

ALBERTA SECURITIES COMMISSION

INTERIM RECOGNITION ORDER: CRUDE OIL DERIVATIVES EXCHANGE

Citation: Re Net Energy Inc., 2016 ABASC 25

Date: 20160201

Net Energy Inc.

Background

1. Net Energy Inc. (the **Applicant**) has applied to the Alberta Securities Commission (the **Commission**) pursuant to section 62 of the *Securities Act* (Alberta) (the **Act**) for recognition as an exchange; pursuant to section 144(1) of the Act for an exemption from the registration requirement for the Applicant and for Exchange Participants (as defined below) who enter into the Applicant's Customer User Agreement (as defined below) (**Registration Relief**); pursuant to section 15.1(1) of National Instrument 21-101 *Marketplace Operation* (**NI 21-101**) for relief from NI 21-101; and pursuant to section 10(1) of National Instrument 23-103 *Electronic Trading and Direct Electronic Access to Marketplaces* (**NI 23-103**) for relief from Part 4 of NI 23-103.
2. The Applicant is registered as an introducing broker in the United States (**US**) and will be seeking registration as a foreign board of trade with the US Commodity Futures Trading Commission (**FBOT Application**). If the FBOT Application is granted, the Applicant will seek a new agreement (**Clearing Agreement**) with the Clearing Agency (as defined below).
3. The Applicant will in future seek an order from the Commission to supersede this order, on terms that could depend in part on the outcome of the FBOT Application and the terms of the Clearing Agreement, including the business structure of the Voice Brokers (as defined below).

Interpretation

4. Terms defined in the Act or National Instrument 14-101 *Definitions* have the same meaning in this order unless otherwise defined herein.

Representations

5. The Applicant represents:

The Applicant

- (a) The Applicant is a corporation incorporated under the laws of the Province of Alberta and based in Calgary, Alberta.

The Exchange Trading Platform

- (b) The Applicant offers contracts based upon Canadian crude oil indices compiled, maintained and published by the Applicant (**Contracts**).

- (c) Trades in Contracts are executed by exchange participants of the Applicant (**Exchange Participants**) that have entered into the Applicant's standard Customer User Agreement (the **Customer User Agreement**). Exchange Participants execute trades in Contracts on the electronic trading platform owned and operated by the Applicant (the **Exchange Trading Platform**), in accordance with written rules, including the rulebook, Customer User Agreement and related regulations, specifications and policies (the **Rules**), established, monitored and enforced by the Applicant. Orders are entered directly by Exchange Participants into the Exchange Trading Platform, or indirectly through voice brokers employed by the Applicant (**Voice Brokers**).
- (d) All Contracts offered for trading by the Applicant are executed on the Exchange Trading Platform during hours prescribed by the Applicant for trading in Contracts. The Exchange Trading Platform provides a competitive, open and efficient market and mechanism for executing transactions that protects the price discovery process, including pre-trade transparency, of trading on the Exchange Trading Platform.

Access Requirements

- (e) The Applicant has established, monitors and enforces compliance with Rules concerning access to the Exchange Trading Platform.
- (f) Access to the Exchange Trading Platform is restricted to Exchange Participants and Voice Brokers.
- (g) An Exchange Participant may trade on the Exchange Trading Platform solely as principal either: (i) directly, through an electronic, browser-based connection to the Exchange Trading Platform, whereby an Exchange Participant may transmit orders and enter trades on the Exchange Trading Platform; or (ii) indirectly, through Voice Brokers. Voice Brokers may: (i) accept orders and place them on the Exchange Trading Platform on behalf of Exchange Participants; (ii) draw attention to existing orders, placing any new or revised orders on the Exchange Trading Platform immediately; or (iii) accept orders that are not immediately actionable and try to find interest from Exchange Participants in such orders.
- (h) The Applicant does not unreasonably prohibit, condition or limit access by a person or company to services offered by the Applicant or permit unreasonable discrimination among Exchange Participants.

Fees

- (i) All fees imposed by the Applicant are equitably assessed and consistent with the requirements for access to the Exchange Trading Platform set out herein. The Applicant's process for setting fees is fair and appropriate and the fee model is transparent.

