

Nova Scotia Securities Commission

Rule 21-101 (Amendment)
Marketplace Operation
- and -

Changes to Companion Policy 21-101CP
Marketplace Operation

WHEREAS:

1. Pursuant to section 150 of the *Securities Act*, R.S.N.S. 1989, chapter 418, as amended (the Act), the Nova Scotia Securities Commission (the Commission) has power to make rules subject to compliance with the requirements of the Act;
2. Pursuant to section 19 of the Act, the Commission has power to issue and publish policy statements;
3. Amendments to National Instrument 21-101 *Marketplace Operation* (the Rule) and Changes to Companion Policy 21-101CP *Marketplace Operation* (the Policy), copies of which are attached hereto, have been made a rule by one or more of the Canadian securities regulatory authorities; and
4. The Commission is of the opinion that the attainment of the purpose of the Act is advanced by this Instrument.

NOW THEREFORE the Commission hereby:

- (a) pursuant to the authority contained in section 150 of the Act and subject to compliance with the requirements of section 150A of the Act, approves the Rule and makes the same a rule of the Commission;
- (b) pursuant to the authority contained in section 19 of the Act and subject to publication on the Commission's website, issues the Policy as a policy of the Commission; and
- (c) declares that the rule approved and made pursuant to clause (a) and the policy issued pursuant to clause (b) shall take effect on September 14 2020, unless the Minister disapproves the rule or returns it to the Commission in accordance with subsection 150A(3) of the Act in which event the rule shall not become effective until the rule is approved by the Minister.

IN WITNESS WHEREOF this Instrument has been signed by the Chair of the Commission, being the member of the Commission prescribed by the Chair pursuant to subsection 15(3) of the Act to attend the hearing of this matter and the quorum with respect to this matter, on the 18th day of June, 2020.

(signed) "*Paul Radford*" _____
Paul E. Radford, Q.C.
Chair

Attachments

**Amendments to
National Instrument 21-101 Marketplace Operation**

1. National Instrument 21-101 Marketplace Operation is amended by this Instrument.

2. Section 3.2 is amended

(a) in subsection (2) by replacing “seven” with “15”,

(b) in paragraph (3)(a) by replacing “month” with “calendar quarter”, and

(c) by adding the following subsection:

(6) For the purposes of subsection (5), if information in a marketplace’s Form 21-101F1 or Form 21-101F2, as applicable, has not changed since the marketplace filed its most recent Form 21-101F1 or Form 21-101F2 under subsection (5), the marketplace may incorporate that information by reference into its updated and consolidated Form 21-101F1 or Form 21-101F2..

3. Subsection 4.2(1) is amended by deleting “the requirements outlined in”.

4. Part 4 is amended by adding the following section:

4.3 Filing of Interim Financial Reports

A recognized exchange and a recognized quotation and trade reporting system must file interim financial reports for each interim period, within 60 days after the end of the interim period, prepared in accordance with paragraphs 4.1(1)(a) and (b)..

5. Subparagraph 12.1(a)(i) is replaced with the following:

(i) adequate internal controls over those systems, and.

6. Subparagraph 12.1(a)(ii) is amended by adding “cyber resilience,” after “information security,”.

7. Subparagraph 12.1(b)(ii) is amended by:

(a) adding “processing capability” after “determine the”,

(b) deleting “ability”,

(c) adding “perform” after “those systems to”,

- (d) *deleting* “process transactions”, *and*
- (e) *deleting* “and” *after* “efficient manner,”.

8. *Paragraph 12.1(c) is amended by:*

- (a) *deleting* “material”,
- (b) *replacing* “breach” *wherever it occurs with* “incident”,
- (c) *adding* “that is material” *before* “and provide timely”, *and*
- (d) *adding* “, and” *at the end of the paragraph.*

9. *Section 12.1 is amended by adding the following paragraph:*

- (d) keep a record of any systems failure, malfunction, delay or security incident and identify whether or not it is material..

