather than presenting a conflict, at root, these two roles are highly complimentary. Our commercial interests are completely aligned with the public interest. Market integrity and investor confidence are at the core of our commercial success, and the continuation of that success is possible only if we maintain a quality market respected across Canada and respected around the world.

The words listed on the TSX must be words spoken with pride by every issuer and every public Canadian company. We devote extensive resources to upholding the highest possible standards, and we have a long and strong track record of performance.

Toronto Stock Exchange and TSX Venture

Exchange do not operate in a vacuum or in the dark, but rather in a 100 percent transparent environment. Each decision we make, each issuer approval, each shareholder vote that we request is immediately seen and evaluated by the entire financial sector.

And over and above all of that, we are licensed and overseen by you, the Ontario Securities Commission, on an ongoing basis. For example, in respect of all public interest policy changes that are subject to your approval process.

Standards matter. Reputation is critical. And the integrity of the market is our competitive advantage. These are the foundations upon which our business is built.

With that, I'll pass the floor to Tom to conclude today's presentation. Thank you.

CHAIR: Thank you, Mr. Cowan.

MR. KLOET: Thank you, Kevan, Chairman Wetston, members of the Commission. Thank you for allowing us to appear before you today.

TMX Group today is a strong business which operates successful markets across a wide array of financial instruments. Our exchanges are the destination of choice for global mining, oil and gas, and other resource companies from giant global players to small emerging exploration companies.

We have also built a strong franchise in key sectors such as the emerging clean technology sector, where our leadership extends well outside of Canada's border.

In addition, we have the know-how and capability to serve small and medium-sized enterprises better than any other exchange group in the world. They are the life blood of the Canadian economy and choose our exchanges and Canada's capital markets to fund their growth and build their enterprises.

Our derivative trading and clearing business is seeing a record year in 2011, with average daily volumes reaching new highs. As mentioned earlier, CDCC continues to innovate and to deliver new solutions, such as the repo clearing solution for the interest rate markets.

We deliver real time market information and data required by Canadian and global participants to trade and conduct business in Canada. We are a leader in the energy and natural gas markets. And our footprint is expanding outside of Canada's borders, with new offices in London and Beijing joining established operational centres in Chicago and Houston.

I'm very proud of our accomplishments

and of the team I represent at TMX Group. Our performance has been strong, and our future prospects remain very attractive. However, our focus is on the long term, on delivering growth and on driving activity to Canada as effectively and efficiently as possible.

Over several weeks this past summer, we held extensive talks with Maple and its investors. In parallel, our board took a careful look at their proposal and at the potential benefits to all stakeholders.

As we indicated from the very first day we received Maple's offer, many of the elements of their proposal seemed interesting. Following termination of our binding agreement with LSE Group, we opened detailed discussions and dialogue with Maple.

We take our responsibilities to the broader marketplace and its adherence to TMX Group's public interest mandate very seriously. In making its final determination, the board took a broad and very comprehensive view.

First, we carefully evaluated the impact on the Canadian capital markets and our ability to operate the market in the public interest. Through carefully considered adjustments to Maple's initial proposal found in the support agreement, we assured TMX

Group's independent governance as well as our ability to remain a central catalyst for Canada's markets.

Importantly, we believe that the structure is consistent with our public interest mandate and allows us to serve all participants and continue to develop a quality marketplace with the utmost integrity. We then evaluate the proposal in terms of our current business plan.

It became evident through those conversations that, in fact, we share a common vision with Maple. As part of their proposal, our ability to execute our business plan has improved, and our company's international competitiveness is further enhanced. We are confident in our decision and extremely pleased to move forward.

The vitality of Canada's financial sector is critical to our national economy. Here in Toronto, close to 300,000 people work in the financial services sector, a sector that contributes approximately 20 percent of the region's GDP. TMX is a direct contributor to that sector's growth. On Toronto Stock Exchange, for example, we currently list 781 Ontario issuers, both large and small, with a combined market capitalization of over 815-billion.

Our ability to help them raise capital

to fund growth and new projects must be maintained and enhanced. I'm quite proud of TMX Group's partnership with the Toronto Financial Services Alliance. My leadership team and I personally worked closely with them to promote this city's interests in international markets.

In fact, I was recently in Chicago with TF vice-president Janet Ecker to speak to a local financial community. And just this week, an executive of the TSX listing team joined the TFSA in New York for a similar event. Just two examples of our ongoing work with the TFSA.

Our ability to serve the financial sector in every region of Canada is a role we take seriously and are committed to for the long term.

Through foresight, sound regulation, and careful decision making, Canada's economy has remained relatively strong compared with much of the world. Today, Canada is seen as a stable and healthy market in a world of uncertainty. Although we remain one of the world's leading economies, we are not among the top five and must be smarter, stronger, faster, and more efficient to compete effectively.

The United States, though fragmented in a multiple listing, trading, clearing, and derivative marketplaces and exchanges, is home to the most powerful and capable exchange competitors in the world, and they operate in our time zone, within one hour of our major financial hubs.

In fact, New York Stock Exchange Euronext is about to conclude an historic merger with Deutsche Boerse to create the world's largest exchange group and a fierce global competitor.

We also note that additional consolidation is taking place in the exchange sector around the world. The UK Competition Commission, for example, has just concluded that the merger of BATS Global Markets Inc. and Chi-X Europe Limited "is not likely to result in a substantial lessening of competition in trading services for UK-listed equities," and believes that the ease of using and launching alternative venues will keep fees in check.

In Japan, the main equities and derivatives markets just announced a combination that will create a more integrated Asian player and global competitor. In parallel, the introduction of new technology and new trading strategies across markets and dealers worldwide has changed the nature of the exchange sector.

Capital is more mobile today than at

any other time in history, and we believe that this trend only will accelerate in the years ahead. To compete in this new reality, to become a more attractive destination for capital investment and market activity, Canada's capital markets must enhance what we offer today and do so in a compelling way.

The proposal we are discussing with you today achieves this goal. It extends TMX Group the opportunity to build a fully integrated exchange and clearing group. We believe that this model will generate important benefits to all participants and to the market overall.

For many years, we have promoted aspects of the model now being formally proposed by Maple. For example, combining CDS as part of TMX Group provides important efficiencies that enable us to grow Canada's markets at a faster pace and maximize our ability to compete and win in the international arena.

The incorporation of CDS into TMX Group will deliver a number of benefits to the marketplace and investors. Cross margining will free up capital for our clearing members and market participants and will encourage trading activity across our markets.

As this capital is redeployed, we expect that all markets, those owned by TMX as well as alternative trading systems and other exchanges, will see increases in activity and value.

This will lead to superior levels of liquidity, which in turn will attract additional investment from across Canada and internationally. And it will provide regulators with the ability to more rapidly and more comprehensively assess risk across all clearing venues and take necessary action.

Combined, this model has the potential to deliver real, concrete value. Not only will fees continue to be benchmarked against the world's most efficient markets, but the variable and fixed cost to dealers on our markets are expected to come down through technology and back office integration. For international investors, this represents a simple, effective, and low-cost opportunity to trade and clear both cash and derivatives products in Canada.

We note the concern expressed by a number of stakeholders regarding the change of status to CDS as a "for-profit" model. When exchanges first started to demutualize and became for-profit entities over a decade ago, many of the same concerns were voiced today where we heard that. What transpired, I believe, speaks for itself.

Toronto Stock Exchange today is a far

more effective marketplace than it was a decade ago. The company's work force includes entrepreneurial, innovative, forward-looking professionals who are -- who have driven literally millions of dollars out of the cost structure.

Those savings are reinvested in technology, new products, an expanded global footprint, and increased marketing and business development activity. In parallel, trading fees have come down -- trading fees in cash equities have come down by roughly 90 percent since 1999, a trend that started well before the introduction of competing venues in Canada.

A strong track record of performance also exists at the Montreal exchange and its derivative clearing house, CDCC, which operates in a for-profit model. Combined, they provide a highly competitive and innovative derivatives trading and clearing destination.

We expect that ten years from now, when people look back on this transaction that we are proposing today, they will recognize that it has similarly -- been similarly beneficial to Canada's capital markets.

Since the specialization of markets implemented in 1999, we have successfully built a diverse set of skills and capabilities in key regions across Canada and in our core business. Our ability to share that knowledge across our network and deliver value across Canada is a key component of our success and contributes to the success of Canada's capital markets. We believe this will continue under this proposal.

Fundamentally, everything you have heard from us today tries to answer four basic questions that go to the heart of the proposal. Will capital markets be better served by a TMX Group that combines cash and derivatives trading and clearing, not just locally, but internationally, as we compete for our share of global capital?

Two, can the clearing houses and exchanges owned by TMX Group provide benefits to all market participants and investors within a for-profit model that focuses on growth and innovation?

Three, do our regulators have the power needed to effectively oversee our activities and ensure that our actions support the goal of developing a quality marketplace?

Four, and fundamentally, does the proposed governance and ownership structure provide the independence required to ensure our continued performance in the public interest? We believe the answer to each of these questions is a resounding yes.

Through carefully crafted governance provisions, strong undertakings to regulators, and an independent board, we believe we have struck the right balance. We will be in a better position to capture new growth internationally, and we will continue to act in the public interest by maintaining quality markets that deliver the value, service, and benefits required by the broader marketplace.

This is an opportunity that we hope to seize, with your support, and we will work with Maple's investors, all market participants, and all our regulators across the country to help our capital markets reach their full potential. Thank you once again for your time today, and this concludes our presentations, Mr. Chair.

CHAIR: Thank you very much, Mr. Kloet. Does that conclude the presentation from Maple Acquisition Corp.? Am I getting the name right?

MR. BERTRAND: That's the right name.

CHAIR: I guess probably what we'll do is commence with some questions from the panel. And only the panel will be asking questions today. I know that Staff would like to do that, but we've decided to just make it a panel discussion.

You also appreciate, and I think it should be understood that the matters which this Commission needs to take into account are simply not the matters that are being discussed today. And we have an extensive comment process and replies from Maple Acquisition Corp. to the many questions that we've raised in the notice, and the ongoing discussion and gathering of information is important to the considerations of the Commission, the full Commission, in determining whether or not to issue the recognition orders in the manner proposed or requested by Maple Acquisition Corp.

So I guess really, I would start by saying I hope you brought your dinners with you because we may be here all day. You've raised so many interesting issues that we need to discuss, but we'll be a bit more efficient than that, obviously, in recognizing that, as I indicated, we have much information in our discussions, primarily with Staff, with the corporation.