Rules of the Applicant

- (j) The Applicant has established, monitors and enforces compliance with the Rules for the Exchange Trading Platform and Voice Brokers that are not contrary to the public interest and that are designed to: (i) appropriately govern and regulate the operation of the Exchange Trading Platform, including the terms and conditions of any Contracts traded on the Exchange Trading Platform; (ii) ensure compliance with Alberta securities laws; (iii) prevent fraudulent, manipulative and abusive acts and practices; (iv) promote fair, orderly, just and equitable trading on the Exchange Trading Platform; and (v) foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, and processing information relating to trading on the Exchange Trading Platform. Without limiting the foregoing, the Applicant has established, monitors and enforces compliance with Rules that:
- (i) prohibit trade-related abuses by Voice Brokers;
 - (ii) whether directly, or indirectly through a regulation services provider, govern the conduct, operations and activities on or related to trading on the Exchange Trading Platform by Exchange Participants and Voice Brokers;
 - (iii) incorporate the additional requirements under Appendix B of this Order;
 - (iv) as necessary and appropriate, impose position limits or position accountability levels in respect of Contracts, to reduce the potential threat of market manipulation or congestion on the Exchange Trading Platform;
 - (v) ensure the financial integrity of Contracts traded on the Exchange Trading Platform, including the clearance and settlement of transactions with a clearing agency that is permitted to carry on business in Alberta;
 - (vi) authorize the Applicant to collect and examine any information from Exchange Participants relevant to their respective conduct and activities, and to make enquiries or conduct investigations relating to the conduct and activities of Exchange Participants on the Exchange Trading Platform, to monitor and enforce compliance with the Rules;
 - (vii) require Exchange Participants to keep records of their trading activities on the Exchange Trading Platform, including records of their activity in any underlying commodity and related derivatives markets for 7 years from the date of trade;
 - (viii) authorize the Applicant to exercise emergency authority, including the authority to: (A) liquidate or transfer open positions in Contracts; (B) suspend or curtail trading in Contracts; or (C) require Exchange Participants to meet special margin requirements;

- (ix) require that for any decision made by the Applicant that would allow, deny, suspend or permanently bar the access privileges of an Exchange Participant or an applicant to be an Exchange Participant, the Applicant ensures that (A) parties are given an opportunity to be heard or make representations; and (B) the Applicant keeps a record of and gives reasons for its decisions and provides for appeals or reviews of its decisions;
- (x) provide a mechanism and facilities for the resolution of disputes between: (A) Exchange Participants and other Exchange Participants; and (B) Exchange Participants and Voice Brokers;
- (xi) minimize conflicts of interest in the decision-making process of the Applicant and establish a process for appropriately identifying and resolving conflicts of interest; and
- (xii) ensure disclosure and dissemination of information to the Commission, Exchange Participants and the public regarding current and new product listings, current and new Rules, Rule amendments or other changes to previously disclosed information.

Financial Integrity of Transactions

- (k) Chicago Mercantile Exchange Inc. (the **Clearing Agency**), a corporation incorporated under the laws of Delaware and a wholly-owned subsidiary of CME Group Inc., clears, settles and guarantees to its members (**CME Clearing Members**) the performance of all transactions in Contracts executed on the Exchange Trading Platform.
- (l) Exchange Participants are either CME Clearing Members or use a CME Clearing Member to clear Contracts executed on the Exchange Trading Platform.
- (m) The Applicant has established, monitors and enforces compliance by Exchange Participants with the Applicant's minimum financial standards set forth in the Rules. Exchange Participants are required to deliver to the Applicant periodic financial and related information, which the Applicant promptly reviews. The Applicant continuously monitors the positions of Exchange Participants. Exchange Participants must demonstrate sufficient financial resources and operational capacity to perform their obligations under the Rules and satisfy the meaning of a "qualified party" pursuant to ASC Blanket Order 91-506 *Over-the-Counter Trades in Derivatives*.
- (n) The Applicant routinely reviews the default rules and procedures of the Clearing Agency to wind-down operations, transfer customers, or otherwise protect customers in the event of a default of a CME Clearing Member or the Clearing Agency.

Regulation of Exchange Participants and Voice Brokers

- (o) The Applicant has implemented and enforces procedures pursuant to section 5(j)(ix) of this Order that empower it to: (i) investigate potential violations of the

Rules; (ii) make determinations as to whether violations have occurred; and (iii) impose appropriate sanctions for such violations.

- (p) The Applicant monitors the conduct of Exchange Participants and Voice Brokers.