10. *Section 12.1.1 is replaced with the following:*

12.1.1 Auxiliary Systems - For each system that shares network resources with one or more of the systems, operated by or on behalf of the marketplace, that supports order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing, that, if breached, would pose a security threat to one or more of the previously mentioned systems, a marketplace must

- (a) develop and maintain adequate information security controls that relate to the security threats posed to any system that supports order entry, order routing, execution, trade reporting, trade comparison, data feeds, market surveillance and trade clearing,
- (b) promptly notify the regulator, or in Québec, the securities regulatory authority and, if applicable, its regulation services provider, of any security incident that is material and provide timely updates on the status of the incident, the resumption of service, where applicable, and the results of the marketplace’s internal review of the security incident, and
- (c) keep a record of any security incident and identify whether or not it is material..

11. *Part 12 is amended by adding the following section:*

12.1.2 Vulnerability Assessments - On a reasonably frequent basis and, in any event, at least annually, a marketplace must engage one or more qualified parties to

perform appropriate assessments and testing to identify security vulnerabilities and measure the effectiveness of information security controls that assess the marketplace's compliance with paragraphs 12.1(a) and 12.1.1(a)..

12. Subsection 12.2(1) is replaced with the following:

- (1) On a reasonably frequent basis and, in any event, at least annually, a marketplace must engage one or more qualified external auditors to conduct an independent systems review and prepare a report in accordance with established audit standards and best industry practices that assesses the marketplace's compliance with
 - (a) paragraph 12.1(a),
 - (b) section 12.1.1, and
 - (c) section 12.4..

13. Paragraph 12.2(2)(b) is replaced with the following:

- (b) the regulator or, in Québec, the securities regulatory authority, by the earlier of
 - (i) the 30th day after providing the report to its board of directors or the audit committee, and
 - (ii) the 60th day after the report's completion..

14. In the following provisions "and" is replaced with "or":

- (a) Paragraph 12.3(1)(a), and
- (b) Paragraph 12.3(2)(a).

15. Paragraph 12.3(3.1)(a) is amended by replacing "(2)(a)" with "(2)(b)".

16. Subsection 12.4(3) is amended by replacing "marketplace" with "recognized exchange or quotation and trade reporting system".

17. Paragraph 14.5(a) is amended

- (a) in subparagraph (i) by replacing "an adequate system of internal controls" with "adequate internal controls", and
- (b) in subparagraph (ii) by adding "cyber resilience," after "information security,".

18. Subparagraph 14.5(b)(ii) is amended by:

- (a) *adding* “processing capability” *after* “determine the”,
- (b) *deleting* “ability”,
- (c) *adding* “perform” *after* “those systems to”, *and*
- (d) *deleting* “process information”.

19. Paragraph 14.5(c) is replaced with the following:

- (c) on a reasonably frequent basis and, in any event, at least annually, engage one or more qualified external auditors to conduct an independent systems review and prepare a report in accordance with established audit standards and best industry practices that assesses the information processor’s compliance with paragraph (a) and section 14.6.,

20. Subparagraph 14.5(d)(ii) is replaced with the following:

- (ii) the regulator or, in Québec, the securities regulatory authority, by the earlier of the 30th day after providing the report to its board of directors or the audit committee and the 60th day after the report’s completion.,

21. Paragraph 14.5(e) is replaced with the following:

- (e) promptly notify the following of any systems failure, malfunction, delay or security incident that is material and provide timely updates on the status of the failure, malfunction, delay or security incident, the resumption of service, and the results of the information processor’s internal review of the failure, malfunction, delay or security incident:
 - (i) the regulator or, in Québec, the securities regulatory authority;
 - (ii) any regulation services provider, recognized exchange or recognized quotation and trade reporting system monitoring trading of the securities about which information is provided to the information processor, and.

22. Section 14.5 is amended by adding the following paragraph:

- (f) keep a record of any systems failure, malfunction, delay or security incident and identify whether or not it is material..