So having said that, let me just begin by asking a very general question, and appreciate all of your submissions this morning, as I'm sure the panel does.

Can you simply indicate to the Commission what you think are the really significant benefits of the transaction? Can you kind of isolate what you believe them to be? The reason I'm asking this question is many of the issues that you have raised here today are matters that one needs to address regardless of this transaction.

You have raised a number of issues across the whole host of matters that commissions need to address, particularly as capital markets globalize, and I don't think there can be any doubt about the globalization of the capital markets.

So I'm not sure who wants to take that on, but it might assist us a bit to get more deeply into the kinds of issues that we want to address this morning. Mr. Bertrand, perhaps you want to do that? And we don't have a very well-organized mic for you. I guess that's the problem here.

MR. KLOET: One of the problems is that we'll each take different sections --

CHAIR: I understand.

MR. KLOET: -- of the questions.

CHAIR: I understand that. So maybe Mr. Cowan should take the questions.

MR. KLOET: Why don't you and Luc

switch spots, and I think that will make it more efficient, because I guess the question would be can you hear me if I kind of lean over like that?

CHAIR: I don't mind you leaning, I mean, if you're comfortable with that.

MR. KLOET: Luc and I have spent a lot of time on this transaction together, so --

CHAIR: Well, we're not going to provide a physiotherapist, so you take the risks. So if you could just outline fairly efficiently what you believe from the point of view of your experience in this sector and supporting this transaction, what do you think the two or three main benefits are?

MR. BERTRAND: Well, I'll focus on one specific benefit, and I'll ask Tom to complement my comments. But post- the credit crisis of 2008, there's one recurring theme that keeps coming up from all investors, independently of size or status and so forth. And those themes, at least the way I summarize them, are transparency and the lack of transparency in the event of some kind of crisis on liquidity, and really what does that mean in terms of the counterparty.

And I think what has to be understood with the lesson that was learned in 2008 was that the liquidity can seize up, not because there's a lack of liquidity, but because there's a lack of transparency in the system, and everybody kind of starts worrying about the counterparty.

So I'm sure -- admittedly it's one part of the capital markets. It's an important part, though, and we saw the impact it had across all the other asset classes throughout -- you know, beginning mid-'07 until actually less than two years, until the summer of 2009. It was -- and it continues. The effects of this, we can see, are continuing to occur.

And I know probably most are saying, well, that just is with regards to what we consider being over-the-counter or complex instruments that have been, you know, developed over the years and so forth. But now regulators rightly are telling the capital markets, look, you got to get your act together here. We don't want to have this lack of transparency again. We, as a central bank, if you're -- you know, Mr. Bernanke, presumably Mr. Carney as well and all the other central banks, I'm sure will not want to relive an experience where, you know, policy had to be made up very quickly, without all the data in front of them.

So I think there's a responsibility for anyone who's an operator in the capital markets to think about this and to think about it very seriously and to look at the instruments and the tools and the infrastructures that we have, and what did we -- we've developed.

And one conclusion that many of us came to that are behind the Maple construct is that we do have here in Canada, as a result of the evolution of the way the market has been structured since many years -- I like to refer to '99, but anyway -- and we do have the expertise, the knowledge, the smarts, call it what you want, the systems and so forth, but we have to bring this together so that we can create the business solutions that the G20 are requiring, that Basel III is going to force upon us in one form or another, and that our neighbors south of us are pushing ahead with the Dodds Frank legislation, which is going to have a major impact in the capital markets, and to the same extent that Sarbanes Oxley had an impact some years ago.

So long-winded answer to say that the -- I think the one key benefit is our capability of building on this expertise that has developed in Canada to find business solutions to those complex issues that came to full light with the credit crisis of 2008, and develop those mechanisms where you, as a regulator, and

Ottawa in its role as a central bank and AMF and so on and so forth, we'll be able to provide you a better picture because we will be able to present a full -- the full view of the exposure that the participants and the street in general has, that we'll be able to all put this on a single screen.

First, of course, with exchange-traded products, and as time evolves, with the repos, and hopefully we can construct something also with regards to the OTC markets, with regards to swaps primarily. And that, admittedly, is a bigger project, but hopefully that we can play a role in that so that at the end of the day, a year few years out, we'll be able to come back here if we have to and say, this is what we've been able to accomplish by combining these different entities, namely CDS and CDCC in this instance, but under the umbrella of the TMX Group.

And the reality is that there's no stepping away from this. That's where the marketplace is going. That's where the international discussions amongst regulators -- and you're a party of that, through IOSCO and others. You know, you know this better than we do, in fact.

But so there is unquestionably in the Maple construct this concern and desire to build and find those business solutions based on the existing expertise that's been built, and we're ready to invest in this, to give it the resources required under -- with Tom's team, and drive that forward so that at the end of the day, we will answer the transparency issue, we will answer the issue of counterparty risk, and we will be able to hopefully provide the regulators better tools in times of crisis with regards to -- if it means, you know, liquidity seizing up or issues of that kind.

So to me, that is a -- admittedly, you know, for the average investor out there, what I've just described, you know -- you know, they'd probably look at me and yawn, but --

CHAIR: Maybe the average regulator would.

MR. KLOET: Could I -- Mr. Chairman, can I add something? I would say -- there's three things I would highlight. First -- and you already -- you and our comments both articulated the international nature of the world in which we compete, so I don't need to dwell on that.

But what is important is that our market be as efficient as it possibly could, and I think by -- in Luc's comments and my comment, we articulated there's a missing piece to the puzzle of maximizing efficiency, and we believe it is the incorporation of CDS into the TMX umbrella.

I'd like to select just for a second as an example, and an alternative efficiency we've created from another combination that might help the Commission see how we're thinking about this. When we combined with the Montreal exchange and combined our data centres here in Ontario, what we did was we created enormous efficiency for the users, for the investors in our market, that they could access our matching engines for both the cash markets and the derivative markets from a single location, by co-locating in our area.

That's an efficiency and a cost savings passed on to the end investor that I think is important.

The reason I raise that is we can achieve the same kinds of cost savings, I believe ultimately, by combining the clearing. So that's one.

The second is we will have a stronger organization to compete in the international arena. The Maple group of shareholders represent a stable group of shareholders for our company, and also represent a group of shareholders that are active as we are in the international capital markets, whether it's the banks who are represented in it, whether it's the small dealer that's represented on the board, or, in fact, the pension funds, which are active investors in the international market.

Having them participate in the development of our business plan and having that stable group of investors I think will significantly improve our ability to compete in the international arena.

Then finally, the third point I would like to make is that the integration of technology, as bland as that may sound, the integration of technology, where we will give to a dealer who's participating in both the cash and derivative markets, which I expect both continue to come together and be important in the investing world, to give them an integrated technology system to see their risk exposure to the various clearing organizations, to manage their margin and their collateral deposits in a more efficient manner, will have enormous benefits.

I have had the opportunity to, in fact, see that firsthand in Singapore as we built that market when I was the first CEO of the SGX, and in fact, it's an enormous benefit for those market participants. That's why you see that combination there, Hong Kong, Australia, and in so many other places in the world.

There will be efficiencies, and I think that will be important.

So Mr. Chairman, those would be three important things I think this transaction delivers to the marketplace.

CHAIR: Thank you, Mr. Kloet. There's a lot of follow-up questions, obviously, we could perceive here, but I'm not going to do that entirely. I think we'll try and engage in a broad number of areas here. And of course, Mr. Bertrand, we've fully engaged on this matter, all securities regulators in Canada as well as the heads of the Bank of Canada and OSFI and federal finance involved in the innovation group have really been working hard over the last number of months to try and sort out the important issues associated with systemic risk and what their answer to that is, both from the point of view of regulation and from the point of view of addressing clearing, whether local or global, as well as exchange -- and the framework that's being put together. We're all working hard to achieve that framework in the public interest, and I think you're well aware of that. So thanks for that. Did you have --

COMMISSIONER CONDON: Well, I actually did have a follow-up question, if that's okay, Howard, and perhaps it's best addressed to Mr. Kloet. It's on this issue of the cost savings that you've suggested would be achieved as a result of the vertical integration of the TMX with CDS.

Could you just join the dots for us a little bit more in terms of exactly how those cost savings would be achieved by vertical integration? Why can CDS do better than it can do in a horizontal structure? And I guess the other part of this is the -- you know, the information that's been provided to us about how other vertically integrated markets in other jurisdictions, and notably the Deutsche Boerse has higher clearing costs associated with transactions there.

MR. KLOET: Yeah, I think there's a couple of comments I'd make. First, the cost of operating a clearing house and the tariffs charged are a little bit of a separate discussion, so I'll separate that for a moment.

In terms of costs, you know, our -- and we haven't -- I have not -- and I have to frame the answer to your question that I've not, and our team's been a bit, but I've personally not been strongly involved in the due diligence work on CDS. You can imagine that there is a little bit of a wall between us, and the Maple Group has been a bit more actively involved in that.

So I can't give you the complete -- the complete view that I would like to be able to, and that's -- by the way, that's appropriate. I'm not complaining about that. It's just you have to understand the transaction realities here.

But if you'll allow me for a moment to comment on it, because we've actually looked at this question, as you may know, at various times. The TMX Group and my predecessor, and I believe my predecessor's predecessor has made proposals on bringing the CDS --

CHAIR: You have history.

MR. KLOET: Yeah, we have some history here. So -- but it's not as complete as I would like it to be to fully answer your question.

But with that as a caveat, I think, you know, if you look at the support costs around -- just to take one example, look at the support costs around running a separate legal entity as CDS is run, whether it's, you know, a finance function or various other support functions, there are clearly some synergies that can be achieved there. That's one example.

I can't quantify that for you yet, and

I don't think that's -- you're asking me to, but to be clear, I can't because I'm not involved in that.

But beyond that, step away from that, what's the -- I think the real question, what's the efficiency for the dealer? And there I would get into the kinds of things I've referenced earlier, the combination of -- let's start with the combination of just giving them their information via common workstations and common technology.

The truth of the matter is that CDS, like ourselves, is an applied technology company. It has to continue to spend money on technology. We're doing it at CDCC. We have an enormous technology budget for the TMX enterprise altogether. Doing that in a coordinated fashion and in an integrated fashion will create real savings that we intend to share with the community.

Beyond that, you know, one of the real things that we see necessary to further develop real liquidity in both the cash and the derivatives market is a cross-margin benefit for those clients that will have a cash market position with an offsetting risk in the derivative market.