Prevention of Market Disruption

- (q) The Applicant has designed the Rules to prevent manipulation, price distortions and disruptions of the delivery or cash-settlement process through market surveillance, compliance and enforcement practice and procedures, including: (i) methods for conducting real-time monitoring of trading on the Exchange Trading Platform; and (ii) comprehensive and accurate trade reconstructions.
- (r) The Applicant: (i) collects and evaluates data on the activity of each Exchange Participant and Voice Broker on an ongoing basis to detect and prevent manipulation, price distortions and, where possible, disruptions of the delivery or cash-settlement process; (ii) monitors and evaluates general market data from the Exchange Trading Platform to detect and prevent manipulative activity that would result in the failure of the market price to reflect the normal forces of supply and demand; and (iii) conducts real-time monitoring of trading and comprehensive and accurate trade reconstructions. Intraday trade monitoring conducted by the Applicant includes: (i) the capacity to detect abnormal price movements, unusual trading volumes, impairments to market liquidity, and position-limit violations; and (ii) either manual processes or automated alerts that are effective in detecting and preventing trading abuses.
- (s) The Applicant regularly monitors, for a Contract: (i) the availability and pricing of the commodity making up the index to which such Contract will be settled; and (ii) the continued appropriateness of the methodology for deriving such index. The Applicant promptly amends any index methodologies that result, or are likely to result, in manipulation, price distortions or market disruptions, or imposes new methodologies to resolve the threat of manipulation, price distortions or market disruptions.
- (t) If a Contract is settled by reference to the price of a contract or commodity traded on another derivatives exchange or venue, including a price or index derived from prices on another derivatives exchange or venue, the Applicant requires Exchange Participants to provide the Applicant with their positions in the reference markets as the Contract approaches settlement, unless the Applicant has entered into an information sharing agreement with the other derivatives exchange or venue for the purpose of obtaining such information directly from the other derivatives exchange or venue.
- (u) The Applicant has established and implemented risk control mechanisms to reduce the potential risk of market disruptions, including but not limited to market restrictions that pause or halt trading in market conditions prescribed by the Applicant. If a Contract is linked to, or is a substitute for, other Contracts on the Exchange Trading Platform, on other derivatives exchanges or venues, such risk

control mechanisms are, to the extent practicable, coordinated with any similar controls placed on those other contracts.

- (v) The Applicant has the capacity to reconstruct, accurately, all trading on the Exchange Trading Platform.

Contracts Not Readily Susceptible to Manipulation

- (w) Contracts traded on the Exchange Trading Platform are not readily susceptible to manipulation.

Information Sharing and Regulatory Cooperation

- (x) The Applicant has mechanisms in place to enable it to share relevant information and otherwise cooperate with the Commission, self-regulatory organizations, other exchanges, venues, investor protection funds, and other appropriate regulatory bodies, including for the purpose of carrying out such relevant international information-sharing agreements as the Commission may require.

Availability of Information

- (y) The Applicant makes available to the Commission, Exchange Participants and the public, accurate, complete and current information concerning: (i) the terms and conditions of Contracts; (ii) the Rules and mechanisms for executing transactions on the Exchange Trading Platform; (iii) the Rules describing the operation of the Exchange Trading Platform; and (iv) the Rules with respect to the activities of Voice Brokers.
- (z) The Applicant reports to the public directly, or indirectly through an information vendor, daily information on settlement prices, volume, open interest, and opening and closing ranges for actively-traded Contracts.
- (aa) The Applicant complies with Principles for Oil Price Reporting Agencies (**PRAs**) developed by the Board of the International Organization of Securities Commissions. The Applicant will continue to comply with the PRAs, as amended from time to time, to the extent such principles are not inconsistent with Alberta securities laws.

Trade Information

- (bb) The Applicant maintains Rules and procedures to provide for the recording and safe storage of all identifying trade information in a manner that enables the Applicant to use the information to assist in the prevention of customer and market abuses, and provide evidence of any violations of the Rules. Without limiting the foregoing, the Applicant maintains an audit trail program, including through a transaction data system that captures and retains all order, trade-related and other data sufficient: (i) to detect, investigate and prevent violations of the Rules, as well as trading and market abuses; and (ii) to reconstruct all transactions in Contracts within a reasonable period of time. The Applicant's audit trail program includes:

- (i) original source documents that are unalterable, sequentially-identified records on which trade execution information is originally recorded. Records for Exchange Participant orders, including Voice Broker-facilitated orders (whether filled, unfilled, cancelled or otherwise disposed of, each of which is retained or electronically captured) reflect the terms of the order, an identifier that relates back to the Exchange Participant and Voice Broker, and the time of order entry;
 - (ii) an electronic transaction history database that includes a history of all orders and trades, and also includes all data that are inputted into the trade entry or matching system for the transaction to match and clear; timing and sequencing data adequate to reconstruct trading; and identification of each account to which fills are allocated;
 - (iii) electronic analysis capability with respect to all audit trail data in the transaction history database. Such electronic analysis capability permits the sorting and presentation of data in the transaction history database so as to reconstruct trading and identify possible violations of the Rules; and
 - (iv) the capability to safely store all audit trail data retained in its electronic transaction history database. Such safe storage capability includes the capability to store all audit trail data in the database in a manner that protects it from any alteration, as well as from accidental erasure or other loss.
- (cc) The Applicant has established a program for the effective enforcement of its audit trail and record-keeping requirements. The Applicant enforces its audit trail and record-keeping requirements through annual reviews of all Exchange Participants to verify their compliance with the Applicant's audit trail and record-keeping requirements. Such reviews include, but are not limited to a review of: (i) randomly-selected samples of front-end audit trail data for order routing systems; (ii) the process by which user identifications are assigned and user identification records are maintained; (iii) usage patterns associated with user identifications to monitor for violations of user identification rules; and (iv) account numbers, customer name and order entry codes in trade records to test for accuracy and improper use.