23. Part 14 is amended by adding the following section:

14.5.1 Vulnerability Assessments

On a reasonably frequent basis and, in any event, at least annually, an information processor must engage one or more qualified parties to perform appropriate assessments and testing to identify security vulnerabilities and measure the effectiveness of information security controls that assess the information processor's compliance with paragraph 14.5(a)..

24. ***Form 21-101F1 is amended by replacing the portion of the Form after the heading "EXHIBITS" and before the heading "Exhibit A – Corporate Governance" with the following:***

File all Exhibits with the Filing. For each Exhibit, include the name of the exchange or quotation and trade reporting system, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect must be included instead of the Exhibit.

Except as provided below, if the filer, recognized exchange or recognized quotation and trade reporting system files an amendment to the information provided in its Filing and the information relates to an Exhibit filed with the Filing or a subsequent amendment, the filer, recognized exchange or recognized quotation and trade reporting system, must, in order to comply with subsection 3.2(1), (2) or (3) of National Instrument 21-101 *Marketplace Operation*, provide a description of the change and the actual or expected date of the implementation of the change, and file a complete and updated Exhibit. The filer must provide a blacklined version showing changes from the previous filing.

If the filer, recognized exchange or recognized quotation and trade reporting system has otherwise filed the information required by the previous paragraph pursuant to section 5.5 of National Instrument 21-101 *Marketplace Operation*, it is not required to file the information again as an amendment to an Exhibit. However, if supplementary material relating to a filed rule is contained in an Exhibit, an amendment to the Exhibit must also be filed..

25. ***Exhibit B of Form 21-101F1 is replaced with the following:***

Exhibit B – Ownership

In the case of an exchange or quotation and trade reporting system that is a corporation, other than an exchange or quotation and trade reporting system that is a reporting issuer, provide a list of the beneficial holders of 10 percent or more of any class of securities of the exchange or quotation and trade reporting system. For each listed security holder, provide the following:

1. Name.
2. Principal business or occupation and title, if any.

3. Ownership interest, including the total number of securities held, the percentage of the exchange or quotation and trade reporting system's issued and outstanding securities held, and the class or type of security held.
4. Whether the security holder has control (as interpreted in subsection 1.3(2) of National Instrument 21-101 *Marketplace Operation*).

In the case of an exchange or quotation and trade reporting system that is a partnership, sole proprietorship or other type of organization, provide a list of the registered or beneficial holders of the partnership interests or other ownership interests in the exchange or quotation and trade reporting system. For each person or company listed, provide the following:

1. Name.
2. Principal business or occupation and title, if any.
3. Nature of the ownership interest, including a description of the type of partnership interest or other ownership interest.
4. Whether the person or company has control (as interpreted in subsection 1.3(2) of National Instrument 21-101 *Marketplace Operation*).

26. *Section 1 of Exhibit C of Form 21-101F1 is amended by*

- (a) *repealing Item 4, and***
- (b) *repealing Item 5.***

27. *Exhibit D of Form 21-101F1 is amended by*

- (a) *repealing Item 2 of section 2,***
- (b) *repealing Item 5 of section 2, and***
- (c) *repealing Item 6 of section 2.***

28. *Exhibit E of Form 21-101F1 is amended by*

- (a) *deleting “, including a description of any co-location arrangements” in Item 2 after “services”,***
- (b) *repealing Item 7, and***
- (c) *repealing Item 8.***

29. Exhibit G of Form 21-101F1 is amended by

- (a) **replacing “high level” with “high-level” in Item 1 under “General”,**
- (b) **replacing “the Instrument” with “National Instrument 21-101 Marketplace Operation” in Item 2 under “General” and in Item 3 under “Systems”, and**
- (c) **replacing “are” with “is” in Item 2 under “IT Risk Assessment”.**

30. Form 21-101F2 is amended by replacing the portion of the Form after the heading “EXHIBITS” and before the heading “Exhibit A – Corporate Governance” with the following:

File all Exhibits with the Initial Operation Report. For each Exhibit, include the name of the ATS, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect must be included instead of the Exhibit.