Having spent my life in financial markets that are both cash market and derivative markets, there are enormous strategies that involve taking a cash market position with an offsetting and risk-reducing derivative market position.

We're not giving the marketplace that efficiency right now, and I think that what we'll see is continued volume growth and continued efficiency as a result of giving that very real and very tangible risk relief that's warranted with the position -- with the underlying positions. Those are important things to deliver to the marketplace as we compete for that capital in a global environment.

The concern would be if we don't do it, Commissioner, I'm afraid other people will, and they will compete effectively against us as a result. That's why I'm very passionate about the CDS element of this transaction. I think we have to look at the broader question of what creates that efficiency, and can we create more efficiency by putting these two markets and putting the risk and margin components together as we analyze risk in the positions.

And finally, we already indicated the ability to handle, you know, the unlikely event of a default in any clearing house where you have common ownership and common systems that can show you the risk, I think will help us more effectively deal with that very, very unlikely scenario, but it's a real scenario that, as the operator of a clearing house, I can tell you, you know, I think about every day.

Maybe Kevan can add -- maybe Kevan can add one more --

MR. COWAN. I was just going to add one very sort of practical international synergy that would come from this, and in this case, it's more between the exchange and the clearing house. But currently in Canada, we have international clearing agreements with the United States, of course, Peru, believe it or not, and Japan.

And as we brought -- as we brought these companies together under one umbrella, it will be much easier to prioritize where we go internationally and take the frictions out. It's very important, obviously -- it's been said that we compete for international capital. It's a rapidly globalizing world, and there are frictions currently across the clearing systems. And although we cooperate, if you look back when we had the Venture Exchange and the Toronto Stock Exchange under separate corporations, yes, there was cooperation, but when you brought them under the same corporate umbrella, the opportunity to prioritize, you know, accelerated exponentially.

MR. KLOET: Well, if I can just add to Kevan's comment. The business reality is that -- because your question might be, why can't you just do this even if you don't combine them? The business reality is that, you know, going through the negotiation of how to deal with the risk pools in the event of a default where you've not combined the clearing entities, it's frankly just much more difficult to do if they have separate ownership and separate management teams and separate organizations than it is if you do it in a combined ownership group. That negotiation is significantly easier. That integration of that is significantly easier.

CHAIR: But they do do that in the U.S., and your experience would suggest that.

MR. KLOET: Mr. Chairman, with limited products, and very frankly, with limited effectiveness, to be honest. They did -- I have firsthand experience --

CHAIR: I know you do.

MR. KLOET: -- having been chairman of CME Clearing House. And I can tell you that the -- and it goes to the heart of your opening comments, Mr. Chairman. The effectiveness of that was pretty shallow for a number of years until, frankly, they were able to come up with cross-margin relief at the customer level.

They had it at the clearing member level for specific products, but it was very limited. It was a -- it was a cross-margin light, if you'll allow me to call it that, and it lacked the effectiveness.

And in fact, Mr. Chairman, it was only when they added the further step to get it to the customer level that you're now seeing actual portfolio margining begin to be constructed at the dealer level for the end client. We have a vision of doing that from the -- with your help, because we'll have to work with the Commission on this and with IIROC.

With your help, we think we have the vision of doing that from the beginning, Mr. Chairman. We have a chance to develop a superior model. CDS is a necessary missing element that I think is very important in that, from my experience.

COMMISSIONER KELLY: So I think we get the fully integrated model and your passion for it.

MR. KLOET: Sorry, but it is kind of there.

COMMISSIONER KELLY: That's refreshing. Thanks. So I guess this may be a fairly quick response, then, but my understanding is that the transaction is really conditional upon the integration of CDS. And I guess my question would be if it's ultimately determined that CDS or the integration of it is not in the public interest, just confirm for us that that is a deal breaker.

MR. KLOET: I think the Maple Group would be the appropriate group to --

MR. BERTRAND: That's correct.

COMMISSIONER KELLY: So then let's come back to the fee issue. Because you mentioned, Mr. Bertrand, in your opening comments that -- I think you said for-profit doesn't mean higher prices. And I guess that then begs the question, what do you anticipate -- as you perform your business out there, what do you anticipate will happen to prices?

MR. BERTRAND: With regards to clearing prices, we are in the process of finalizing models and getting a good grasp of the -- how we could structure that, and we will be making, as I said, an announcement with regards to that in the very near future, which I think will go a long way in addressing many of the concerns that have been raised, and we are having also the benefit of hearing those concerns, which is, of course, a very good thing.

And we are working with CDS and with the TMX to make sure that we get it right on either a for-profit environment, where it continues to be very fair for the street in general, if we can use that terminology.

But I can say that there's no question we are being very guided by the past behavior of CDS with regards to fees. So we recognize the sensitivity of this issue. We want to get it right under the for-profit model, while, as I said, honoring and respecting the past behavior of the CDS organization with regards to how fees have been applied and --

MR. KLOET: Can I add something to that, Luc, please? Mr. Commissioner, I think, you know, when we look at these things, history is a good -- is a good barometer. It's not the only barometer we should use, but history's important.

In my comments, I referenced the fact that, in fact, we've reduced fees by 90 percent on the trading side if -- at the Toronto Stock Exchange if one goes back to roughly 2000, if you will.

CHAIR: Did you say 90?

MR. KLOET: Yes, 90. 90, on a per-transaction basis, the best measurement.

Those are important numbers that

indicate that we recognize as an exchange operator that to fulfill our long-term ambition of operating the most liquid markets possible, as volumes increase and as efficiencies -- as efficiencies come into the marketplace, whether it's technology efficiencies, whether it's other efficiencies we can create, we have to balance sharing that with the investor community, and I think our track record has been rather good at doing that.

And interestingly enough, the first reaction might be, well, you only did that after -- after the multi-marketplace environment came into effect. That's actually not the case. In fact, if you go back through our various fee filings, with your permission, you'll see that we altered fees even going back to starting in 2000.

So I think as a responsible market operator, we will continue to balance -- you have our commitment that we will continue to balance that need.

COMMISSIONER KELLY: So Commissioner Condon made the point about the Deutsche Boerse and the fees charged. I'm talking specifically about clearing, clearing costs now. And I know that CDS, DTCC, these sort of cost recovery models tend to, I think, have the lowest costs for the users. And I'm wondering, is there an example, then, of a for-profit model where we see that --

MR. KLOET: Well, I'm not -- I'm not -- I will first admit that I'm not -- may have some prejudices here from my prior experience, but I think the CME clearing house balances the need -- as an entity embedded in a for-profit listed company, very appropriately balances the need to be an efficient low-cost provider of clearing services that -- you continue to see dealers come to them, asking them to clear new products. And it balances that with a very innovative marketplace.

They were the marketplace that developed span margin that virtually every derivative clearing house in the world now uses. They're at the forefront of what's going on in the United States with the U.S.'s answer to the G20 question, along with some other for-profit clearing houses like ICE Clear.

I think what's important, Mr. Commissioner, is that we have a -- not only the efficiency, but also the entrepreneurial zest to develop new products and services out of that clearing house, and as one weighs this important question, one has -- one has to think about both of those things.

And your answer, I'd look at the CME

group as being a particularly efficient one.

MR. BERTRAND: Allow me to add on the Deutsche Boerse example. The reality of the TMX Group, and specifically, of course, with regards to clearing, CDCC and hopefully soon CDS, it's a very different competitive environment or very different theatre, if you wish, where Deutsche Boerse operates and where the TMX Group companies operate.

We are in the same time zone -- as both Tom and I, I think, alluded to in our comments -- same time zone and within an hour's flight from the most, you know, advanced and sophisticated and efficient exchanges, whether they be -- whether those -- cash organizations in the world. So our competition is not or our reference is not Deutsche Boerse. Our reference is DTCC, the Options Clearing Corporation, Chicago Mercantile Clearing that Tom was alluding to, and they are the fiercest competitor in the world.

That's who -- that's who TMX wakes up to every morning. So I think in fairness to our group, you know, what goes on in Europe with regards to fees or elsewhere around the world is not really relevant. It's what goes on south of the border for us.

CHAIR: I think we probably should give some people a bit of a break here, the court reporter, and I think we have simultaneous translation as well.

So why don't we take -- and just before we take a few minutes, I don't want you to rest too much, so I'd like you to just think about a couple of things, because obviously this is not the first time this issue of cost versus for-profit has come up for you. You've given it a lot of thought.

I'd like you to think a little bit, if you might, and perhaps come back and respond to the question about how you see regulation and what you see as the role of the regulator with respect to this potential pricing model that you're working on.

As you know, regulators have not been that engaged on regulating pricing. I personally have had a lot of experience with it as an economic regulator, but that's not what our experience has been here. Obviously we have some oversight of reasonable fees, and you understand that.

And so I'd just like you to think a little bit about how you view the regulatory oversight associated with your proposed model, how you view the participation of the industry, how you view the participation of investors, how you view that entire scenario in relation to the move from a cost-recovery model to a for-profit model.

The other thing I would ask you just to think about for a few minutes is your use of efficiencies is intriguing from my perspective, and I am not suggesting that we get into any kind of an economic debate here about, you know, allocated efficiencies or dynamic efficiencies or product efficiencies or any kind of a debate about trade-off analysis and competition terms with respect to competitive -- I'll put that on the side.

I'll ask you to help me a little bit with efficiency from the point of view of our mandate under the Securities Commission, fair and efficient capital markets, and help me a little bit, if you might, how this transaction meets that requirement, as opposed to simply -- and I'm not underestimating the importance of this innovation and reducing costs. If you could just think a little bit about that, I'd appreciate it. And could we then break for, what, 15 minutes?

--- Recess at 11:03 a.m.

--- On resuming at 11:23 a.m.

CHAIR: Just a quick question prior to the break. Obviously you want to continue to follow up with it, but further discussion we'd like to have on the CDS. It's important. We recognize the importance of this component of the transaction. Did you want to quickly respond to my question if you could, and then we can continue our discussion?

MR. KLOET: By the way, this mic does not have to pick up all four of us, so you don't have to worry about it. We are an applied technology company, but your team was the guy that delivered the solution, so -- we give credit where credit's due, sir.

CHAIR: He's not available. Don't --

MR. KLOET: It's an efficient market, Mr. Chair.

CHAIR: Mr. Bertrand?

MR. BERTRAND: Mr. Chairman, on CDS fees, the -- what we are proposing to do is, as I said, we will be announcing a model and a structure and so forth with regards to fees. But specifically with regards to -- or an application and the work with your staff in the Commission.