Governance

- (dd) The Applicant has implemented and enforces appropriate fitness standards for directors, officers and Voice Brokers of the Applicant, Exchange Participants, each person or company that owns or controls, directly or indirectly, more than 10 percent of the Applicant or an Exchange Participant, and any party affiliated with any of the foregoing persons. Without limiting the foregoing, the Applicant ensures that each director or officer of the Applicant is a fit and proper person for that role and the past conduct of each such director or officer affords reasonable grounds for belief that the director or officer will perform his or her duties with integrity.

- (ee) The governance structure and governance arrangements of the Applicant ensure:
 - (i) effective oversight of the Exchange Trading Platform; (ii) that business and regulatory decisions are in keeping with the Applicant's public interest mandate; (iii) fair and meaningful representation on the board of directors of the Applicant and any committees of the board, including appropriate representation of independent directors, a proper balance among the interests of the different persons or companies using the services and facilities of the Applicant, and an ability to consider the views of Exchange Participants; and (iv) that the composition of the board of directors of the Applicant and any committees of the board reflects a broad and diverse pool of qualified candidates.

Market Surveillance

- (ff) The Applicant has implemented an automated trade surveillance system which detects and flags potential trade practice violations on the Exchange Trading Platform (the **Surveillance System**). The Surveillance System maintains all data reflecting the details of each order entered into the Exchange Trading Platform, including all order modifications and cancellations, and details of each transaction executed on the Exchange Trading Platform. The Surveillance System loads and processes daily orders and trades no later than 24 hours after the completion of the trading day. The Surveillance System has the capacity to:
 - (i) detect and flag specific trade execution patterns and trade anomalies; (ii) compute, retain, and compare trading statistics; (iii) compute trade gains, losses and positions; (iv) reconstruct the sequence of market activity; (v) perform market analysis; and (vi) support system users to perform in-depth analyses and *ad hoc* queries of trade-related data. The Surveillance System is not available for all trading practices, including certain Voice Broker practices. In those circumstances, the Applicant has implemented a manual trade surveillance system.
- (gg) The Applicant conducts real-time market monitoring of all trading activity on the Exchange Trading Platform to promote orderly trading and identify any market or system anomalies. The Applicant has the authority to adjust trade prices or cancel trades when necessary to mitigate market disrupting events caused by malfunctions on the Exchange Trading Platform or errors in orders submitted by Exchange Participants or Voice Brokers. Any trade price adjustments or trade cancellations are made transparent to the market.

System Safeguards

- (hh) The Applicant has established and maintains a program of risk analysis and oversight to identify, manage and minimize sources of operational risk, through the development of appropriate controls and procedures, and the development of automated systems that are reliable, secure and have adequate scalable capacity. The Applicant's program of risk analysis and oversight addresses each of the following categories of risk analysis and oversight:
 - (i) information security; (ii) business continuity-disaster recovery planning and resources; (iii) capacity and performance planning; (iv) systems operations; (v) systems development and quality assurance; and (vi) physical security and environmental controls. In addressing the foregoing categories of risk analysis and oversight, the Applicant

follows generally accepted standards and best practices with respect to the development, operation, reliability, security and capacity of automated systems.

- (ii) The Applicant has established emergency procedures, backup facilities, and a plan for disaster recovery and resumption of operations sufficient to enable timely recovery, resumption of its operations, and resumption of fulfillment of its responsibilities and obligations as an exchange following any disruption of its operations. Such responsibilities and obligations include, without limitation: (i) order processing and trade matching; (ii) transmission of matched orders to the Clearing Agency; (iii) price reporting; (iv) market surveillance; and (v) maintenance of an audit trail program.
- (jj) The Applicant is able to resume trading on the Exchange Trading Platform during the next business day following the end of a disruption.
- (kk) The Applicant conducts regular objective testing and review of its automated systems to ensure that they are reliable, secure and have adequate scalable capacity. The Applicant also conducts regular objective testing and review of its business continuity-disaster recovery capabilities. Both types of testing are conducted by qualified, independent professionals, who may be independent contractors or employees of the Applicant, but who are not responsible for establishing or maintaining the systems or capabilities being tested.
- (ll) The Applicant periodically conducts tests to verify that backup resources are sufficient to ensure continued order processing and trade matching, transmission of matched orders to the Clearing Agency for clearing, price reporting, market surveillance, and maintenance of an audit trail program that: (i) permits the Applicant to track Exchange Participants' and Voice Brokers' facilitated orders from the time of receipt through fill, allocation, cancellation or other disposition; and (ii) includes both order and trade data. The Applicant has procedures in place to address trading errors, trading halts and circuit breakers.
- (mm) To the extent practicable, the Applicant:
 - (i) coordinates its business continuity-disaster recovery plan with Exchange Participants upon whom the Applicant depends to provide liquidity, in a manner adequate to enable effective resumption of activity in its markets following a disruption that activates the Applicant's business continuity-disaster recovery plan;
 - (ii) initiates and coordinates periodic, synchronized testing of its business continuity-disaster recovery plan and the business continuity-disaster recovery plans of Exchange Participants upon whom the Applicant depends to provide liquidity; and
 - (iii) ensures that its business continuity-disaster recovery plan takes into account the business continuity-disaster recovery plans of its essential service providers.