If the ATS files an amendment to the information provided in its Initial Operation Report and the information relates to an Exhibit filed with the Initial Operation Report or a subsequent amendment, the ATS must, in order to comply with subsection 3.2(1), (2) or (3) of National Instrument 21-101 *Marketplace Operation*, provide a description of the change and the actual or expected date of the implementation of the change, and file a complete and updated Exhibit. The ATS must provide a blacklined version showing changes from the previous filing..

31. Exhibit B of Form 21-101F2 is replaced with the following:

Exhibit B – Ownership

In the case of an ATS that is a corporation, other than an ATS that is a reporting issuer, provide a list of the beneficial holders of 10 percent or more of any class of securities of the ATS. For each listed security holder, provide the following:

1. Name.
2. Principal business or occupation and title, if any.
3. Ownership interest, including the total number of securities held, the percentage of the ATS’s issued and outstanding securities held, and the class or type of security held.
4. Whether the security holder has control (as interpreted in subsection 1.3(2) of National Instrument 21-101 *Marketplace Operation*).

In the case of an ATS that is a partnership, sole proprietorship or other type of organization, provide a list of the registered or beneficial holders of the partnership interests or other ownership interests in the ATS. For each person or company listed, provide the following:

1. Name.
 2. Principal business or occupation and title, if any.
 3. Nature of the ownership interest, including a description of the type of partnership interest or other ownership interest.
 4. Whether the person or company has control (as interpreted in subsection 1.3(2) of National Instrument 21-101 *Marketplace Operation*).
32. ***Section 1 of Exhibit C of Form 21-101F2 is amended by***
- (a) ***repealing Item 4, and***
 - (b) ***repealing Item 5.***
33. ***Exhibit D of Form 21-101F2 is amended by***
- (a) ***repealing Item 2 of section 2, and***
 - (b) ***repealing Item 5 of section 2.***
34. ***Exhibit E of Form 21-101F2 is amended by***
- (a) ***deleting “, including a description of any co-location arrangements” in Item 2,***
 - (b) ***repealing Item 7, and***
 - (c) ***repealing Item 8.***
35. ***Exhibit G of Form 21-101F2 is amended by***
- (a) ***replacing “high level” with “high-level” in Item 1 under “General”,***
 - (b) ***replacing “the Instrument” with “National Instrument 21-101 Marketplace Operation” in Item 2 under “General” and in Item 3 under “Systems”, and***
 - (c) ***replacing “are” with “is” in Item 2 under “IT Risk Assessment”.***
36. ***Part A of Form 21-101F3 is amended by***
- (a) ***repealing Item B in section 3,***

- (b) *repealing Item C in section 3,*
- (c) *repealing section 4,*
- (d) *repealing section 5,*
- (e) *repealing section 6, and*
- (f) *repealing section 7.*

37. Section 1 of Part B of Form 21-101F3 is amended by

- (a) *repealing Item 1 and Chart 1,*
- (b) *repealing Item 2 and Chart 2,*
- (c) *repealing Item 3 and Chart 3,*
- (d) *repealing Item 4 and Chart 4,*
- (e) *repealing Item 5 and Chart 5, and*
- (f) *repealing Item 6 and Chart 6.*

38. Section 2 of Part B of Form 21-101F3 is amended by

- (a) *repealing Item 3, and*
- (b) *repealing Chart 9.*

39. Form 21-101F5 is amended by replacing the portion of the Form after the heading “Exhibits” and before the heading “Exhibit A – Corporate Governance” with the following:

File all Exhibits with the Initial Form. For each Exhibit, include the name of the information processor, the date of filing of the Exhibit and the date as of which the information is accurate (if different from the date of the filing). If any Exhibit required is inapplicable, a statement to that effect must be included instead of the Exhibit.