We -- what we propose is that we will table the pricing model with the Staff. The -- we recognize that the role of the Commission with regards to the importance of this issue, and therefore, our proposal would be that the model would be part of the recognition order, which, in our view, would give the Commission the -- through this recognition order, the explicit responsibility on a go-forward basis to, you know, reject or approve fees, depending on how it wishes to conduct it, not to set them, not to tell us what to do, but to have the responsibility, of course. And we believe it is within your jurisdiction to do so. But to -- and that can be specific in the recognition order itself. We're comfortable with that.

And, you know, want to make the point that these fees are for all market participants, all venues, all trading venues. We commit to a one-tier system, as you know. We're not going to make any distinction between who the participant or the user -- whether it's a venue or a dealer that is part or not part of Maple to us.

It's all the same category. We are committing to that, as you know. It's already -- in fact, that part is already in our October 3rd application.

Now, admittedly, as we go forward, any changes, there will be reasonable notice to the Commission so that it can review any changes if we feel that changes should occur. The model in itself that we will be tabling is still a work in progress, so I'd hate to get into that discussion today because we still have, you know, modelling to do to make sure that we develop what will be fair for all. All being, of course, the participants, the street, and the Maple investors.

And admittedly, on a go-forward basis, the whole question of fees will be subject to a rather, you know, comprehensive review internally in the Maple construct. And I'm particularly thinking of the advisory committee that will exist for CDS and this advisory committee, which is going to be constituted of market participants and so forth, will have a direct reporting mechanism.

I think this is something new, if I -- I stand to be corrected. I believe this is a new proposal that doesn't currently exist, but will have a direct reporting mechanism to the OSC. Of course, the OSC will be, you know, privy to all the minutes of this committee, but more specifically, the participants on the advisory committee will have, on an ongoing basis, an opportunity to discuss with the Commission proposals that they would be making.

And specifically with the questions to fees, if that's the case, while -- if there is a divergence of opinion with, of course, management or the orientation that one party is taking versus the other, well, again, the Commission will have an opportunity to know about these things through this direct reporting mechanism.

Also, of course, fees will be the responsibility of the finance and audit committee of CDS. And here again, majority of independents will be sitting on this committee. Again, the OSC has access to the minutes of these -- of this committee.

So all this to say that combined with our suggestion to have this as part of our recognition order on a go-forward basis, I think the Commission will have all the opportunities to review our internal discussions with regards to the questions surrounding fees. And we're very, very comfortable with this.

We are also prepared to submit ourselves to benchmarking if that is also required. We did, I think, discuss that in our application. So I think what we're proposing is as comprehensive as possible in circumstances to ensure that the fees are fair, are -- remain one tier, and allow, of course, the markets to develop and allow the business to also be conducted in a proper manner.

CHAIR: So in a nutshell, it's not an approval function, and it's not a rate setting or fee setting function, but what it is is a condition of the -- or proposing a condition for the recognition order.

I suspect that recognition order might be also of interest to other regulators, for obvious reasons. And having said that, you would then suggest that the role of the regulators would be an opportunity to be informed, to understand what is being proposed. And perhaps if I could use this expression, by way of moralsuasion, suggest --

MR. KLOET: Mr. Chairman, if I could interject.

CHAIR: Stronger? I mean, I like the language moralsuasion.

MR. KLOET: I think what we're proposing is a little bit stronger than that, Mr. Chairman.

MR. BERTRAND: You would specifically --

MR. KLOET: If you think about how I understand the national instrument to work with trading fees, for instance, we submit to you a trading fee change. You have the ability to tell us no, to impact that. I think we're suggesting the same concept that's involved in the national instrument for trading fees that exist for CDS fees. And that's, in a nutshell, the concept.

Furthermore, I just want to add onto Luc's comment about how we will treat both market participants and other marketplaces, if you will. And in his proposal, what's important -- and you understand that the principle in which we've discussed this transaction is that if CDS comes into the TMX Group, we will have open access to all other marketplaces in Canada, whether they are other exchanges, whether they are alternative trading systems, or whatever the vernacular that they will be for people to match trades.

CHAIR: Marketplaces. We like that one.

MR. KLOET: I think marketplaces pretty much covers that. Correct, sir. So the proposal, to be very, very clear -- and it's important that we be precise on this -- is that we will offer those clearing services at the same price for non-TMX venues as we -- for trades executed on non-TMX venues as we do for our own. It's a very important principle. So not only is it open access, but it's also --

CHAIR: No discrimination.

MR. KLOET: No discrimination.

CHAIR: Is that what you're getting at?

MR. KLOET: That's what I'm saying,

sir. And I think that's an important principle that we've agreed on --

COMMISSIONER KELLY: Maybe I can -- you mentioned, Mr. Bertrand, you wake up every morning thinking about Europe. We wake up every morning thinking about systemic risk.

And, you know, the one thing I think perhaps we would all agree on -- I hope we would -- is that a business that's run on a cost recovery basis is run differently than a business that's run for profit optimization.

And as I think about -- as we think about CDS, I guess one question that we have is managing risk is truly a strategic process. And running a public company for profit optimization sometimes can be -- short-term factors become involved to ensure that profit targets, et cetera, are met.

And I'd like you to talk a bit about how investments will be made in risk management at CDS, talk a bit about the technology investments that were made. You talked about cross-margining. I'm still not exactly clear what you mean by that, if that a code for lower capital required to support positions. And I'd like you to spend a little time and talk some more about that. But just risk management in general, the investment and strategic approach to --

MR. BERTRAND: Well, I think we already have an example of the kind of behavior that you can expect from the TMX Group under the Maple construct on a go-forth basis.

And I'm referring specifically to the combination of CDCC, the Canadian Derivatives Clearing Corporation, into the Montreal exchange back in 2000 when those organizations were demutualized, made for profit. And the -- admittedly, you know, that was a big change of governance and a big change of how the business was going to operate on a go-forward basis.

And the result of that is -- first thing we did, for instance, just to give you an example -- but the biggest problem we had at CDCC at the time was the fact that CCAA did not exempt derivatives from stays in the event of the insolvency of a counterparty.

We were the only G20 country with such an anomaly, if I can use it. And luckily, we had a governor at the time, which was Mr. Dodge, who understood the problem and helped us.

The point I want to make, though, is that we spent three years in Ottawa to get the clearing and payments act changed because it supersedes the

CCAA. And we poured tons of resources to get this done. It was just one line that was required.

And with the help of the Bank of Canada -- and finally we got that. And it made a material difference in our business because then we could show up in London or New York, and we could say that we have a Standard & Poor's rating now because of this change in the law in Canada with regards to the clearing and payments act, which exempted us from stays in the event of the insolvency of a counterparty.

That's the spirit we're going to continue working in. And for a small exchange at the time, this -- you know, to hire consultants and to hire the lawyers and to work through justice in Ottawa, it was a big undertaking. I personally spent hours and hours because that was critical to the development of the clearing corporation.

And parallel with that, the behavior of CDCC since and its management and its parent and today the TMX Group has been to continually invested in the development of this company. Today, it has an outstanding technology clearing facility. It -- there's a whole group of individuals who have evolved and become very, very specific experts on how to manage complex risk management systems as they regards to technology, as well as the risk manager themselves.

So, you know, I'll leave it to Tom to answer the other half of the question. But I think you -- you, as a Commission -- and your question is very apropos. I think it's right on the money. I mean, we have to give you today as many assurances as possible that our behavior on a go-forward basis will be such that we will worry every day about risk management, and we will have the proper tools in place.

But I think you can rely on the past behavior here of the TMX Group on how it has managed CDCC, which is an admittedly complex exchange, because -- rather, clearing corporation, different than a cash one. The complexity is the fact that, of course, once you've cleared, you still have the responsibility of managing the open interest. And the value of the open interest at CDCC today stands at --

MR. KLOET: It's twice -- it's twice what it was as recently as four years ago. I mean, let me see if I can add to Luc's comment.

I see the appropriate adjudication of our risk management responsibilities when you own a clearing house as being parallel with the for-profit structure, not contradictory to it. You know, if you look at other industries where there's a public interest, whether it's the airline industry or other industries, you know, the automotive industry, you know, they build quality cars because it's good for business, quality airplanes because it's good for business.

We run a quality clearing house. We run a quality clearing house today. We hope to run -- we actually run two. We hope to run some more in the future because it's good for business, sir.

And, in fact, the appropriate adjudication of our risk management responsibilities in overseeing that important element of the systemic risk for our capital markets is in parallel with it. And let me -- that's easy to say, but let me -- let's again look at history as being the indicator of what we've done.

In 2008, NGX, our natural gas exchange, the market for physical energy products, had market participants that suffered financial difficulties, Lehman being a significant participant. We actually had three clearing members go through the bankruptcy process in post 2008, 2009 period.

In each case, we had appropriate risk management techniques, whether it was the margin deposits associated with those positions or the other financial safeguards that, in each case, we, in fact, ended up having the positions orderly liquidated or transferred and returned money to the trustee in bankruptcy that were free credit balances without ever putting in risk our clearing house.

And it was because we had the sound fundamentals of risk management with the appropriate margin setting and payment collect process. We've just gone through a significant default in the global derivative business with MF Global. Once again, Mr. Commissioner, I would say that CDCC embedded in a for-profit TMX, handled its responsibilities in that matter in an exemplary fashion at all times.

I personally, for the last several weeks, have known the positions, the margin requirement, and the excess collateral we held was in active daily -- in a personal level at the top of the organization, was an active daily conversation with our extremely competent head of risk in there, Alain Miquelon, who runs the Montreal exchange to whom he reports.

And we took that responsibility extremely seriously and, in fact, have again returned collateral after transferring and liquidating all positions that were available or that were within our clearing house, have handled that default again in a manner where we returned excess collateral to the trustee.

And finally, embedded in your question was, I think, a question about how do I know you guys are going to continue to invest in the future with a long-range view?

Again, I think history is the best indicator. We have been working for about nine months now on this repo clearing facility for the capital markets. We have no guarantee from the dealers that we're actually going to get business on that, by the way.

But with the foresight of managing our business with long-term growth -- not short-term growth, sir, but long-term growth -- we have continued to invest millions of dollars in the development of that, along with the industry working hand in hand, even though we live in a for-profit model.

And the reason is because it makes business sense. There's not a disconnect between appropriately managing the risk that's embedded within our clearing structure and handling the systemic risk that exists in the system. It is not inconsistent to do that with the idea of building our business.