Resources and Outsourcing

- (nn) The Applicant has sufficient financial, operational and managerial resources, including by delegation or outsourcing to third parties, to fulfil its functions and regulatory responsibilities including: (i) effective audit trail reviews; (ii) trade practice surveillance, financial and market surveillance; (iii) real-time market monitoring; (iv) protection of customer funds; (v) enforcement of clearing and settlement provisions; and (vi) other compliance and regulatory responsibilities.
- (oo) The Applicant conducts a reasonable calculation of its projected operating costs over a 12-month period to determine if it has sufficient financial resources pursuant to the quarterly reporting requirement set out in Appendix A, section 6(e) of this Order. For purposes of the foregoing, financial resources will be considered sufficient if their value is at least equal to the total amount that would enable the Applicant to cover its operating costs for a period of at least one year, calculated on a rolling basis.
- (pp) The Applicant establishes and maintains sufficient compliance department resources and staff to ensure that it can conduct effective audit trail reviews, trade practice surveillance, financial and market surveillance, and real-time market monitoring. The Applicant has sufficient compliance staff to address unusual market or trading events as they arise, and to conduct and complete investigations in a timely manner.
- (qq) The Applicant conducts an annual assessment of the size and workload of its compliance department resources and staff in order to ensure that its compliance department resources and staff are at appropriate levels. In determining the appropriate levels of compliance department resources and staff, the Applicant considers: (i) projected trading volume increases; (ii) the number of new Contracts projected to be listed for trading; (iii) any new responsibilities expected to be assigned to compliance department resources and staff; (iv) the results of any internal review demonstrating that work is not completed in an effective or timely manner; and (v) any other actions suggesting the need for increased compliance department resources and staff.
- (rr) Where the Applicant outsources any of its key functions, it has appropriate and formal arrangements and processes in place that permit it to meet its regulatory obligations and that are in accordance with industry best practices.

Undertakings

6. The Applicant undertakes:

- (a) to ensure that its representations herein continue to be accurate and to satisfy the undertakings herein;
- (b) to employ reasonable procedures for monitoring and enforcing compliance with the undertakings herein;

- (c) to investigate any possible violation of the Rules promptly upon request from the Commission staff;
- (d) unless reasonably necessary or appropriate, not to adopt any requirements or take any action that results in any unreasonable restraint of trade, or to impose any material burden upon competition;
- (e) not to provide, and to take reasonable steps to prevent third parties from providing, direct access to the Exchange Trading Platform to persons other than Exchange Participants and Voice Brokers;
- (f) prior to the Applicant implementing a significant new or amended Rule, to file in the form and manner requested by the Executive Director and in accordance with the Commission's approved process, not later than 10 business days prior to implementing the new or amended Rule, a submission containing a certification by the Applicant that the new or amended Rule complies with Alberta securities laws;
- (g) prior to the Applicant listing a new or amended Contract for trading on the Exchange Trading Platform, to file in the form and manner requested by the Executive Director, not later than one business day prior to the new or amended Contract's listing, a submission containing a certification by the Applicant that the new or amended Contract complies with Alberta securities laws;
- (h) to publicly disclose: (i) a new or amended Rule on the date of implementation of the Rule; (ii) a new or amended Contract on the day the Contract is listed for trading on the Exchange Trading Platform; and (iii) any other change to previously-disclosed information as soon as possible;
- (i) to ensure the accuracy and completeness of any communication with the Commission and any information made available to Exchange Participants or the public, including ensuring that no material information is omitted;
- (j) to cooperate with the Commission with respect to arrangements established to address cross-market oversight issues, including surveillance, emergency actions and the monitoring of trading;
- (k) to retain records of all activities relating to the Applicant's business in a form and manner acceptable to the Commission and for a period of at least 7 years. Without limiting the foregoing, the Applicant undertakes to keep records of the Applicant's decisions, and reasons therefor, for any decision made by the Applicant that affects an Exchange Participant, or an applicant to be an Exchange Participant, including a decision in relation to access or discipline;
- (l) to require each Exchange Participant to:
 - (i) file with the Applicant a written representation, executed by a person with the authority to bind the Exchange Participant, stating that as long as the