If the information processor files an amendment to the information provided in its Initial Form, and the information relates to an Exhibit filed with the Initial Form or a subsequent amendment, the information processor must, in order to comply with sections 14.1 and 14.2 of National Instrument 21-101 *Marketplace Operation*, provide a description of the change and the actual or expected date of the implementation of the change, and file a complete

and updated Exhibit. The information processor must provide a blacklined version showing changes from the previous filing..

40. ***Section 1 of Exhibit C of Form 21-101F5 is amended by***
 - (a) ***replacing “directors,” with “officers,” after “list of the partners,”***
 - (b) ***repealing Item 4, and***
 - (c) ***repealing Item 5.***

41. ***Section 1 of Exhibit G of Form 21-101F5 is amended by replacing “National Instruments 21-101 and 23-101” with “National Instrument 21-101 Marketplace Operation and National Instrument 23-101 Trading Rules”.***

42. ***In the following provisions of Form 21-101F5, “National Instrument 21-101” is replaced with “National Instrument 21-101 Marketplace Operation”:***
 - (a) ***Section 2 of Exhibit J,***
 - (b) ***Section 1 of Exhibit K, and***
 - (c) ***Exhibit M wherever the expression occurs.***

43. (1) The Instrument comes into force on September 14, 2020.

(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after September 14, 2020, this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.

**Changes to
Companion Policy 21-101CP Marketplace Operation**

1. *Companion Policy 21-101CP Marketplace Operation is changed by this Document.*
2. *Subsection 6.1(6) is changed by replacing “seven” with “15” immediately before “business days before the expected implementation date”.*
3. *Section 6.2 is replaced with the following:*

6.2 Filing of Financial Statements - Part 4 of the Instrument sets out the financial reporting requirements applicable to marketplaces. Subsections 4.1(2) and 4.2(2) respectively require an ATS to file audited financial statements initially, together with Form 21-101F2, and on an annual basis thereafter. These financial statements may be in the same form as those filed with IROC. The annual audited financial statements may be filed with the Canadian securities regulatory authorities at the same time as they are filed with IROC.

Section 4.3 requires recognized exchanges and recognized quotation and trade reporting systems to file interim financial reports within 60 days after the end of each interim period. In the view of the Canadian securities regulatory authorities, the term interim period means a period commencing on the first day of the recognized exchange’s or quotation and trade reporting system’s financial year and ending nine, six or three months before the end of the same financial year.

The Canadian securities regulatory authorities expect that financial statements and reports filed under subsections 4.2 and 4.3 should disclose the accounting principles used to prepare them. For clarity, financial statements and reports should include:

- (a) in the case of annual financial statements, an unreserved statement of compliance with IFRS;
- (b) in the case of an interim financial report, an unreserved statement of compliance with International Accounting Standard 34 *Interim Financial Reporting*.

4. *Section 7.2 is changed by replacing “authority” with “authorities” after “Canadian securities regulatory”.*
5. *Section 7.3 is changed by deleting “, policies” after “violations of rules”.*
6. *Section 7.8 is changed by replacing subsection (1) with the following:*

- (1) Marketplaces are required under section 5.11 of the Instrument to maintain and ensure compliance with policies and procedures that identify and manage conflicts of interest arising from the operation of the marketplace or the services it provides. These may include conflicts, actual, potential or perceived, related to the commercial interest of the marketplace, the interests of its owners or its operators, including partners, directors, officers, or employees of the marketplace's owners, referral arrangements and the responsibilities and sound functioning of the marketplace. For an exchange and quotation and trade reporting system, they may also include potential conflicts between the operation of the marketplace and its regulatory responsibilities..

7. Section 14.1 is changed by replacing subsection (1) with the following:

- (1) Paragraph 12.1(a) of the Instrument requires the marketplace to develop and maintain adequate internal controls over the systems specified. As well, the marketplace is required to develop and maintain adequate general computer controls. These are the controls which are implemented to support information technology planning, acquisition, development and maintenance, computer operations, information systems support, cyber resilience, and security. Recognized guides as to what constitutes adequate information technology controls may include guidance, principles or frameworks published by the Chartered Professional Accountants of Canada (CPA Canada), American Institute of Certified Public Accountants (AICPA), Information Systems Audit and Control Association (ISACA), International Organization for Standardization (ISO) or the National Institute of Standards and Technology (U.S. Department of Commerce) (NIST)..