And, in fact, I would argue, sir, that if we did not adjudicate those responsibilities in that way, we'd have a very short-term view and short-term future. In fact, we think we have a great long-term future because we have those principles embedded in the culture of the institution. I think our friends at Maple share that view.

COMMISSIONER KELLY: So can you spend a moment, then -- thank you -- and expand on the cross-margining idea that you brought up earlier? Because perhaps everyone else in the room --

MR. KLOET: Very simply put, the idea of cross-margining is that when a client puts on a cash position and manages that position with -- like many large institutional investors will, manages that investment with a derivative product -- and let me back up and say, our derivative products at their core are risk management tools. That's really what they are. They are risk management tools. The BAX contract, the equity index contracts, the options contracts we list are risk management tools.

And what happens when the clearing structure is separate is that the client has to naturally pay for the stock or margin the stock in one pool. And then in a separate pool, margin the risk management position or collateralize the risk management position, when, in fact, the correlation of the risk of those two instruments may not -- may not actually require the combined margin.

What cross-margin does is it gives some of that relief to the investor. And more appropriately, looks at this portfolio as a whole. Because the reality is if he's long, the S&P index and short a futures contract in that index, his risk is not the absolute sum of the requirements of those two, but rather a fraction of that, and it recognizes that. That's very simply what it does. I've tried to raise a simple example for clarity.

COMMISSIONER KELLY: So then in what you've just described, are there any scenarios at all where you can think that the risk levels go -- I get it when the correlations are perfect, if you're hedging exactly against a position, but you and I know that that's not normally --

MR. KLOET: An important element of a -- of the risk model of a clearing house is active re-evaluation of margin levels. We do that at CDC regularly. We both look at past history, you know, what the 90 day correlation has been in instruments or what the 90 day movement has been, as well as anticipate -- you have to bring some common sense into that, anticipate future movements.

It wouldn't surprise you to know that when interest rate markets get destabilized, we actively increase the margin requirements in our BAX contract, and vice versa. So I think an important element to our success has been the regular re-evaluation of margin requirements. And that will be essential to succeed in the future in this endeavor.

CHAIR: And I suppose once the repo world comes about, you will probably be declared systemically risky by the Bank of Canada and have further oversight.

MR. KLOET: Mr. Chairman, it is our expectation that we will be. We've been informed of that by the Bank of Canada.

CHAIR: Well, and whether that materializes obviously is a matter for the future. But let me just ask you this, then. And I think it's simply trying to understand the overall objectives that you have in mind here.

Given the ownership of CDS today and the ownership, of course, of CDCC and TMX, let me understand the necessity of the Maple part of this transaction to achieve what you're suggesting.

Because I say you have history, and you've wanted to look at the integration of the TMX Group with CDS for some period of time, or maybe the TSX with the CDS Group, and recognizing the evolution. I think, Mr. Bertrand, you were very involved in this in '99 and 2000, during that period. So we obviously have those here who can understand this.

I'm still trying to figure out exactly who owns the CDS, who the participants are in the CDS. Your 50 percent ownership, IIROC's 15 or so percent, given the dealer ownership, let me understand why it is that you can't achieve that investment in technology, the kinds of issues that you're talking about, in the absence of the other aspects of this transaction, which has been brought to the OSC, the AMF, and other regulators. Can you help me with that?

MR. KLOET: I can, Mr. Chairman. I think one has to -- you know, first, we -- to your point, we've been interested in this for a long time. We can all just stipulate to that. I think it has enormous potential for this market and will help improve the underlying liquidity significantly in the long run.

All that as a given, I think what we have to look at is the Maple -- and how I view it as the CEO of the TMX Group -- the Maple proposal is a comprehensive proposal that deals with several elements of our markets.

Most of this hearing has focused on the CDS element. There are other things that we talked about that are attributes to the Maple proposal. Could we do the CDS transaction without it? Well, I might be interested in that, but I'm one voice, sir. I can't -- you know, we're one voice.

But to be very clear, what the Maple proposal represents is a comprehensive positioning of the TMX Group that I think is beneficial to Canada's capital markets. I referenced earlier that stable group of shareholders that would be embedded in the group who have an international vision.

I'm extremely pleased to be on the panel with Mr. Royan. He and his organization is an active market participant, an active investor around the world. Having the chance to access his expertise on a board would be outstanding. Same thing for the complete group.

I think one has to look at the whole package, and the whole package is what's led us to today's hearings. I think if you begin to take elements out, while they might satisfy some of TMX's needs and maybe some personal interests that we have -- or not personal, but professional interests that we have organizationally -- I think one has to look at the comprehensiveness of the proposal, and that's what attracts us to it, sir.

CHAIR: Well, we're going to talk about the comprehensiveness because it raises other issues with respect to trading which are very important, obviously, to our market. So the comprehensiveness is not without other questions that we need to discuss.

MR. KLOET: I understand that.

CHAIR: I know you do. I realize we're spending a lot of time on CDS, and I think it's important. Let me just ask you another question about this. And I guess we have many to ask. But I always get concerned about issues that involve pricing and cross subsidization.

This whole transaction involves not only trading. It involves clearing. And let me understand how you tend to address cross-subsidies that could arise or occur in an integrated environment that you're proposing and, obviously, could affect investors or market participants more broadly.

And we do have other commentators who will be speaking today and tomorrow who, of course, raise these kinds of issues as matters of concern often rather than issues of entirely issues of support. Can you address that issue for us?

MR. KLOET: TMX -- TMX today is very different than the Toronto Stock Exchange of ten years ago. And I'd even argue it's very different than the TSX Inc. of five years ago. In fact, what we run is a very comprehensive -- not as comprehensive as we would like. There's a couple missing elements -- but a very comprehensive group of marketplaces, clearing houses, exchanges, and other units.

Everything from, you know, the world's, I think, best junior market with the Venture Exchange, the senior market, to Montreal exchange -- I'm not going to go through the whole list. But you know we are an aggregation of a number of businesses all related to the applied technology business in financial instruments and capital raising.

Already, we operate two clearing houses, CDCC and the NGX clearing house. While I don't think anybody's suggesting that there's cross subsidization there, what there is is there's efficiency of platforms. And I'm suggesting we're going to create efficiency of platforms, not cross subsidizations.

When the now TMX Group and then TSX bought and formed TSX Venture Exchange, I don't think there's a cross subsidization there in owning multiple equity markets. But I will say the efficiency that's been created by having the Toronto Stock Exchange and the TSX Venture Exchange on the same technology platform, distributed globally, with a comprehensive set of market participants operating in both markets in a relatively seamless way, we do -- you know, do separate the two exchanges.

There's not cross subsidization there. There's efficiency. The Venture Exchange, you know, which raised $10-billion last year, compared to, what was it, a billion ten years ago, right, Kevan? Okay. And the success it's had -- I would argue a lot of it has to do with being a part of this family of exchanges.

Again, we'll provide that with this. I don't think it's cross subsidization, Mr. Chairman. I think it's efficiency.

MR. BERTRAND: If I may add from a Maple perspective. I can say very, you know, straightforwardly we'd never even thought of cross subsidization when we were building the Maple model. It never entered our mind.

The -- you know, and I'm -- what the Maple investors are looking for is to see a street that is significantly more efficient. If you have a -- having a greater efficiency between CDS and CDCC will mean that the street will be able to be more efficient, will mean that the back offices of the street will be able to also streamline their affairs.

And I think what the participants are looking at here is how can we simplify our own process, because the process of a -- the TMX Group's combined CDS, CDCC is more efficient. Now that, to the street, is, you know -- hopefully, five years from now, we can do an analysis of this, and I'm convinced that the result will say that we have a very efficient environment, significantly more so than what it is today where these two entities operate on a separate basis. And what's what we're focused on.

CHAIR: Well, once again, I don't think it will be helpful to go down the economic debates here of suggesting how you could achieve cross-subsidies in this environment. But on balance, I'm raising the issue for your attention because obviously it is an important one that regulators need to keep in mind. And I think you can fully understand and appreciate why that would be the case. An investor, obviously, would be very concerned about the entire transaction from beginning to end and the cost of that. We, as regulators, obviously, are mindful of that. As you said before, we're not price regulators. And you're proposing some unique aspects of this transaction for our consideration. So I think it's just one of the matters that we need to think about, talk about, and discuss with you. Did you have a follow-up question?

COMMISSIONER CONDON: No. I wanted to shift to the trading issues.

CHAIR: Yeah. Why don't we, then.

COMMISSIONER KELLY: I had one follow-up. Because Mr. Kloet, you talked about ventures -- the Venture Exchange, I should say. And I'm just, I guess, curious. It would be our opinion, I think, that that's been a very successful operation.

Ventures has been responsible for the incubation of many companies. And I'd just like to know -- you mentioned before -- so I'll just get you to conclude it -- conclude your point regarding the future you see for Ventures, the kind of investment that will be made there going forward.

MR. KLOET: You know, I -- the -- just to share a story here for a second to illustrate it. When I first came into the job, I kind of wondered what is this Venture Exchange because I hadn't really encountered it and wondered about it.

It is an incredible thing. It's an incredibly successful thing, not just for TMX Group, but more importantly, for the early stage companies that raise capital on it. I'm extremely proud of the fact that we raised $10-billion on Venture last year, whereas I think we're at 8.5-billion or 8.9-billion through October this year.

The world keeps looking to our exchanges, the early stage developer. And you rightly cite the fact that we've had over 500 graduates in the last ten years. And what is it, Kevan? Around 24 percent of the companies in the composite index are made up of Venture graduates.

That's embedded in our DNA, Commissioner. We are very excited about it. I spend enormous time around the world presenting our case for why our small cap market is the best in the world. We're in with both feet. And we believe that the model we've created with the proportionate regulatory model is an exceptional model.

And I think the numbers show it. Because not only is it successful in capital raising, but I believe it's the most successful from a liquidity and trading standpoint and, ultimately, graduation standpoint, which is the best test in the world.

So we're -- you have my assurance this institution will continue to invest in the Venture Exchange tomorrow and for decades beyond that.

CHAIR: Thank you, Mr. Kelly.

COMMISSIONER CONDON: Thanks, Howard. I just wanted to shift the conversation a little bit now to the question of competition across the trading markets. And there have several comments about this in the presentation and particularly by Mr. Cowan. So maybe the question is initially best addressed to him. And it relates to the question or the comments that were made about the robustness of competition across trading markets. But if you add together the two TSX markets along with Alpha, which, as part of your proposal, will be -- will be incorporated into the Maple acquisition transaction, that's a very significant market share or trading volume.