Exchange Participant is granted access to the Exchange Trading Platform, the Exchange Participant agrees and submits to the jurisdiction of the Commission with respect to activities conducted pursuant to the Applicant's operation as a recognized exchange;

- (ii) file with the Applicant a valid and binding appointment of an agent for service of process in Alberta, if an Exchange Participant's registered office is located outside of Alberta, pursuant to which the agent is authorized to accept delivery and service of communications issued by or on behalf of the Commission; and
- (iii) file with the Applicant a written undertaking, executed by a person with the authority to bind the Exchange Participant, stating that the Exchange Participant will provide promptly to the Commission such information as the Commission may request, and access to all premises in or from which the Exchange Participant operates;
- (m) to provide access to the Commission to all trade information, including that to be generated in accordance with sections 5(bb) and (cc) of this Order;
- (n) to file concurrently with the Commission a copy of materials filed by the Applicant with any other regulatory body, except for those materials previously filed with the Commission;
- (o) to establish systems to identify and respond to material conflicts of interest between Exchange Participants and Voice Brokers in accordance with the requirements set out in Appendix B to this Order;
- (p) to report to the Commission in accordance with the reporting requirements set out in Appendix A to this Order;
- (q) to comply with any request from the Executive Director of the Commission to file information related to the Clearing Agency in the event that the recognition order of the Commission for Chicago Mercantile Exchange Inc. (cited as *Re Chicago Mercantile Exchange Inc.*, 2012 ABASC 177) is revoked or materially revised;
- (r) to comply with any request from the Executive Director of the Commission to assist the Commission in its oversight of the Applicant as an exchange; and
- (s) to ensure that all material filed with the Commission hereunder will, if required to be executed, be signed by a senior officer of the Applicant who has the authority to bind the Applicant and will be based on such officer's personal knowledge.

Decision

Based on the representations and undertakings herein, the Commission, being satisfied that it would not be prejudicial to the public interest to do so:

- (a) under section 62 of the Act, recognizes the Applicant as an exchange;
- (b) under section 144(1) of the Act, grants the Registration Relief;
- (c) under section 15.1(1) of NI 21-101, exempts the Applicant from NI 21-101; and
- (d) under section 10(1) of NI 23-103, exempts the Applicant from Part 4 of NI 23-103

for so long as the Applicant satisfies its undertakings herein.

This order expires on the earlier of (a) six months after the FBOT Application is granted, (b) the date on which the FBOT Application is denied or withdrawn, and (c) February 1, 2019.

For the Commission:

"original signed by"

Tom Cotter
Vice Chair

"original signed by"

Fred Snell, FCA
Member

APPENDIX A

Reporting Requirements

The Applicant will report to the Commission as follows:

Prior Notification

1. The Applicant will notify the Commission not later than 10 business days in advance of:
 - (a) entering into an agreement to outsource key Exchange Trading Platform functions;
 - (b) any significant change in the operation of the Exchange Trading Platform, other than an event resulting from a *force majeure* or other event occurring outside the control of the Applicant that renders the notification above impossible;
 - (c) any change in the beneficial ownership of the Applicant;
 - (d) planned changes to automated systems that may impact the reliability, security, or adequate scalable capacity of such systems; and
 - (e) planned changes to the Applicant's program of risk analysis and oversight.
2. The Applicant will use its best efforts to provide the information required in paragraphs 1(a) to (e) above earlier than specified, when possible.

Immediate Reporting

3. The Applicant will report to the Commission immediately upon the occurrence or upon becoming aware of the existence of:
 - (a) any electronic trading halts and systems malfunctions that occur for 15 minutes or more; cyber security incidents or targeted threats that actually or potentially jeopardize automated system operation, reliability, security or capacity; or activation of the Applicant's business continuity-disaster recovery plan;
 - (b) any event or circumstance or situation that renders, or is likely to render, the Applicant unable to comply with Alberta securities laws or an undertaking to the Commission, or renders any of the Applicant's representations to the Commission untrue;
 - (c) any monetary default, insolvency or bankruptcy of the Applicant or any Exchange Participant that may have a material adverse effect on the financial or operational viability of the Applicant, or the Exchange Trading Platform, including the particulars of the default and the

resolution proposed. The Applicant must also provide the Commission with information regarding the impact of the default on the adequacy of the Applicant's financial resources;

- (d) any order, sanction or other directive received from, or imposed by, a regulatory or government body against the Applicant, any of its subsidiaries or affiliates, any of the directors or officers of the Applicant or its subsidiaries or affiliates, or any Voice Brokers;
- (e) any investigations by a regulatory or government body against the Applicant, any of its subsidiaries or affiliates, any of the directors or officers of the Applicant or its subsidiaries or affiliates, or any Voice Brokers;
- (f) any criminal or quasi-criminal charges brought against the Applicant, any of its subsidiaries or affiliates, any of the directors or officers of the Applicant or its subsidiaries or affiliates, or any Voice Brokers;
- (g) any civil suits brought against the Applicant, any of its subsidiaries or affiliates, any of the directors or officers of the Applicant or its subsidiaries or affiliates, or any Voice Brokers, that would likely have a significant impact on the Applicant's business; and
- (h) any monetary default, insolvency, bankruptcy or similar proceeding of the Applicant, any of its subsidiaries or affiliates, any of the directors or officers of the Applicant or its subsidiaries or affiliates, or any Voice Brokers.