8. Section 14.1 is changed by replacing subsection (2) with the following:

- (2) Capacity management requires that a marketplace monitor, review, and test (including stress test) the actual capacity and performance of its systems on an ongoing basis. Accordingly, paragraph 12.1(b) of the Instrument requires a marketplace to meet certain systems capacity, processing capability and disaster recovery standards. These standards are consistent with prudent business practice. The activities and tests required in this paragraph are to be carried out at least once every 12 months. In practice, continuing changes in technology, risk management requirements and competitive pressures will often result in these activities being carried out or tested more frequently..

9. Section 14.1 is changed by replacing subsection (2.1) with the following:

- (2.1) Paragraph 12.1(c) of the Instrument requires a marketplace to promptly notify the regulator or, in Québec, the securities regulatory authority of any systems failure, malfunction, delay or security incident that is material. A failure, malfunction, delay or security incident is considered "material" if the marketplace would, in

the normal course of operations, escalate the matter to or inform senior management ultimately accountable for technology. Such events would not generally include those that have or would have little or no impact on the marketplace's operations or on participants. Non-material events may become material if they recur or have a cumulative effect..

10. Section 14.1 is changed by adding the following subsections:

- (2.2) For purposes of paragraph 12.1(c) of the Instrument, a security incident is considered to be any event that actually or potentially jeopardizes the confidentiality, integrity or availability of any of the systems that support the functions listed in section 12.1 or any system that shares network resources with one or more of these systems or the information the system processes, stores or transmits, or that constitutes a violation or imminent threat of violation of security policies, security procedures or acceptable use policies. Any security incident that requires non-routine measures or resources by the marketplace would be considered material and thus reportable to the regulator or, in Québec, the securities regulatory authority. The onus would be on the marketplace to document the reasons for any security incident it did not consider material. Marketplaces should also have documented criteria to guide the decision on when to publicly disclose a security incident. The criteria for public disclosure of a security incident should include, but not be limited to, any instance in which client data could be compromised. Public disclosure should include information on the types and number of participants affected..
- (2.3) With respect to the prompt notification requirement in paragraph 12.1(c), the Canadian securities regulatory authorities expect that a marketplace will provide notification of a systems failure, malfunction, delay or security incident that is material, orally or in writing, upon escalating the matter to its senior management. It is expected that, as part of the required notification, the marketplace will provide updates on the status of the failure, malfunction, delay or incident and the resumption of service. The marketplace should also have comprehensive and well-documented procedures in place to record, report, analyze, and resolve all incidents. In this regard, the marketplace should undertake a “post-incident” review to identify the causes and any required improvement to the normal operations or business continuity arrangements. Such reviews should, where relevant, include the marketplace's participants. The results of such internal reviews are required to be communicated to the regulator or, in Québec, the securities regulatory authority as soon as practicable. We note that CSA Staff Notice 21-326 *Guidance for Reporting Material Systems Incidents* provides marketplaces with additional guidance and a comprehensive set of guidelines for reporting material systems incidents under paragraph 12.1(c)..
- (2.4) Paragraph 12.1(d) of the Instrument requires a marketplace to keep a record of any systems failure, malfunction, delay or security incident and identify whether or not it is material. We note that a marketplace may be asked to provide the

regulator or, in Québec, the securities regulatory authority, with additional information, such as but not limited to reports, logs or other documents related to a systems failure, malfunction, delay, security incident or any other system or process-related data..

- (2.5) A marketplace should also refer to the guidance in (2.2), (2.3) and (2.4) regarding security incidents that arise in connection with a marketplace’s auxiliary systems under section 12.1.1 of the Instrument. A marketplace may be asked to provide the regulator or, in Québec, the securities regulatory authority, with additional information, such as but not limited to reports, logs or other documents related to a security incident..