And so what -- and along with that comes the point that with respect to competition with U.S. markets, there is a small -- there are really a small number of Canadian companies that are interlisted on U.S. exchanges. So what kind of comfort can the Commission get around the continued robustness of competition in the trading markets if Alpha is taken out of the equation?

MR. COWAN: Sure. I mean, I think the first comment I'd make is you referred to the high market share that would be the sum of the two organizations coming together. But as Tom pointed out earlier, there was a time when we had a hundred percent market share or very close to it. And notwithstanding that, we had drastic fee increases because there's tremendous -- sorry. Did I say -- oh, boy.

CHAIR: Let the record show --

MR. COWAN: Well, Mr. Chairman, you can let the facts show that it was a 90 percent decrease.

CHAIR: The one thing you should not be preoccupied with is you're not under oath, so you can say --

MR. COWAN: A 90 percent -- it was not Freudian. As the facts show. 90 decrease in those fees over that 10-year period, much of which was prior to having any -- when we had very high market share.

I think the second comment I'd make is market share does not necessarily equal price constraint. And there's no better example of this than looking south of the border in the United States where we've seen, you know, a tremendous fragmentation of the market and lots of players who have single digit market share and yet are bringing a very effective price constraint to pricing.

And we've recently seen corroboration of that with the UK competition authority that has looked at the situation between Chi-X, Europe, and BATS and come up with the conclusion that 5 percent is, in fact, an effective price constraint. And that's in a regime where they don't have the same best price execution in terms of mandatory connectivity that we have here in Canada. So I think the conclusion has to be you put those two together, and we have an even more effective price constraint and lower market shares here.

I'd also point to the submissions by Chi-X and Pure. If you look at their submissions to the proposed Maple transaction, I think you can see in those submissions that they see the opportunity for, you know, increased competition and competitive constraint on their part. It's the marriage of technology, plus excess capacity, plus effective price constraints.

Around the across border, while the number may be small compared to the very large denominator that we have with almost 4,000 listed issuers, in fact, a very significant percentage of our trading is, in fact, in interlisted companies that -- and there is the threat of cross-border competition there.

And when you marry that with the increasing -- increasing by the week customer empowerment through technology with things like smart order routers that allow customers not only on the former, you know, aggregate basis, but now on almost a trade-by-trade basis to direct where that trading flow goes, that U.S. competition is very, very significant and becoming more so.

MR. KLOET: If I can just add a couple of comments to Kevan's. First, the other thing the Commission can -- should take note of in evaluating this issue is the ease of -- or the lack of barriers to entry to come into the trading business.

Quite frankly, the rules put forward do make it quite easy for new competitors to come into this market. And it's these opportunities of existing competitors are not -- are not efficient and providing the quality markets that they should.

It's my view that we operate currently in a hypercompetitive market. I don't think the change in ownership of Alpha alters the competitive nature of that market. And, in fact, I think that there are new entrants that will examine the opportunities coming into this market and competing with us even in a post-transaction. So it's our expectation that the market will remain hypercompetitive post this transaction, and the low barriers to entry invite that competition.

MR. BERTRAND: If I can add one last point. The commitment that has been made by Maple with regards to trading fees. We have committed that we will not discriminate between interlisted and not interlisted with regards to fees.

And I think what has to be well understood, in my view, is that the analysis we're going to start talking about is -- has to be done on a North American basis. TMX does not operate in isolation. It -- and the bulk of the activity is admittedly in the senior stocks that are interlisted. That's where the volumes are. That's where -- you know, where most of the activity occurs. And that's where there is huge pricing pressure from the U.S. exchanges from -- not only NASDAQ and NYSE but from BATS and Chi-X and all the other alternative trading venues.

But the point I want to make is that

the Commission should understand that we will not price discriminate between -- on fees between listeds and interlisteds. And that is the competitive pressure that we have to face.

I think what will dictate our behavior is how do we repatriate some of this interlisted volume back to Canada, the potashes and the RIM's, and all those stocks that are primarily trading in the U.S. They're not trading here. Admittedly, this is low-lying fruit.

My view is that if we can offer a cross-margin product combined with a trading product of some sort, I mean, maybe we can be successful in convincing the Goldman Sachs of the world to come back up here and be more active in our markets, and that will be good for the Canadian street in general. Because as you know, reporting issuers will look at where the activity is done in their stock and select the investment bankers accordingly.

And I think Canada's been losing a lot of business because of all this interlisted business that's going to the U.S., and that's something we will be focusing on. And admittedly, to get it back up here, we're not going to get it by increasing fees. And the pressure there is unquestionably real.

MR. COWAN: One more -- sorry. Just one more very quick point. As Luc points out, we're competing for flow in internationally interlisted issuers. We're also competing for capital. We estimate every day between 40 and 50 percent of the trading on the Toronto Stock Exchange originates outside of Canada.

And that is highly mobile, highly electronified, often short-term hold period capital that we have to continue to compete for. And we can't compete for if our fees are out of line with the United States.

COMMISSIONER KELLY: So moving from trading to clearing, then, and the competitiveness of that, I mean, is there any scenario out there that you can see where we would see substantial competition in Canada for the clearing business?

I mean, you've got the major investors in Maple being the large piece of the marketplace. So I'm not sure how big the opportunity would be for competitor. And then you've got -- as I understand it, cross listed securities, if a Canadian company -- mentioned potash -- is traded in New York, it's cleared through DTCC and not CDS. Is that --

MR. BERTRAND: That's correct.

COMMISSIONER KELLY: And so I guess there's a natural constraint there in terms of pricing.

MR. BERTRAND: Unquestionably. The CDS competes against DTCC. And I can't think of another clearing corporation in the world that has a -- you know, a huge competitor in terms of DTCC's scale and depth. I can't think of another clearing corporation that has that same competitive constraint or competitive element.

And there's no question that when we talk about the interlisted business, it's not just about the trading fees. It's also about the clearing fees.

CHAIR: Well, they're lower than CDS, but only slightly lower, I think.

MR. BERTRAND: Pardon me?

CHAIR: The trading fees at -- I mean, I think they're the lowest, and we're second in the entire global.

MR. BERTRAND: And it certainly has had an influence on how CDS has managed its business.

CHAIR: I just want to ask you a question, and I'm sure I'll have follow-up here since we're talking about trading. But would you not agree that Alpha's presence has had a significant impact on

TMX?

MR. COWAN: I think what's important to note is that there's been a whole series of factors over the last decade that have contributed to competitive pricing pressure. And we've responded to all of them.

There's no question that Alpha has played a role in that. I think what's significant from our perspective -- again, it's not entirely about market share. It's about pricing constraint and what other alternatives are out there both now and threaten that are exercising pricing constraint.

And there are the other alternative trading systems that are there. We've quoted some statistics from Chi-X earlier. Chi-X has clearly has some real -- some uptake. And some of that is fee related. If you look over the last several months, there are smaller systems like Omega which people sometimes like to smile at them, but the reality is it's been sustainable. And it is a competitive pricing constraint, as is Pure.

So, yes, Alpha played a role in that. There's no question. I think as we entered the multi-market environment in, you know, the fall of 2008, as we dealt with the financial crisis, we dealt with the advent of high frequency traders, and we dealt with Alpha, there was a lot of new pressures on the Canadian situation.

And not to underestimate the role of high-frequency players in this as well, which being electronic, being highly mobile, do also impose a pricing constraint in terms of our business. All of those were factors, but there's been a long series, and Alpha has been one in that long series of factors that continued.

The final thing I will say is we did mention Sigma X earlier. And I think what's fascinating about that -- Sigma X coming from the United States -- Goldman Sachs is a different breed of marketplace. And it is one that parallels the trend that is ahead of us in the United States in terms of the development of crossing networks and the increasing role that dealers are playing in terms of the internalization and the matching of trades off exchanges.

And we very much believe that it's the next wave of what will come to Canada, as we've dealt with high-frequency traders and gone in the multi-market environment, and it's a sign of a customer empowerment. It's a sign of off-exchange trading, and it's a tremendous competitive pricing constraint.

CHAIR: So gentlemen, let me just ask you this. Parts of this transaction, I might call -- is an in-principle transaction. So you don't have a transaction. You don't have a deal with Alpha. You don't have anything with CDS yet.

We're looking at this transaction, which has significant implications for our markets. Are you asking this Commission to agree to a recognition order with terms and conditions without having before us all of the associated terms and conditions associated with the acquisition of two, I think, key components, admittedly CDS having the huge national and international component, Alpha being obviously more domestic, but nevertheless, engaging in fairly significant amount of trading and Venture stocks in developing ETF structured product as part of its up and goal.

We have an exchange application before us from Alpha. Commission still has that application before us. So how do you -- I'm calling it an in-principle transaction. How do you view it? And how do you expect us to view this and consider it in the context of our responsibilities?

MR. BERTRAND: Perhaps I can address

that, Mr. Chairman. As you know, our view is that we believe we will have an arrangement or arrangements with CDS and with Alpha before your recognition order is published with us or determined.

We are actively engaged with -- in that process right now with both those organizations, and things are moving along very rapidly. And yes, unquestionably, the intent of Maple is to complete those well in time so that you can, you know, come to your final determinations with regards to the recognition order.

Of course, that is the ideal scenario, and that's what we are working towards. However, admittedly, if, for some reason, things don't all fall in sync together, we would certainly ask if it would be possible to have some kinds of approvals in principle, subject to final review by the Commission before the granting of those orders or those recognitions with regards to Alpha and CDS. So I know there's lots of work going on.

CHAIR: Sure, I understand. And I'm not trying to put you on the spot.

MR. BERTRAND: I understand.

CHAIR: Although maybe I am.

MR. BERTRAND: We had to expect it.

CHAIR: But, you know, unscrambling the eggs, so to speak, is a bit of a challenge.

MR. BERTRAND: We agree.

CHAIR: And we can't -- we cannot -- and I don't think you would expect this Commission to be issuing recognition orders based upon your goals and desires without being able to assess very carefully the implications. And I think you would all agree with that.

MR. KLOET: That's true.

CHAIR: So that's part of the reason why I'm mentioning in principle. And you're all very experienced and understand these markets so much so, and I think you understand what I'm suggesting.

MR. BERTRAND: Yes.

CHAIR: But it would really -- because many of the issues that you talk about on efficiencies, for example, may very well be the case, but we don't have that before us because we do not have the details of that before us because we still don't have that component of the transaction before us.

