Appendix C

Comments Received in Response to

IIROC Notice 18-0231 – Rules Notice - Request For Comments – UMIR

Proposed Amendments Respecting Provision of Price Improvement by a Dark Order

On December 13, 2018, IIROC issued Notice 18-0231 requesting comments on Proposed Amendments Respecting Provision of Price Improvement by a Dark Order (**Proposed Amendments**). IIROC received comments on the Proposed Amendments from:

NEO Exchange Inc. (**NEO**)

Independent Trading Group (**ITG**)

TriAct Canada Marketplace LP (**TriAct**)

TMX Group Limited (**TMX**)

Scotia Capital Inc. (**Scotia**)

Investment Industry Association of Canada (**IIAC**)

Nasdaq CXC Limited (**Nasdaq**)

Canadian Security Traders Association, Inc. (**CSTA**)

CNSX Markets Inc. (**CSE**)

Mr. Samuel Samson (**Samson**)

Copies of these comment letters are publicly available on IIROC's website (www.iiroc.ca). The following table summarizes these comments and our responses:

IIROC Notice 19-0134 – Rules Notice – Notice of Approval – UMIR - Amendments Respecting Provision of Price Improvement by a Dark Order

Text of Provision Following Adoption of the Amendments	Summary of Comments	IIROC Response and Additional Commentary
6.6 **Provision of Price Improvement by a Dark Order**	Supports proposal	
(1) If a Participant or Access Person enters an order on a marketplace for the purchase or sale of a security that order may execute with a Dark Order provided the order entered by the Participant or Access Person is executed: (a) at a better price; (b) in the case of a purchase, at the best ask price if: (i) the order on entry to the marketplace is for more than 50 standard trading units and has a value of more than $30,000 or has a value of more than $100,000, and (ii) on the execution of the trade with the Dark Order, no orders for the sale of the security included in the calculation of the	Seven commenters generally supported the Proposed Amendments and the addition of a $30,000 minimum value threshold to UMIR Rule 6.6, tied to the current minimum volume threshold of 50 standard trading units. Commenters cited that the Proposed Amendments: • would address certain developments in the market that are contrary to the intended policy objectives of UMIR Rule 6.6 • are based on proper analysis of the matter using trading data • would not cause any unintended consequences. (NEO, TMX, Scotia, IIAC, Nasdaq, CSTA, CSE)	We acknowledge the comments.
	Opposes proposal	
	<u>General</u> Two commenters opposed the proposal due to its negative effects on: • retail investors' access to dark markets • liquidity in low-priced securities (<$ 0.10) • costs of trading.	We acknowledge the comments. The dark order price improvement requirements in UMIR Rule 6.6 allow trading in the dark while preserving price discovery. This is accomplished by requiring a dark order to provide a better price when trading against "small"[3], active orders that would otherwise execute against displayed

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[3]   A "small order" is considered to be 50 standard trading units or less, which is 5,000 units of a security trading at $1.00 or more per unit, 25,000 units of a security trading at $0.10 or more per unit and less than $1.00 and 50,000 units when a security is trading at less than $0.10 per unit – IIROC Rules Notice 12-0130 – Notice of Approval – UMIR – *Provisions Respecting Dark Liquidity* (April 13, 2012) pg. 7

IIROC Notice 19-0134 – Rules Notice – Notice of Approval – UMIR - Amendments Respecting Provision of Price Improvement by a Dark Order