11. Section 14.1 is changed by replacing subsection (3) with the following:

- (3) Subsection 12.2(1) of the Instrument requires a marketplace to engage one or more qualified external auditors to conduct an annual independent systems review to assess the marketplace’s compliance with paragraph 12.1(a), section 12.1.1 and section 12.4 of the Instrument. The review must be conducted and reported on at least once in each 12-month period by a qualified external auditor in accordance with established audit standards and best industry practices. We consider that best industry practices include the “Trust Services Criteria” developed by the American Institute of CPAs and CPA Canada. The focus of the assessment of any systems that share network resources with trading-related systems required under paragraph 12.2(1)(b) would be to address potential threats from a security incident that could negatively impact a trading-related system. For purposes of subsection 12.2(1), we consider a qualified external auditor to be a person or company or a group of persons or companies with relevant experience in both information technology and in the evaluation of related internal controls in a complex information technology environment. Before engaging a qualified external auditor to conduct the independent systems review, a marketplace is expected to discuss its choice of external auditor and the scope of the systems review mandate with the regulator or, in Québec, the securities regulatory authority. We further expect that the report prepared by the external auditor include, to the extent applicable, an audit opinion that (i) the description included in the report fairly presents the systems and controls that were designed and implemented throughout the reporting period, (ii) the controls stated in the description were suitably designed, and (iii) the controls operated effectively throughout the reporting period..

12. Section 14.1 is changed by replacing subsection (3.1) with the following:

- (3.1) Section 12.1.2 of the Instrument requires a marketplace to engage one or more qualified parties to perform appropriate assessments and testing to identify security vulnerabilities and measure the effectiveness of information security controls. We would expect a marketplace to implement appropriate improvements where necessary. For the purposes of section 12.1.2, we consider a qualified party to be a person or company or a group of persons or companies

with relevant experience in both information technology and in the evaluation of related internal systems or controls in a complex information technology environment. We consider that qualified parties may include external auditors or third-party information system consultants, as well as employees of the marketplace or an affiliated entity of the marketplace but may not be persons responsible for the development or operation of the systems or capabilities being tested. The regulator or, in Québec, the securities regulatory authority may, in accordance with securities legislation, require the marketplace to provide a copy of any such assessment..

13. Section 14.1 is changed by deleting subsection (4).

14. Section 14.1 is changed by replacing subsection (5) with the following:

- (5) Under section 15.1 of the Instrument, the regulator or, in Québec, the securities regulatory authority may consider granting a marketplace an exemption from the requirements to engage one or more qualified external auditors to conduct an annual independent systems review and prepare a report under subsection 12.2(1) of the Instrument provided that the marketplace prepare a control self-assessment and file this self-assessment with the regulator or, in Québec, the securities regulatory authority. The scope of the self-assessment would be similar to the scope that would have applied if the marketplace underwent an independent systems review. Reporting of the self-assessment results and the timeframe for reporting would be consistent with that established for an independent systems review.

In determining if the exemption is in the public interest and the length of the exemption, the regulator or, in Québec, the securities regulatory authority may consider a number of factors including: the market share of the marketplace, the timing of the last independent systems review, changes to systems or staff of the marketplace and whether the marketplace has experienced material systems failures, malfunction or delays..

15. Section 14.3 is changed by replacing subsection (1) with the following:

- (1) Business continuity management is a key component of a marketplace's operational risk-management framework. Section 12.4 of the Instrument requires that marketplaces develop and maintain reasonable business continuity plans, including disaster recovery plans. Business continuity planning should encompass all policies and procedures to ensure uninterrupted provision of key services regardless of the cause of potential disruption. In fulfilling the requirement to develop and maintain reasonable business continuity plans, the Canadian securities regulatory authorities expect that marketplaces are to remain current with best practices for business continuity planning and to adopt them to the extent that they address their critical business needs..

16. These changes become effective on September 14, 2020.