It has been suggested that Maple consider this transaction in stages. I realize you're not doing that. And so I just am simply indicating that -- and I think Mr. Bertrand, in fairness, how you suggest that prior to any recognition orders being issued by this Commission or possibly -- I can't speak for any other Commission -- I think you understand the reason why I cannot do that.

MR. KLOET: Yes, we do.

CHAIR: Would be that more of that information and an understanding of what those components are since they're pretty significant to the transaction, would be --

MR. BERTRAND: We understand.

CHAIR: Let me just ask you another question. You have a non-preference in your agreement, in your proposal. Does that not indicate, should the Alpha transaction not go ahead, how you view the significance of Alpha in your market?

MR. ROYAN: Well, several comments on that.

CHAIR: Over to you, Mr. Royan.

MR. ROYAN: So certainly, with regard to the non-preferencing itself and the question of the public interest there, it's important to keep in mind from a structural perspective that the non-preferencing obligation only occurs if the transaction with regard to Alpha is not consummated. So the first is that.

CHAIR: We get that part.

MR. ROYAN: Right. So that's only with regard to the inability if, for any commercial reason, we cannot complete the acquisition of Alpha. In that circumstance, the Maple investors that are participating organizations have agreed not to preference Alpha with respect to trading volumes if that occurs.

However, our view is this is very much the opposite, the opposite of competitive restraint. It does not constrain the ability of the participating organizations to direct transactions to existing competing marketplaces such as Chi-X, Pure, Sigma X, and a whole range.

And certainly, from our perspective, one of the interesting market realities is the fact there have been 10 or 11 or more new market places created, many in the last handful of months, 12, 18, or 24 months. And the non-preferencing does not constrain the formulation or the development of competing marketplaces. And frankly, from our perspective, is entirely consistent with the existing regulatory policies.

CHAIR: Well, don't you view the fact that you would have a regulatory obligation to achieve best execution, and therefore, your dealers would not be able to avoid ensuring that the trading occurred on a marketplace that achieved best execution?

MR. ROYAN: That's right. And that's our view around why our view is this is not a competitive restraint. The connectivity requirements and the best execution requirements and the fact that the participating organizations are connected to all of these --

CHAIR: We understand. So we understand the framework, so I'm still going back to my question. So why do you need it? Why do you need it? If the requirement exists, why the need for the preferencing and non-preferencing agreement? I'm still trying to understand that.

MR. ROYAN: Well -- and again, it's not a requirement, right? So as you said, one of the critical elements is again, from our perspective, it doesn't constrain. It really is -- and again, whether it's the blend of the construction of that regulatory framework or, frankly, the end of the day, the alignment of what we're calling this comprehensive set of combining the businesses together, our view is that is consistent and, frankly, an alignment of the interests of the --

CHAIR: So you don't see it as a

trading issue. You see it as an investment issue?

MR. ROYAN: Correct.

CHAIR: Is that how you're sort of dealing it, if I can put it that way?

MR. ROYAN: Well, I'd say portion. It's a portion of the consideration.

CHAIR: So on the issue of -- I think, Mr. Bertrand -- you may have indicated this, Mr. Kloet. Just want to follow up because we're talking about the non-preferencing agreement. And I just want to understand. You've indicated that there are no agreements -- or Mr. Royan, maybe you indicated that. I can't remember, frankly.

MR. ROYAN: Correct. Correct. Post the closing of the transaction.

CHAIR: There are no agreements in issue among the shareholders or between the shareholders and Maple, formal or informal. None exist.

MR. ROYAN: Correct.

CHAIR: I thought that's what you said.

MR. ROYAN: I did. Correct.

CHAIR: One of the questions that we were asking about clearing once again -- just to connect the clearing and the trading, how can fair access to clearing services be assured?

MR. KLOET: I think the best assurance is our commitment to, one, offer our clearing services to all market -- trades executed on our -- all marketplaces in Canada. And perhaps that should be an element of the recognition order.

Two, that we do so on no less favorable terms to other marketplaces than trades executed on the TMX. And three, that the commitment has been made by Maple that Maple investors will not enjoy a better clearing rate than non-Maple investors.

I think those three elements create the necessary parts for fair access.

CHAIR: And does your experience suggest that all of that would be included in the recognition order?

MR. KLOET: Well, you know, Mr. Chairman, we're willing to work with you however that should be, whether it's in the recognition order or the national instrument. I think, frankly, the Commission would be better to tell us how to do it.

But in terms of businesses -- from a business standpoint, it strikes me that having that in the recognition order would make sense, and then have the -- as I indicated earlier, the national instrument include or incorporate the ability of the Commission to disapprove a clearing fee rate change in a similar manner to which it does now trading and other fees -- would make sense to me.

But very frankly, sir, if there's an alternative method in which to do it, we're concentrating more on the principles here.

COMMISSIONER CONDON: Could I just jump in here and ask a general question, which is thrown out by a number of the different areas that we've covered already this morning. But it's also directly related to the conversation about the non-preferencing agreement and the context in which that would operate, which is the best execution requirement.

We talked about the role of the securities regulators around pricing with respect to access to clearing and so on. And we talked about the ongoing requirement, presumably, for supervision of compliance with the best execution requirement, even possibly a bit of an enhanced concern about systemic risk in an -- as a result of this transaction.

All of that, at some level, will impose additional regulatory cost. It will require regulators to perhaps, you know, engage in more intensive supervision or compliance in various ways, may require the addition of greater expertise on the market side and so on.

And of course, ultimately, given the way that the Securities Commission is funded, those costs are going to ultimately be paid by all market participants.

Is that something that you've factored into your analysis at all in terms of how we would -- you know, we would add up the costs and benefits of recognizing this transaction?

MR. KLOET: I think, you know, from our perspective, those additional costs, the short answer is yes. We think those additional costs on the regulatory side -- you know, much of it -- we'll bear additional costs as well, frankly, and we recognize that.

But we think the efficiency that's created in the marketplace will exceed that. And, you know, much -- much of the power -- you have a broad public interest mandate today. There -- I guess the new thing that we're proposing at the front end is this ability to disapprove or, if you will, reject or say no to our clearing fee changes.

My suspicion is that while it's not currently in the national instrument, you would exercise your public interest mandate anyway if we were to do the wrong thing there today. So I'm not sure it's adding significant cost to the system that we don't already recognize, and we've incorporated into our own models.

MR. BERTRAND: Might add, if there is an additional cost, of course, you are getting something in return from that additional cost -- or the street is. And that, I think, will be greater transparency in the overall operations of the marketplace.

And my sense is that from the regulator and for IIROC as a self-regulator, they -- I think our -- the combined CDS, CDCC construct will be able to provide better data, greater ease of drilling down on the risk parameters. And I think that, you know, all these added benefits will go a long way at justifying these added costs if there are actually added costs as a result of your approval of this transaction.

MR. COWAN: I think there are lots of examples of where there have been added regulatory costs, but they're always in the context of things that have benefitted the market to such a great extent. We've talked about Venture today. You know, Venture, what we've done there is taken a senior market style regulatory regime and imposed it on a junior market, which is actually more regulation from you as you oversee that as well as us.

But the costs -- the benefits of doing that have so far outweighed, I think, the costs in terms of the total economic policy and the economic engine that that's become. CPC program is another example. You know, we created a new way of going public that added regulatory costs at our level, at your level, but the benefits to the economy and issuers have so far outweighed that cost, and I think it's been a very high net benefit.

COMMISSIONER KELLY: I had a question, just as it pertains -- I'm not sure where we are time-wise.

CHAIR: We're overtime.

MR. KLOET: We're here for as long as you want us.

COMMISSIONER KELLY: Just remember when we're not happy, you're not happy. This has -- this question pertains more to the proposed board composition. And later on today and tomorrow, I guess we're going to hear from some other folks around the issues of independence.

I've read your submissions, so I think

I'm pretty clear on your positions. But it has -- specifically pertaining to the legacy undertaking that I guess exists from the combination of the TSX and the Montreal exchange where Quebec has a 25 percent -- 25 percent of the board's seats.

And so I get that in that transaction that occurred a number of years ago. We now have a new proposed entity that is multi-faceted. It includes the TMX. It also includes CDS. It includes potentially Alpha. And perhaps speak a bit to why you felt that undertaking was necessary.

MR. KLOET: Yeah, I'm happy to.

MR. ROYAN: So in your phrasing, the use of the phrase multi-faceted really is the key underlying principle for the commitment the TMX and Maple are making with regard to board composition. That commitment is really a reflection of the underlying business reality.

And whether it's the geographic diversity to which we're committing, which is a reflection of the broad nationwide nature of the TMX's customers, including listed issuers from one coast to the other, or whether it includes the derivatives and the Venture commitments to which we're committing, which again are some of the core parts of the ecosystem in which the TMX operate.

And frankly, the focus on those key parts of the ecosystem are critical. Historically, the end result of that set of commitments which have been made historically is, frankly, they've been great for business.

We've talked a bit about the increases in the average daily trading volumes at the Montreal exchange, which are up 65 percent over the last three or four years, the fact that the open interest which Tom referred to has doubled, the fact that on the Venture Exchange, the financing volumes have actually increased by a factor of ten, or the trading volumes have increased by a factor of 12, they, frankly, have been great for business.

And the nature of the commitments which we're proposing, frankly, are really a reflection of the needs and the focus of the business. And actually, just one more comment, at the end of the day, with or without this proposal from a regulatory undertaking perspective, the composition and the structure of the board, because it reflects the underlying business, is one which we'd likely have with or without a regulatory undertaking.

COMMISSIONER KELLY: And does that

scenario that you described reflect the current state, or is it what you believe is -- what's evolving?

MR. ROYAN: So we believe it reflects both. It's both the current state and will reflect the evolution. And there is certainly the structure because there is a nominated committee which is composed entirely of independent directors, which again is going to certainly carefully consider the underlying needs of the business.

COMMISSIONER KELLY: So then should Ontario be looking for some sort of guarantee as well, then, in terms of board seat minimum and so on?

MR. ROYAN: Well, there is a -- there is a historic component to that. But with regard to, as you said, the evolution of the business, the fact that the board is carefully structured to reflect a consistent balance across Canada from one coast to the other.

And again, whether that ebbs and flows one direction or the other, the board certainly would be very cognizant of, again, whether its geography -- whether it's with regards to derivatives or venture or other components which are critical within the ecosystem, the board will evolve.

COMMISSIONER KELLY: Right. But one is

legislated, 25 percent, and one is negotiated. That's the difference. I'm just curious as to whether there should be some consideration for what I've --

MR. ROYAN: So frankly, from our perspective, the undertakings which we put forward are the appropriate ones from our perspective.

