



CANADIAN SECURITY TRADERS ASSOCIATION, INC.
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To whom it may concern:

Re: OSC Request for Comment re: TSX Inc. (TSX) - Proposed Change to the Minimum Quantity Instruction Available for the Dark Midpoint Order Type

The Canadian Security Traders Association, Inc. (CSTA), is a professional trade organization that works to improve the ethics, business standards and working environment for members who are engaged in the buying, selling and trading of securities (mainly equities). The CSTA represents over 850 members nationwide, and is led by Governors from each of three distinct regions (Toronto, Montreal and Vancouver). The organization was founded in 2000 to serve as a national voice for our affiliate organizations. The CSTA is also affiliated with the Security Traders Association (STA) in the United States of America, which has approximately 4,200 members globally, making it the largest organization of its kind in the world.

This letter was prepared by the CSTA Trading Issues Committee (the “Committee”), a group of 22 appointed members from amongst the CSTA. This committee has an approximately equal proportional number of buy-side and sell-side representatives with various areas of market structure expertise, in addition to 2 independent members. It is important to note that there was no survey sent to our members to determine popular opinion; the Committee was assigned the responsibility of presenting the opinion of the CSTA as a whole. The opinions and statements provided below do not reflect the opinions of all CSTA members or the opinion of all members of the Trading Issues Committee.

The CSTA appreciates the opportunity to comment on the proposed change to the minimum quantity condition available for the Dark Midpoint order type provided by the TSX on the TSX & Venture exchanges (the "Proposal"). While this change has been presented by the TSX as a minor modification to the existing structure already in place, we believe that the proposed changes could have broader implications than those that are currently being outlined. We also believe that the entire framework underlying the Minimum Quantity condition needs to be fully reviewed.

In the initial proposal to prioritize non-displayed orders (dark orders) that have a minimum quantity condition filed by the TSX on July 8th 2011, the "Minimum Quantity" was not specified. The TSX stated in the original proposal that they were in the process of seeking feedback from participants to determine an appropriate minimum volume. While we have no way of knowing which participants provided feedback at the time to determine the 20 board lot minimum, we believe that the TSX should formally request comments from its users on the Minimum Quantity that allows an order to have allocation priority for dark midpoint orders, rather than simply proposing it to be 5 board lots. Note that to our knowledge, the TSX's Buy-Side Advisory Committee was never consulted on this issue. This is despite the claim that the initial proposal (the availability of a minimum size) was intended to provide a method for institutional investors to protect themselves against information leakage and potential gaming of their orders.

In the Proposal, the TSX mentions that an order with a Minimum Quantity instruction receives priority over Dark midpoint orders and Dark limit orders without this condition. Since the proposal is to change the allowable Minimum Quantity from 20 board lots to 5 board lots, by extension, the proposal represents an important change to the allocation priority logic, decreasing the size requirement to receive allocation priority by 75%. This means that an order of merely 500 shares that used the minimum quantity condition could now have priority over an order of 100,000 shares that didn't use the condition (an example is provided below).

Example:

- I. *User A sends a Dark Midpoint Buy order for 100,000 shares at 9:35am. He does not use the minimum size condition since he does not want to disallow incoming active trades of any size from executing against him. (User A's order is currently unfilled.)*
- II. *User B sends a Dark Midpoint Buy order for 3,000 shares at 9:50am using a 500 share Minimum Quantity condition. (User A & User B's orders are currently unfilled.)*
- III. *User C sends a marketable order to the TSX to sell 1,000 shares at 10:05am. Since Dark midpoint orders are filled before accessing orders at the NBBO, the 1,000 shares are sold to User B since he is using the Minimum Quantity condition (even though User A has a significantly larger order, and has time priority over user B).*

In its current form, we believe that a significant use of the Minimum Quantity modifier is in abusing the parameter for priority seeking, as opposed to its intended purpose of minimum quantity enforcement, thus serving as an enabler of predatory strategies. . Decreasing the Minimum Quantity by 75% from 20 board lots to 5 board lots undermines the ideology that "sizeable" orders should have priority over smaller orders. By reducing the hurdle at which a larger order may be pushed back in allocation priority by a newer, smaller order which specifies

a de minimis Minimum Quantity, the entire optic of the allocation priority needs to be questioned.

While we recognize that the TSX is proposing to decrease the required Minimum Quantity due to underutilization, we respectfully suggest that a more thorough review of the Dark Minimum Quantity condition should be undertaken if the goal of the TSX is truly to “allow more participants to use the order attribute and still provide sizable dark liquidity at improved prices.” The issues that we have outlined above are very relevant to the institutional trading community (both buy- and sell-side), thus they are important to the majority of investors within the Canadian capital markets. Allowing for the possibility that a participant with a 500 share order have priority in the dark over a participant with a 100,000 share order based solely on using a minimum quantity condition should not be acceptable.

With respect to the Proposal and the current structure of the TSX dark order types, we respectfully recommend that the move to a 5 board lot Minimum Quantity be declined. Instead, we believe the TSX should consider increasing the Minimum Quantity from the current 20 board lot level to the widely-used 50 board lot threshold for price improvement. The increase would encourage trading among orders that are otherwise considered “large” for regulatory purposes.

Future Enhancements

In addition to the above comments on the Proposal, we believe that the current practice of granting allocation priority should be reviewed. We do not agree with the practice of allowing priority to orders that specify a de minimis Minimum Quantity, except in situations where the true order quantity (rather than the minimum acceptable partial fill quantity) is large. This approach takes the matching engine in the direction of size priority, which would need to be considered holistically. If a size priority approach is taken with respect to TSX dark order types, we believe that the level of the Minimum Quantity threshold would be less critical to the operation of the system. However, such a mechanism change would require a separate proposal and review process.

In general, we view the ability to specify a minimum quantity on a fill, and the minimum quantity needed for allocation priority, as distinct concepts. In the context of the model as it is implemented now, it should be possible to specify a Minimum Quantity below the current 20 board lot limit, without receiving allocation priority. This would give participants the latitude to determine the balance between the size of the fill they receive using a dark order, and the potential for information leakage involved. However, as it is implemented today, these concepts are integrated, both reducing the options offered to participants and introducing trade-offs (such as potential queue jumping).

For the purposes of the Proposal, our suggestions for a new framework would be as follows:

1. Remove the allocation priority given specifically to Dark midpoint orders where the Minimum Quantity condition is applied. Instead, let size allocation priority be granted for any Dark order (limit or midpoint) that meets or exceeds a stated “minimum size” (currently 20 board lots) at a given price point, whether they have specified a Minimum Quantity condition or otherwise.

2. Consider changing the logic of allocation priority to include a “round robin” approach for resolving tie-breaks.
3. Remove the volume requirement for the Minimum Quantity condition. On further review, if a static minimum size is desired, we suggest the 50 board lot minimum already used broadly within UMIR.
4. Allow the Minimum Quantity condition to be applied to Dark limit orders as well as Dark Midpoint orders.

In all cases, changes to the allocation priority for TSX dark orders would require further discussion and public comment.

We appreciate the opportunity to comment on this matter.

Respectfully,

“Signed by the CSTA Trading Issues Committee”

c.c. to:

OSC:

Mr. Howard Wetston, Chair and CEO
Ms. Maureen Jensen, Executive Director & CAO
Ms. Susan Greenglass, Director, Market Regulation
Ms. Tracey Stern, Manager, Market Regulation

AMF:

M^e Anne-Marie Beaudoin, Secrétaire générale

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