



SUSAN WOLBURGH JENAH
President and Chief Executive Officer

June 29, 2011

Secretary of the Commission
Ontario Securities Commission
20 Queen Street West
Toronto ON M5H 3S8

By e-mail to: jstevenson@osc.gov.on.ca

Dear Sirs / Mesdames:

**Re: TMX GROUP INC. AND TSX INC. - PROPOSED TRANSACTION WITH
LONDON STOCK EXCHANGE GROUP PLC - NOTICE AND REQUEST
FOR COMMENT**

IIROC appreciates this opportunity to respond to the Notice and Request for Comment on the proposed transaction between TMX Group Inc. and TSX Inc. and London Stock Exchange Group PLC (the "LSE"). While the Notice requests comments on the proposed LSE transaction specifically, the main thrust of our submission below applies equally to the competing bid by Maple Group Acquisition Corporation and any other bids that may emerge involving the TMX Group and TSX Inc.

About IIROC

IIROC is a national self-regulatory organization. Under Recognition Orders from the Canadian Securities Administrators, including the Ontario Securities Commission, the CSA relies on IIROC to set and enforce high quality regulatory and investment industry standards, protect investors and strengthen market integrity while maintaining efficient and competitive capital markets. The CSA has oversight over IIROC's activities, including the approval of IIROC rules governing trading on Canada's equity marketplaces.

IIROC carries out its responsibilities by

- setting, monitoring and enforcing rules regarding the proficiency, business conduct, financial stability and back office operations of Canada's 201 investment dealer firms and their 28,000 registered employees and by

- setting, monitoring, and enforcing the Universal Market Integrity Rules (“UMIR”) regarding trading activity on Canada’s equity marketplaces.

The Canadian Regulatory Environment

IIROC begins with the premise that well-regulated capital markets are a key national asset. We also believe that it is important that IIROC’s role as the independent regulation services provider for trading on Canadian equity marketplaces is clear and unequivocal. If the proposed transaction proceeds, it will be important to ensure that Canadian regulators continue to exercise autonomy over the regulatory framework and the standards that apply to our markets. This is critical to protect the interests of Canadian issuers, market participants and the investing public.

National Instruments relating to the regulation of and trading on Canadian marketplaces (the “ATS Rules”) set out the high level framework for regulation of the existing multi-market environment of exchanges and alternative trading systems (“ATs”).

Under this regulatory framework, the provincial securities regulator regulates the exchange directly. This includes, for example, governance of exchange activities, approval of their rules, market models and listing standards, and oversight of their technological capacity and integrity.

Under the ATS Rules and subject to CSA approval, exchanges can choose to either regulate the trading activities on their own market, or outsource these regulatory functions to an independent regulation services provider through a contractual arrangement.

Currently, IIROC is the only independent regulation services provider in Canada. Canada’s three exchanges – the TSX, TSX Venture (“TSXV”) and CNSX – have all entered into contractual agreements with IIROC to regulate trading activities on their venues.

Unlike exchanges, under current ATS rules, ATs cannot regulate trading activities on their own marketplace. They must sign a regulation services agreement with an independent regulation services provider. All ATs currently operating in Canada have signed such agreements with IIROC to regulate the trading activities on their platforms.

The regulation services agreements with all marketplaces other than TSX and TSXV are for an indefinite term, subject to termination only in very specific circumstances. The agreements with TSX and TSXV have a five-year term, and are therefore subject to renegotiation as to the terms on which IIROC will continue to act as the regulation services provider for those marketplaces. The

current agreements expire in June 2013. IIROC has been advised by TMX that the proposed transaction does not contemplate any changes to these agreements.

The current Recognition Orders issued by provincial securities commissions with the TSX and TSXV state that the TSX and TSXV shall continue to retain IIROC as a regulation services provider.

IIROC submits that the option of a for-profit exchange performing its own market regulation under the ATS Rules, and certain practices that follow from that option (including the requirement under the current exchange recognition orders for the exchange to perform an annual assessment of IIROC), could reasonably be perceived to undermine the independence of the regulation services provider.

While the Commission's review of the proposed TMX-LSE transaction may not encompass a reconsideration of this structure and the distinctions made between exchanges and ATs, IIROC believes that the issues raised by the proposed transaction underscore the need to address these matters in future. IIROC's present submissions are directed to the steps that the Commission can take in the public interest in the context of the proposed transaction in order to reinforce IIROC's role as the independent regulation services provider to the TSX and TSXV.

The Unique Advantage of Centralized Market Regulation

Canada's trading environment is unique in having a single market regulator monitoring trading on all equity marketplaces on a real-time and post-trade basis. This centralized and consolidated regulation provides many advantages over decentralized market regulation:

- trading on all marketplaces takes place under UMIR, a single set of market integrity rules;
- IIROC can perform effective real-time and post-trade monitoring of trading activity with a consolidated regulatory view of all marketplaces;
- the dangers and inefficiencies of regulatory fragmentation are largely mitigated, if not avoided; and
- industry members and investors benefit from economies of scale and other cost efficiencies in the discharge of IIROC's regulatory function, both in terms of technology and resources.

To realize the full benefits of centralized regulation through technology, IIROC uses an advanced single-window surveillance system. The Surveillance Technology Enhancement Platform, known as STEP, gives IIROC the ability to conduct cross-market surveillance that keeps pace with the dramatic growth in

the speed and volume of trading in Canada's equity markets. This new surveillance system includes direct regulatory feeds from all Canadian equity marketplaces and receives them through a single portal, thus facilitating effective surveillance and allowing IIROC to conduct both intra-market and cross-market surveillance and analysis. STEP allows IIROC to simultaneously monitor multiple markets by consolidating different market regulatory data feeds, giving IIROC a single window on all trading activity.