CHAIR: So in essence, what you're saying is that -- this is Canada, and we understand the dimensions of Canada. We all understand it very well. But I guess what Mr. Kelly is suggesting is that despite the 25 percent commitment, you're reflecting, obviously, the business and the country. And I can't remember the word that you used, but it was a better one than I just used.

But I guess I want to understand that -- do you have any experience -- and I'm really ask this question because I don't know the answer. I think I know this country. But do you have any experience as to whether undertakings are common practice internationally to exchanges, for example?

We have them here. Obviously, there are many undertakings to the Venture Exchange, and you've talked very brilliantly about its success and also what's happening in -- with respect to the MX and CDCC. I want to be careful to suggest something here because I think this is a Canada issue because our markets are not simply provincial. They're domestic. And they're Canada-wide, and they're international.

So for example, you all are aware of the fact that the market for interest rate swaps -- the market itself really exists primarily in Toronto because, obviously, that is a market which is influenced greatly by the banks and, to a lesser extent, the pension fund, but certainly that.

Only picking that as an example just to understand sort of the role that these have. And we understand that, you know, undertakings have been given, and that's obviously the case here.

But I think what Mr. Kelly is getting at, is there any -- any issue here associated with the evolution of the markets that suggests that undertakings may or may not be appropriate in a national context? I'm just asking that question, understanding that just from a going-forward basis.

MR. KLOET: I can give you our experience with TMX Group. They have not in any way restricted our ability to either execute our public interest mandate with, I think, the best of corporate governance standards, nor have they diminished in any way our ability to build our business. And in fact, to

Bill's earlier point, I think the success has largely been because, at the top company board, we have expert advice on a number of key areas that help the institution.

So to your question, I don't think it's been a hindrance in any way on either excellence in corporate governance nor in hurting us from executing our business mandate.

CHAIR: So to understand the context of what I'm suggesting, I'm really only talking about the role of them in evolving markets that have very, very international and global components to it. For example, if the CDS market ever evolves to an exchange trade market in which you have these potentially exchange traded, the transparency, they move towards clearing, whether we have local clearing or global clearing, I think you'll all agree with me that if you have local clearing, we're going to need a lot of participation from G14 members in order to participate as counterparties in those transactions. Very international in scope. Trade repositories, they're very similar issues.

And that's the transparency component. Mr. Bertrand, I think you were dealing with that. Very important as well. So just looking at that context, I just simply ask myself the question: How does the future evolve for our markets in that context?

MR. KLOET: Mr. Chairman, we've discussed this extensively as we've thought about governance. And my answer would be that the structure is not restraining on our ability to add expertise to the board, depending upon the company's role in those various markets.

So put differently, if we needed to get a person that had significant credit default swap experience on the board, we felt like we didn't have it, there's room here for us to work through that and still, you know, comply with the undertakings we have. That satisfactory that we'll be able to do that. As we see the business developing.

MR. ROYAN: And -- sorry. To supplement that, one of the positives we think around the governance structure is that there is a set of subsidiary boards. And you'll have seen the undertakings with regards to the structure and the characteristics with regard to the CDS or the CDCC boards. And there are a variety of layers from a governance perspective at which skills or expertise or experience can be added.

CHAIR: I don't want to give you the

impression that we're feeling insecure, that you haven't given us any undertakings. I'm simply reflecting the fact that it's very important that the governance of the organizations of these institutions be the highest quality.

And that quality requires consideration of effective leadership or directorships that go from one coast to the other coast in this country. And obviously, you may have some international members of that as well for obvious reasons.

And we're only reflecting the importance of governance, not just expertise, but the kind of oversight that may be required that represents what I might describe as both national and international markets. I think that's --

COMMISSIONER KELLY: And to put any kind of potential constraint on that is the question I guess we're asking. Why?

MR. BERTRAND: Potential constraint on what?

MR. KLOET: We don't feel as though the undertakings do, I guess, is my point. They don't. And, in fact, people can wear multiple hats within those -- there are people that have both public Venture market experience and, you know, derivative experience, for instance, or may -- you know, you could qualify on multiple areas. And I think much of our current board actually does.

CHAIR: I think we understand your position, obviously. We're not trying to rewrite history here. We're trying to understand exactly how it fits into the broader picture. I cannot help but suggest to you that I think much of what we're doing is very national and international in approach.

And we obviously want to have our infrastructure, which is so critical to the success of our markets, function in a way which isn't inhibited by any kind of matters which, in some way, inhibit the efficiency and the capacity of our markets to function that way.

So I want you to understand I'm not suggesting anything here except to say, are we looking at the evolving infrastructure, oversight, and function of these markets in a way which truly reflects the market realities that we're facing. So that's my point. Mr. Bertrand?

MR. BERTRAND: Yeah, well, if I can just -- because we're talking two things, operations and governance.

CHAIR: Right.

MR. BERTRAND: And I think we addressed the governance side of your questions. On the operations side, you know, first of all, Maple is very comfortable with the undertakings it has to give from a business standpoint. And we believe, after all the analysis that we've done and so forth, that we can grow this business with -- in keeping with those said undertakings.

But I think it's important to understand that the market operations and the market activity are not necessarily synonymous. And the best example actually is not in Canada. It's in the U.S. Chicago has developed to be, you know, along with Frankfurt and London, the capitals of exchange traded derivatives and clearing.

But the bulk of the activity does not originate in Chicago. It's in New York. It's in London. It's all over the world. And I think a very small percentage of the activity actually originates in that city. And yet what that city has done over a number of years is developed itself into being at the -- you know, at the leading edge of developments and technology and thinking and so forth on how to run the markets.

CHAIR: And very nice architecture as

well.

MR. BERTRAND: Yes, very nice architecture. And the same thing for Frankfurt. The Eurex market, the bulk of that activity originates in London, originates in New York.

So the point I think we have to make here is that the way things have evolved in Canada with the junior markets out west -- and that is an extraordinary example where the TMX Group has been able to pick that up, the combination of Alberta Stock Exchange, a combination of Vancouver Stock Exchange, the creation of CDNX at a critical time of those two exchanges because you may recall they were big issues.

But we didn't throw out the -- like they say, the baby with the bath water. And the street got together. And the result of that today is TSX Venture, which is a premier exchange for capital formation.

In the case of senior equities here in Toronto, extraordinary job at building that franchise, and Montreal picked up the derivatives market back in 1999. And the reason for that is it had taken steps as being one of the first in Canada to -- in the options business, in the interest rate futures market. You know, was one of the pioneers in the Trans Canada

Options Clearing Corporation of the time, which ultimately became the CDCC.

So there was a basis there to build exchange trade and derivative expertise, and that was the spirit of the '99 arrangement. We can't rewrite history. That's how things have evolved. In fact, they have evolved, in hindsight, in a very favorable manner for the Canadian capital market. And all Maple wishes to do on a go-forward basis is to build on that strength.

CHAIR: Thank you.

MR. BERTRAND: Thank you.

CHAIR: I guess we're -- I know we're pushing the time here a fair bit. And we obviously have -- I'm going to give you this, obviously. But I just want us to -- I mean, I'll never be able to live it down if I don't get to your question.

But I would want to actually have a chat with Commissioner Kelly and Vice-Chair Condon about whether or not we need to ask some more questions. And I realize that this might be a little bit unfair to you to continue asking these questions going beyond the time. And we obviously need a break. Need the break. Would you hang around for a couple of minutes and let us -- so that we could determine whether or not we need to explore a couple of other areas with you. And if you don't mind, we'll get back to you.

MR. BERTRAND: Okay.

COMMISSIONER CONDON: Just because it flows from the conversation about governance, obviously, Mr. Royan, in his -- has described the governance arrangements, and they will clearly represent the voice of institutional investors, including Maple investors and then institutional investors more broadly.

Has there been any thought given to how to represent the voice of users who are retail investors in the governance structure of Maple?

MR. ROYAN: Well, part of the critical discussions around the composition is to ensure that in two ways -- first, with regard to independence broadly, the independence definition classically from an OSC perspective with regard to management, and then from a -- we call -- perhaps you could call it a nonalignment perspective with the range of differing types of Maple investors.

Because as you know, Maple is not -- Maple is not a monolith. It really is a significantly diverse set of differing institutions, sizes, interests, focuses. And away from that diverse group within Maple, there are going to be a large number of non-aligned, from that definition of independence, directors.

There's going to be some continuing directors from the TMX Group, which again do not have any affiliation whatsoever with Maple, obviously. And part of the evolution -- as we talked in the prior set of discussions around governance, part of the evolution of the board is as Maple -- this comprehensive set of assets is created -- is to have the nominating committee, to have the board, and to have the independent chairperson evaluate the range of skill sets and the range of attributes that, from an addition perspective, are worth considering.

COMMISSIONER CONDON: Thank you.

CHAIR: Who do you think a retail investor is, Mr. Royan?

MR. ROYAN: I think a retail investor is an incredibly wide range of types. And part of reason for that answer was to allow the comprehensive solution to come together and determine the appropriate range of governance input. Again, not only with regard to an OSC and a legal perspective, from the practical day-to-day --

MR. KLOET: And I think the continuity of the -- you know, if we look at the TMX board today, I am the only board member that is non-independent. And you know -- in fact, if you look at our board, I think that they represent an outstanding group of individuals representing their public interest mandate for the retail investor and any other investor in our marketplace.

The continuity of having four of those 11 board members join or continue on the board of the institution, I think should give the Commission some comfort because they have a -- I think an outstanding track record of representing the interests of all investors, whether aligned with Maple or not.

And again, it's all about balance. And I think what Bill was trying to describe was the balance that we structured.

CHAIR: Okay. Look, thanks so much. I'm not sure whether we're finished yet, but I'll get back to you.

MR. KLOET: We will wait.

CHAIR: I'm sure you're getting hungry, but --

MR. BERTRAND: That's okay. We brought our lunches.

CHAIR: It was dinner that I was thinking about. What time did we begin again? Would it -- I think we'll come back -- can we come back at 1:30? Is that too quick for everybody? I think we want to get on with the day.

MR. KLOET: We're available to you as you like, sir.

CHAIR: We're going to take a few minutes. Just wait for 10 minutes or so, and we'll get right back to you. We've completed our questions for you. You can get back and do your important work.

MR. KLOET: Okay. So we should stay here for 10 minutes?

CHAIR: If you don't mind. And I think we'll reconvene around 1:30, 25 to 2. Would that be acceptable? So just give us a few minutes.

--- Recess at 12:43 p.m.