Key Event Reporting

- 4. The Applicant will report to the Commission as soon as possible and in any event no later than 2 business days from the date of occurrence:
 - (a) each appointment or resignation of a member of the Applicant's board of directors;
 - (b) each change to the senior management team;
 - (c) each change in the employment of Voice Brokers;
 - (d) each new or amended pricing methodology for indices upon which any Contracts are based; and
 - (e) each significant change to an agreement or a material contract between the Applicant and any third party.

5. In the event that a default by an Exchange Participant under an agreement between the Applicant and an Exchange Participant is not resolved within 2 business days, the Applicant will report to the Commission promptly such default including particulars of the default, the parties involved in the default, and the method of resolution proposed.

Quarterly Reporting

6. The Applicant will provide to the Commission, within 60 days of the end of each quarter of the financial year:
 - (a) a description of any significant margin requirement exceptions that the Applicant allowed during that quarter;
 - (b) a list of current Exchange Participants and Voice Brokers;
 - (c) interim financial statements prepared in the same manner as the annual financial statements, but not audited;
 - (d) any non-significant amendments to the Rules or Contracts;
 - (e) a reasonable calculation of the Applicant's projected operating costs over a 12-month period to determine if the Applicant's financial resources are sufficient. Financial resources available to satisfy the requirements of this paragraph (e) may include the Applicant's own capital, and any other financial resource deemed acceptable by the Commission. However, financial resources allocated by the Applicant to meet the requirements of this paragraph (e) must include unencumbered, liquid financial assets (i.e., cash, highly liquid securities, or both) equal to at least 6 months' operating costs. If any portion of such financial resources is not sufficiently liquid, the Applicant may take into account a committed line of credit or similar facility for the purpose of meeting this requirement. The Applicant shall have reasonable discretion in determining the methodology used to compute such projected operating costs;
 - (f) the current market value of each financial resource used to meet the Applicant's obligations under paragraph (e) above. Reductions in value to reflect market and credit risk must be applied as appropriate; and
 - (g) sufficient documentation to explain the methodology used to compute the Applicant's financial requirements under paragraph (e) above; sufficient documentation to explain the basis for the Applicant's determinations regarding the valuation and liquidity requirements set forth in paragraphs (e) and (f) above; and copies of any agreements establishing or amending a credit facility, insurance coverage, or other arrangement evidencing or otherwise supporting the Applicant's conclusions.

Annual Reporting

7. The Applicant will provide to the Commission:

- (a) within 30 days after the end of each financial year, a certificate, executed by a senior officer of the Applicant who has the authority to bind the Applicant, that the representations in this Order remain accurate except to the extent of any change previously disclosed to the Commission;
- (b) within 90 days of the end of each financial year:
 - (i) annual financial statements that include a statement of comprehensive income, a statement of changes in equity, and a statement of cash flows for the most recently completed financial year with comparatives for the financial year immediately preceding the most recently completed financial year; a statement of financial position as at the end of the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, and notes to the financial statements. Such annual financial statements must be prepared in accordance with IFRS, disclose an unreserved statement of compliance with Canadian GAAP for publicly accountable enterprises or IFRS and must be:
 - (A) audited in accordance with Canadian GAAS and be accompanied by an auditor's report that expresses an unmodified opinion, identifies all financial periods presented for which the auditor has issued an auditor's report, and is in the form specified by Canadian GAAS for an audit of financial statements prepared in accordance with fair presentation framework; and
 - (B) prepared and signed by a person or company that is authorized to sign an auditor's report under the laws of a jurisdiction in Canada and that meets the professional standards of that jurisdiction;
 - (ii) a self-assessment of the accomplishments and the challenges faced during the year, which will include, but is not limited to:
 - (A) a summary of the Applicant's business activity for the year;
 - (B) a summary of new Contracts introduced and expansion plans that were implemented during the year;
 - (C) a report detailing the testing undertaken to ensure the adequacy of system safeguards including, but not limited

to, risk management methodologies, emergency procedures and business continuity-disaster recovery plans, and proper functionality of backup facilities;

- (D) a summary of staffing changes at the Applicant during the year; and
- (E) any additional information that the Applicant considers important.

