

Headnote

Section 15.1 of National Instrument 21-101 *Marketplace Operation* (NI 21-101) – temporary exemption from the Independent Systems Review requirements in s.12.1 of NI 21-101 granted to an alternative trading system, during the transition to an updated trading system.

Applicable Rules

National Instrument 21-101 *Marketplace Operation*, ss. 12.2 and 15.1.

DECISION

Citation: TriAct Canada Marketplace LP., Re, 2011 ABASC 329

Date: 20110611

**IN THE MATTER OF
TRIACT CANADA MARKETPLACE LP****Background**

TriAct Canada Marketplace LP (“TriAct”) has filed an application (“Application”) with the Executive Director (“Director”) of the Alberta Securities Commission (“Commission”) requesting a decision pursuant to section 15.1 of National Instrument 21-101 *Marketplace Operation* (“NI 21-101”) exempting TriAct with respect to its MATCH Now P4 trading system (the “P4 System”), from section 12.2 of NI 21-101 for 2010.

Section 12.2 of NI 21-101 requires TriAct to annually cause to be performed an independent review and written report (“ISR”), in accordance with established audit procedures and standards to ensure compliance with the requirements of NI 21-101 to maintain capacity and integrity of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, which includes the P4 System.

Representations

This decision is based on the following representations by TriAct:

1. As of the time of the Application, TriAct is at Phase 2 of a 3 phase project to update its trading and connectivity system, which included the “P4 System”, that includes moving substantially all of its technology infrastructure from the US to Toronto Canada.
2. TriAct operates MATCH Now,SM an alternative market for trading securities listed on other exchanges. TriAct does not display quotes and does not provide pre-trade transparency and therefore is not a protected marketplace in Canada.
3. On November 15, 2010 TriAct replaced the P4 system with a new matching engine called P5 (the “P5 System”).

4. TriAct has completed Phase 1 of planned upgrades and decommissioned the P4 System as of November 15, 2010.
5. In conjunction with the Investment Industry Regulatory Organization of Canada's ("IIROC") STEP initiative, the P5 System was certified for FIX 5.0 regulatory feeds and it has successfully started the parallel feeds as prescribed by IIROC as of December 1, 2010.
6. TriAct's current trading and order entry volumes are well within the current design and peak capacity of the P5 System and TriAct has not experienced any failure of the P5 System.
7. TriAct effects less than 2% of the trading volume for Canadian listed securities, and therefore, the cost of conducting an ISR on the P4 System that was decommissioned in November 2010 would be burdensome relative to revenue generated from trading fees.
8. It would be substantially more beneficial to conduct an ISR on the new P5 System once all three phases are completed.
9. A review of the P5 System will ensure that all components under the 2011 infrastructure will be inspected and audited shortly after implementation.
10. The P5 System is monitored continuously when MATCH Now is open for trading to ensure that all components continue to operate and remain secure.
11. On a reasonably frequent basis, and in any event, at least annually, TriAct
 - (i) makes reasonable current and future capacity estimates for the P5 System and provides those estimates to IIROC and the TMX Information Processor;
 - (ii) conducts capacity stress tests of the P5 System to determine the ability of the P5 System to process transactions in an accurate, timely and efficient manner;
 - (iii) develops and implements reasonable procedures to review and keep current the development and testing methodology of the P5 System; and
 - (iv) reviews the vulnerability of the P5 System and data centre computer operations to internal and external threats including physical hazards, and natural disasters.
12. TriAct has established disaster recovery and business continuity plans covering all foreseeable contingencies.

Decision

Based on the Application and the representations made by TriAct, the Director is satisfied that granting an exemption from section 12.2 of NI 21-101 with respect to the P4 System would not be prejudicial to the public interest. Accordingly, pursuant to section 15.1 of NI 21-101, TriAct is exempted from the requirements of section 12.2 of NI 21-101 with respect to the MATCH Now P4 System for 2010, provided that TriAct:

1. Complete a comprehensive management review and ISR of the P5 System along with all related connectivity systems and of its controls for ensuring it continues to comply with the requirements of NI 21-101, before the end of 2011 and in accordance with NI 21-101 thereafter; and
2. prepare written reports of its reviews which shall be filed with staff of the Commission by the end of 2011 and in accordance with NI 21-101 thereafter.

DATED this 11th day of June, 2011

“original signed by”

David Linder
Executive Director
Alberta Securities Commission