The STEP platform is directly managed and maintained by IIROC, allowing IIROC the flexibility to respond quickly and cost-effectively to changing market conditions and structure. This includes the ability to determine the level and timing of investments in technology and resources necessary to maintain and upgrade the STEP system. Furthermore, IIROC has just completed the migration of marketplace data feeds to the "FIX" messaging protocol, bringing Canadian market practice in line with a global standard. The TMX application notes that the TSX and TSXV have also adopted the FIX messaging protocol for market participants to send orders to the exchanges.

Fragmentation of market regulation – in the form of an exchange choosing to regulate trading on its own market – would threaten the considerable benefits of IIROC's centralized market regulation, including the effectiveness of STEP. IIROC believes that its centralized regulation of trading in a multi-market environment is preferable to marketplace-level trading regulation, and reduces the difficulty inherent in relying on individual marketplaces to coordinate their efforts.

Recommendation

In their application, the TMX and LSE state that "the Merger will have no impact on the Canadian regulatory oversight regime applicable to TMX Group, TSX and their Canadian subsidiaries.... The Commission will continue as the lead regulator of TMX Group and TSX, as will the ASC and BCSC in respect of TSXV".

IIROC believes that the same assurances should be provided in respect of market regulation of trading on each of the TSX and TSXV, particularly as the current RSAs with these exchanges expire in June 2013 (as noted above). We also note statements made in the application that the holding company will determine "strategic and policy direction" for the exchanges.¹ While we have no reason to believe that this control would extend to decisions regarding the regulation of trading on the exchanges, we believe it would be prudent to expressly address this important principle.

In order to ensure that the proposed TMX-LSE transaction does not lead to a change in the status quo that would jeopardize the benefits of IIROC's

¹ In this regard, we note that the LSE performs market surveillance and related enforcement for its own market.

centralized and consolidated market regulation, IIROC recommends, in connection with Question 1² in the Notice and Request for Comments, that:

- Section 4.1 of the Criteria for Recognition should be redrafted to make it clear that the exchange must use a regulation services provider, consistent with the requirement in the Recognition Order to continue to retain IIROC;
- Section 17 of the draft Recognition Order should maintain the requirement that the exchange must continue to retain IIROC as its regulation services provider;
- Item (e) of Section 17 of the draft Recognition Order should be deleted as exchange assessment of IIROC is not necessary given that the Commission oversees IIROC's performance of its regulatory functions; and
- the Commission should require, as a condition of its approval of the transaction, that the term of IIROC's engagement be indefinite under the regulation services agreement, subject to termination only in enumerated circumstances consistent with the regulation services agreements between IIROC and all other marketplaces.

We have attached as an appendix our proposed revisions to the Criteria for Recognition and Section 17 of the Recognition Order.

In closing, we are grateful for this opportunity to offer IIROC's perspective on issues that are central to the effective regulation of trading on Canadian equity marketplaces. The issues raised by the proposed transaction highlight the importance of market regulation in protecting the interests of Canadian issuers, market participants and investors. We believe that it is in the public interest to recognize the advantages of IIROC's consolidated and centralized oversight of trading on multiple equity marketplaces in Canada, under one set of market integrity rules, by ensuring that the TSX and TSXV's recognition orders unequivocally support IIROC's role as the independent regulation services provider for the exchanges.

Yours truly,



Susan Wolburgh Jenah

² "In exercising its discretion, are there additional public interest considerations that the Commission should assess in reviewing the Application? In identifying such considerations, Staff request that commenters describe why they think those considerations are important, why they should be considered, and how they should be assessed."

Appendix – Proposed Revisions to TSX/TSXV Criteria for Recognition and Draft Recognition Order

Criteria for Recognition

4.1 Regulation

The exchange has the authority, resources, capabilities, systems and processes to allow it to perform its regulation functions not otherwise performed, whether directly or indirectly through by IIROCa regulation services provider, including setting requirements governing the conduct of participants and issuers, monitoring their conduct, and appropriately disciplining them for violations of exchange requirements.

Recognition Order

17. REGULATION

- (a) TSX shall continue to retain IIROC as an RSP to provide certain regulation services which have been approved by the Commission. TSX shall provide to the Commission, on an annual basis, a list outlining the regulation services provided by IIROC and the regulation services performed by TSX. All amendments to those listed services are subject to the prior approval of the Commission.
- (b) In providing the regulation services, as set out in the agreement between IIROC and TSX (Regulation Services Agreement), IIROC provides certain regulation services to TSX pursuant to a delegation of TSX's authority in accordance with Section 13.0.8(4) of the Toronto Stock Exchange Act and will be entitled to exercise all the authority of TSX with respect to the administration and enforcement of certain market integrity rules and other related rules, policies and by-laws.
- (c) TSX shall provide the Commission with an annual report with such information regarding its affairs as may be requested from time to time. The annual report shall be in such form as may be specified by the Commission from time to time.
- (d) TSX shall continue to perform all regulation functions not performed by IIROC and shall carry on its regulation functions in Canada, either directly or through IIROC. TSX shall not perform such regulation functions

through any other party, including its affiliates or associates, without prior Commission approval. For greater certainty, any outsourcing of a business function that is done in accordance with paragraph 27 does not contravene this paragraph.

- (e) ~~Management of TSX (including the Chief Executive Officer) shall at least annually assess the performance by IIROC of its regulation functions and report thereon to the Board of TSX, together with any recommendations for improvements. TSX shall provide the Commission with copies of such reports and shall advise the Commission of any proposed actions arising therefrom.~~