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David Nolan

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and to:

Market Regulation Branch

Ontario Securities Commission
20 Queen St. W.
Toronto, Ontario M5H 3S8

Dear Sirs/Madams,

RE: TriAct Canada Marketplace LP - Change to MATCHNow Trading System - Notice of Proposed Changes and Request for Comment

TMX Group Limited ("TMX Group" or "we") welcomes the opportunity to comment on the Notice of Proposed Change and Request for Comment (the "Notice") as published by the Ontario Securities Commission (the "OSC") on July 22, 2021 on behalf of TriAct Canada Marketplace LP, operating as MATCHNow ("MATCHNow") outlining certain proposed functional changes to the MATCHNow trading platform. The proposed changes set out in the Notice relate to:

- (i) replacing the existing technology underlying the entering and processing of MATCHNow's existing conditional orders ("Conditionals") with a new "large-in-scale" ("LIS") trading technology, developed by MATCHNow's corporate affiliate, BIDS Trading L.P. ("BIDS"), (together, the "Proposal")

TMX Group is a proponent of market initiatives that are designed to enhance the liquidity environment within the Canadian capital markets, and we believe that innovative models to provide further liquidity

depth, larger sized executions, and price discovery should be encouraged. However, TMX Group has concerns regarding the changes the Proposal may introduce to equity market structure, trading models, and the impact these changes may have on those that participate within equity markets, including marketplaces, dealers, and institutional investors. We believe this to be a significant change from the current status quo and it should not be taken lightly by the OSC and the broader Canadian Equity Trading community.

The Proposal goes well beyond simply replacing MATCHNow's Conditionals infrastructure with BIDS' LIS and introduces a new to Canada Sponsored Access Model ("Model") which appears to obscure and disrupt the roles and responsibilities between a marketplace and a broker-dealer as dictated by the Investment Industry of Canada's ("IIROC") Universal Market Integrity Rules ("UMIR"). Specifically, Part 7 - Trading in a Marketplace.

The Proposal's New Sponsored Access Model

The new Model described in the Proposal allows the BIDS LIS matching system to assign trades and represent dealers for execution of client orders, including sponsored-user with sponsored-user (i.e. buy-side with buy-side). Since the current MATCHNow Conditionals system has minimum size requirements (large-in-scale), the proposed system is also targeted at institutional buy-side order flow and, therefore, has the potential to replace the existing dealer model of managing client order flow and duty-of-care through regulated IIROC member firms.

The Proposal suggests that it would be appropriate for the new Model to be regulated under the Direct Electronic Access ("DEA") rules of National Instrument ("NI") 23-103.

The DEA rules may not be sufficient for this purpose as they were not intended for large institutional order flow and the associated compliance requirements. In our view, the current DEA rules were intended for smaller automated order flow and may not be suitable for the large institutional order flow contemplated in the Proposal. Large institutional order flow requires risk, credit, and compliance checks as well as trading expertise that all go beyond the simple fat-finger and limit checks that are outlined in the Proposal.

TMX Group wonders whether the Proposal inadvertently bypasses broker-dealer roles as dictated by IIROC and, consequently, unintentionally circumvents the requirements of UMIR Part 7 such as trading supervision, proficiency, and dealer compliance obligations. These obligations and requirements include Know-Your-Client ("KYC") and Anti Money Laundering ("AML") reporting. Preserving a dealer's ability to cancel and amend trades is also not sufficiently addressed in the Proposal leading to potential concerns about the ability of the Model to respond to changes in client instructions as swiftly as a dealer under similar circumstances.

IIROC dealers are required to demonstrate adherence to these policies and procedures during regular trading and business conduct audits. Marketplaces, including alternative trading systems ("ATSS"), are not required to undergo these types of audits. Our question is whether, with the introduction of the Model, as described in the Proposal, an ATS is allowed to take on a dealer type role but with greatly diminished responsibilities, competencies, and accountability. In its Proposal, MATCHNow states that it will "take reasonable measures to verify that all DEA clients and its Subscribers are properly set up before granting access". The suggestion appears to be that user training would be sufficient to replace the roles and requirements of registered IIROC investment dealers. We are concerned that this training may be insufficient and that the diminished role that the dealer would play in the described workflow may not be beneficial to the Canadian investment community.

The Proposal also describes the migration and replacement of the MATCHNow Conditionals Enforcement Mechanism (“Enforcement Mechanism”) with different rules. Given the reduced role that the dealer would now take in the execution of client orderflow, we are also questioning if the replacement to the Enforcement Mechanism, as outlined, could potentially be inadequate to deal with misuse, information leakage, and fall downs. We believe that the mechanism described in the Proposal may be insufficient to manage the potential risks and should be further scrutinized for limitations.

If this Proposal is approved in its current form, we would recommend that MATCHNow be required to register as an IROC broker-dealer, thereby making it subject to the same regulatory, compliance and audit requirements as a dealer executing these trades would be subject to. This is the current standard and moving away from that standard would represent a significant change to Canadian capital markets. Competing block trading venues such as Liquidnet Canada and POSIT Alert (operated by Virtu Financial Inc.) are also registered as IROC dealers and are subject to these requirements, including mandatory licensing of sales staff. Additionally, BIDS Trading operates in a broker-dealer capacity in the U.S. where it is a member of the Financial Industry Regulatory Authority (“FINRA”), suggesting that registration as a broker-dealer would also be appropriate in Canada.

Conclusion

While TMX Group is supportive of market initiatives that are designed to increase liquidity in the marketplace, we have questions and concerns regarding the Proposal and its potential to not only diminish the important role of broker-dealers in managing institutional order flow and its associated risks and compliance, but also, and perhaps more importantly, its potential to introduce confusion to the separation between dealers and marketplaces. The approval of this Proposal without the concurrent imposition of IROC dealer regulatory requirements would fundamentally alter the landscape of Canadian trading and would require TMX Group to review its client offerings to ensure it stays competitive in this new regulatory landscape.

TMX Group appreciates the opportunity to express our thoughts and views on this Proposal.

Sincerely,

‘Rizwan Awan’

Rizwan Awan
President, Equities Trading
TMX Group