Text of Provision Following Adoption of the Amendments	Summary of Comments	IIROC Response and Additional Commentary
best ask price are displayed on that marketplace at that best ask price; or (c) in the case of a sale, at the best bid price if: (i) the order on entry to the marketplace is for more than 50 standard trading units and has a value of more than $30,000 or has a value of more than $100,000, and (ii) on the execution of the trade with the Dark Order, no orders for the purchase of the security included in the calculation of the best bid price are displayed on that marketplace at that best bid price. (2) Subsection (1) does not apply if the order entered by the Participant or Access Person is:	They are of the view that the proposal as currently drafted: • is not adequately data driven and does not analyze the consequences of its implementation • will limit trading in low-priced securities in dark pools in Canada, effectively limiting liquidity in smaller capitalization companies and increasing trading costs associated with trading these securities • makes it difficult for non-insiders or non-institutional investors to participate in a dark pool without compromising price or paying increased fees • is detrimental to all market participants and does not help the market as a whole. (ITG, TriAct) Threshold size Three commenters believe the proposed $30,000 minimum value threshold is too high and will have a negative impact on the market. (ITG, TriAct, Samson)	orders. We reviewed the current thresholds used to capture "small" orders in UMIR Rule 6.6 and found that orders for low-priced securities with low notional values disproportionately do not receive a better price than higher-priced securities. This is inconsistent with the policy objectives of the Rule. IIROC's data analysis showed an increase in the liquidity and trading of low-priced securities in dark markets, that could lead to impaired price discovery of these securities. Under the Proposed Amendments all orders are still eligible to execute against a dark order, however an order may only execute against a dark order without receiving a better price if it is sufficiently large in both volume and value. We believe this will better capture the intended policy objective of the Rule to preserve price discovery, which is a key element of fair and efficient capital markets[4] and treats investors who display orders fairly. IIROC analyzed historical trading data to find the most appropriate minimum value threshold, as described in section *2.5* of IIROC Notice 18-0231. We believe that the proposed threshold will continue to allow larger orders to execute without the requirement to provide price improvement, which is consistent with our policy objectives.

[4]   IIROC Notice 10-0303 – Rules Notice – Request for Comments – UMIR – *Joint Canadian Securities Administrators/Investment Industry Regulatory Organization of Canada – Position Paper 23-405 – Dark Liquidity in the Canadian Market* (November 19,2010) pg.11

Text of Provision Following Adoption of the Amendments	Summary of Comments	IIROC Response and Additional Commentary
(a) a Basis Order; (b) a Call Market Order; (c) a Closing Price Order; (d) a Market-on-Close Order; (e) an Opening Order; (f) a Volume-Weighted Average Price Order; or (g) for less than one standard trading unit.	**Commends IIROC's review of thresholds**	
	Three commenters commended IIROC for reviewing all value and volume thresholds currently used in UMIR. (NEO, Nasdaq, Scotia)	We acknowledge the comments.
	Alternative solution	
	Two commenters suggested increasing the share volumes in the definition of a standard trading unit instead of imposing the proposed minimum value threshold. The commenters believe that increasing the standard trading unit volumes: • is an easier solution to implement and comply with • has no market impact or unintended consequences. (ITG, Samson)	IIROC looked at different solutions to most appropriately modify the current thresholds as described in the Proposed Amendments under section *2.6 Solutions Considered*. We believe adding the proposed minimum value threshold is the least complex solution that effectively meets our policy objectives.
	Other suggested changes	
	Two commenters suggested that IIROC look at what defines a "large" order to: • evaluate whether the policy objectives of UMIR Rule 6.6 are being achieved with the current notional value ($100,000) used to define a "large" order. (Nasdaq) • harmonize the "large" order definition and application across all applicable UMIR provisions	The focus of this proposal is limited to small orders with small notional values. We may make future modifications to other thresholds used in UMIR based on the outcome of our consultation through CSA/IIROC Consultation Paper 23-406 – Internalization within the Canadian Equity Market[5]. This paper was published for comment on March 12, 2019.

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[5]   IIROC Notice 19-0045

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Text of Provision Following Adoption of the Amendments	Summary of Comments	IIROC Response and Additional Commentary
	• develop a formula and set a threshold for a "large" order as well as update this threshold periodically • have marketplaces offer an indication of the "large" order classification through a tag or a private field communication to participants. (Scotia) NEO suggested, as part of the general UMIR threshold review and the joint Internalization review with the CSA, to consider other developments in the market that are contrary to the intended policy objectives of the dark order requirements, such as the proliferation of various market making programs with minimum guaranteed fill facilities.	
	Implementation period	
	Three commenters supported the proposed 90-day implementation period. (NEO, TMX, CSE) Scotia stated that marketplaces would bear the majority of implementation efforts. Two commenters recommended a 180-day implementation period. (IIAC, TriAct)	We acknowledge the comments. We have provided for a 180-day implementation period to give all stakeholders sufficient time for implementation.

Text of Provision Following Adoption of the Amendments	Summary of Comments	IIROC Response and Additional Commentary
	Other	
	IIAC expressed concern that the rejection of smaller orders under the criteria imposed by the Proposed Amendments may create delays that would impair the ability to achieve best execution on such orders.	If approved, we expect dealers to evaluate the impacts of the Proposed Amendments on their approach to achieve best execution and make any necessary changes prior to implementation.