Other Reporting

8. The Applicant must, before ceasing to operate; before suspending, discontinuing or winding up all or a significant portion of its operations; or before disposing of all or substantially all of its assets:
 - (a) provide the Commission at least 6 months' prior written notice; and
 - (b) comply with any requirements the Commission may impose.
9. The Applicant will report upon the request of the Executive Director or Commission:
 - (a) audit- trail data and reconstructions of trading on the Exchange Trading Platform;
 - (b) current copies of the Applicant's business continuity-disaster recovery plan and other emergency procedures, its assessments of its operational risks, and other documents requested by Commission staff for the purpose of maintaining a current profile of the Applicant's automated systems; and
 - (c) pursuant to applicable securities laws, any further information.
10. The Executive Director or Commission may direct the form and manner of the reporting.

APPENDIX B

Additional Requirements

Compliance System

1. The Applicant must establish, maintain and apply policies and procedures that establish a system of controls and supervision sufficient to:
 - (a) provide reasonable assurance that the Applicant and Voice Brokers comply with securities laws; and
 - (b) manage the risks associated with its business in accordance with prudent business practices.

President

2. The president (**President**) of the Applicant must do all of the following:
 - (a) supervise the activities of the Applicant that are directed towards ensuring compliance with securities laws by the Applicant and Voice Brokers; and
 - (b) promote compliance by the Applicant and Voice Brokers with securities laws.

Chief Compliance Officer

3. The Applicant must designate an officer of the Applicant as the chief compliance officer (**CCO**) to perform the functions described in paragraph 4 below.
4. The CCO of the Applicant must:
 - (a) establish and maintain policies and procedures for assessing compliance by the Applicant and Voice Brokers with securities laws;
 - (b) monitor and assess compliance by the Applicant and Voice Brokers with securities laws;
 - (c) report to the President as soon as possible if the CCO becomes aware of any circumstances indicating that the Applicant, or any Voice Broker, may be in non-compliance with securities laws and any of the following apply:
 - (i) the non-compliance creates, in the opinion of a reasonable person, a risk of harm to an Exchange Participant;
 - (ii) the non-compliance creates, in the opinion of a reasonable person, a risk of harm to the Applicant's market; or
 - (iii) the non-compliance is part of a pattern of non-compliance; and

- (d) submit an annual report to the Applicant's board of directors for the purpose of assessing compliance with securities laws by the Applicant and Voice Brokers.

Books and Records

- 5. The Applicant must maintain records to:
 - (a) accurately record its business activities, financial affairs, and transactions; and
 - (b) demonstrate the extent of the Applicant's and Voice Brokers' compliance with applicable requirements of securities laws.
- 6. The records required under paragraph 5 above include, but are not limited to, records that:
 - (a) demonstrate compliance with internal control procedures;
 - (b) demonstrate compliance with the Applicant's policies and procedures;
 - (c) demonstrate compliance with complaint-handling requirements;
 - (d) document correspondence with Exchange Participants; and
 - (e) document compliance and supervision actions taken by the Applicant.

Conflicts of Interest

- 7. The Applicant must take reasonable steps to identify existing material conflicts of interest, and material conflicts of interest that the Applicant in its reasonable opinion would expect to arise, between the Applicant, including Voice Brokers, and Exchange Participants.
- 8. The Applicant must respond to an existing or potential conflict of interest identified under paragraph 7 above through disclosure, avoidance or mitigation.
- 9. If an Exchange Participant would reasonably expect to be informed of a conflict of interest identified under paragraph 7 above, the Applicant must disclose, in a timely manner, the nature and extent of the conflict of interest to the Exchange Participant.

Best Execution

- 10. The Applicant and Voice Brokers must make reasonable efforts to achieve best execution when acting on behalf of Exchange Participants.

Duty of Care

11. The Applicant and Voice Brokers must deal fairly, honestly and in good faith with Exchange Participants.

Confidential Information

12. The Applicant must establish, monitor and enforce appropriate procedures for the containment of material non-public information.

Proficiency

13. A Voice Broker must not trade without having the education, training and experience that a reasonable person would consider necessary to trade competently.

Trade Confirmation

14. For all transactions in Contracts executed on the Exchange Trading Platform, the Applicant must promptly deliver to the Exchange Participants a written confirmation of a transaction entered on behalf of such Exchange Participant, setting out the following key transaction details:

- (a) the name of Voice Broker, if any, associated with the transaction;
- (b) the price associated with the transaction;
- (c) the volume or number of Contracts associated with the transaction; and
- (d) the Contract name.

Account Statement

15. The Applicant must deliver a statement to Exchange Participants every month a transaction is effected by or on behalf of an Exchange Participant.

16. A statement delivered under paragraph 15 must include all of the following information for each transaction effected by or on behalf of an Exchange Participant during the month covered by the statement:

- (a) the date of the transaction;
- (b) whether the transaction was a purchase or sale;
- (c) the name of the Contract;
- (d) the number of Contracts;
- (e) the price per Contract; and
- (f) trade execution fees.