

September 2, 2003

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Securities Commission  
The Manitoba Securities Commission  
Ontario Securities Commission  
Office of the Administrator, New Brunswick  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland  
Registrar of Securities, North West Territories  
Registrar of Securities, Yukon Territories  
Registrar of Securities, Nunavut

c/o John Stevenson  
Secretary, Ontario Securities Commission  
20 Queen Street West  
Suite 800, Box 55  
Toronto, Ontario  
M5H 3S8

And To:

Denise Brosseau, Secretary  
Commission des valeurs mobilières du Québec  
800 Victoria Square  
Stock Exchange Tower  
22<sup>nd</sup> Floor, Box 246  
Montreal, Québec  
H4Z 1G3

Dear Sirs/Mesdames:

**Re: Proposed Amendments to National Instrument 21-101  
*Market Place Operation*, (“NI 21-101”) Companion Policy 21-101  
CP, National Instrument 23-101 *Trading Rules* and Companion  
Policy 23-101 CP (the “Proposal”)  
Request for Comments of June 13, 2003**

## **1. Introduction**

CanDeal.ca Inc. (“CanDeal”) welcomes the opportunity to comment on the Proposal. CanDeal is Canada’s leading institutional customer – multi-dealer online fixed income trading network. CanDeal is recognized across Canada as an alternative trading system and an investment dealer. In this letter, CanDeal is confining its comments on the Proposal to: (i) the proposed access requirements for ATSS in proposed Section 6.13 of NI21-101 and (ii) the proposed three-year moratorium from transparency requirements in relation to government debt securities.

## **2. *Specific Comments***

### ***ATS Access Requirements***

Section 6.13 would impose access requirements on an ATS that are similar to access requirements that are imposed under the current NI21-101 on stock exchanges and recognized quotation and trade reporting systems.

ATSs are intended to be less regulated than exchanges and quotation and trade reporting systems. A feature of more regulated marketplaces such as exchanges is that they impose standards on persons who get access to their trading services to govern the conduct of marketplace participants and to impose discipline upon them should it be necessary to do so.

None of these concepts has relevance to an ATS. An ATS may make a credit judgment about parties allowed to use its trading systems and may have different categories of users but it would, generally speaking, have no commercial reason to develop "written standards" for granting access.

CanDeal notes that, in contrast to other amendments envisaged by the Proposal, the proposed change gets no particular explanation in the Request for Comments document and was apparently not preceded by the kind of extensive research or consultative work that led to the recommended changes to market integration requirements for equity markets or transparency requirements for government debt market. In the absence of comparable analysis showing that the imposition of access requirements on ATSs is justified, CanDeal recommends that this proposed amendment not be proceeded with.

### ***Transparency Requirements for Government Debt Securities***

The CSA has specifically invited comment on "whether to maintain the status quo for three years by granting an exemption from the transparency requirements for government debt securities or require that IDBs and all marketplaces provide post-trade information regarding government debt securities to the information processor subject to volume caps on a fully anonymous basis".

CanDeal is in agreement with the proposed moratorium on transparency requirements for the government debt market for several reasons.

First, the recommended amendments are consistent with the approach taken by the CSA (at page 4380 of the Proposal) which CanDeal strongly endorses that "... the market should determine the appropriate level of transparency".

Second, since Rule ATS came into effect in 2001, securities regulators have very appropriately proceeded cautiously in prescribing requirements for fixed income trading because the fixed income markets do not lend themselves to the approach that has been developed for equity markets and which largely informs Rule ATS. The uniqueness of the fixed income market has been the subject of discussion with various knowledgeable fixed income market participants since before Rule ATS came into effect. Discussions at the Bond Market Transparency Committee have certainly reinforced this conclusion. The Deloitte & Touche survey undertaken in 2002 appears to have vindicated the cautious approach because its conclusions about the efficiency of the fixed income market were quite positive. The working premise of regulators studying the fixed income market has been not that new rules should be introduced but rather that the state of the market should be assessed with an open mind before drawing conclusions as to whether or not new rules would help.

A third reason why the proposed amendments make sense has to do with the character of the fixed income market under Rule ATS and also helps explain why an alternative approach in which caps and anonymity are used to deliver transparency would not work. At present, the telephonic dealer-to-customer market, which is different from the segment of the market in which IDBs participate, is completely exempt from transparency requirements. Yet a continuing refrain in discretionary applications by start-up ATSs for exemptive relief in relation to transparency is that participants in the telephonic dealer-to-customer market will not have any incentive to make use of ATSs if their trading activities become caught by transparency requirements. Nor is there any regulatory compulsion on investment dealers in the dealer-to-customer segment to integrate with an ATS or face a separate transparency obligation. The situation of investment dealers in this market segment is therefore quite different from that of dealers who trade in exchange-listed securities and are regulated as marketplaces unless they choose to integrate with an existing marketplace.

An implication of the commentary in Request for Comments (at page 4380) is that various participants in the Bond Market Transparency Committee could not achieve a consensus on the right transparency outcome. In CanDeal's opinion, this explanation for the three-year moratorium is expressed too negatively. There are two reasons for doubting that such a negative characterization is justified. First, the Deloitte & Touche study can be taken to suggest that the government securities market is working quite well and does not need any urgent "fixes". Second, it should not be assumed that individual ATSs will not develop effective ways over the next three years of increasing bond market transparency by entering into commercial arrangements with information vendors for redistribution of their data. It may well be that the interaction of information vendors and ATSs will produce a simpler, less costly and ultimately more effective transparency outcome for the fixed income market than a direct legislative response. If this does not happen, there may certainly be regulatory consequences to contend with when the moratorium is at an end.

We welcome the opportunity to comment and would be pleased to meet with any of the securities regulators who receive this comment letter to discuss any of the points made in it.

Yours very truly,

CanDeal.ca Inc.

Per:

Jayson Horner  
President & CEO