

SCHEDULE "C"

**Memorandum of Understanding
about the Oversight of Exchanges and Quotation and
Trade Reporting Systems**

among:

**Alberta Securities Commission (ASC)
British Columbia Securities Commission (BCSC)
Commission des valeurs mobilières du Québec
(CVMQ)
Ontario Securities Commission (OSC) and
Manitoba Securities Commission (MSC)**

The parties agree as follows:

1. Underlying Principles

- (a) Each recognized exchange (Exchange) and recognized quotation and trade reporting system (QTRS) has a lead regulator (Lead Regulator) responsible for its oversight and may have one or more exempting regulators (Exempting Regulator). In certain circumstances, an Exchange or QTRS may have a regulator that is neither a Lead Regulator nor an Exempting Regulator (Participating Regulator). A Participating Regulator has the same rights as an Exempting Regulator under this Memorandum of Understanding (MOU). The current list of Exchanges and QTRSs and their Lead Regulators, Exempting Regulators and Participating Regulators is attached as Appendix A, which may be amended from time to time.
- (b) The Exempting Regulator of an Exchange or QTRS has exempted or will exempt it from recognition as an Exchange or QTRS on the basis that:
- (i) the Exchange or QTRS is and will continue to be recognized by the Lead Regulator as an Exchange, QTRS or, in Québec, as a self-regulatory organization;
 - (ii) the Lead Regulator is responsible for conducting the regulatory oversight of the Exchange or QTRS; and
 - (iii) the Lead Regulator will inform the Exempting Regulator of its oversight activities and the Exempting Regulator will have the opportunity to raise issues concerning the oversight of the Exchange or QTRS with the Lead Regulator in accordance with this MOU.
- (c) The Lead Regulator is responsible for conducting an oversight program (the Oversight Program)¹ of the Exchange or QTRS that will include the matters described in Part 2.
- (d) The purpose of the Oversight Program is to ensure that each Exchange and QTRS meets appropriate standards for market operation and regulation. Those standards include:
- (i) fair access for issuers and market participants;
 - (ii) fair representation in corporate governance and rule-making;
 - (iii) systems and financial capacity to carry out its regulatory functions;
 - (iv) orderly markets through appropriate review of traded products and trading rules;
 - (v) appropriate listed or quoted company regulation;
 - (vi) transparency through timely access to relevant information on traded products and market prices;
 - (vii) market integrity through the adoption of rules that prohibit unfair trading practices and monitoring and enforcing these rules;
 - (viii) proper identification and management of risks, including credit risks related to market participants; and
 - (ix) integration with effective clearing and settlement systems.
- (e) The parties will act in good faith to resolve issues raised by any Exempting Regulator in connection with the Oversight Program carried out by the Lead Regulator.
- (f) The parties acknowledge that, with the consent of the relevant Lead Regulator and Exempting Regulators, the securities commissions of any other jurisdiction where an Exchange or QTRS is recognized or exempted from recognition may become a party to this MOU.

¹ The matters outlined in the Oversight Program are intended to prescribe the minimum level of oversight of an Exchange or QTRS. The Lead Regulator may conduct additional review procedures. The purpose of specifying the Oversight Program is to ensure that each participant in the MOU is comfortable that there is acceptable oversight of the Exchange or QTRS. This in turn justifies reliance on the Lead Regulator.

(g) This MOU is the successor to any prior MOU regarding the oversight of an Exchange or QTRS² entered into between any of the parties to this agreement.

2. Oversight Program

(a) The Lead Regulator will establish and conduct the Oversight Program. At a minimum, the Oversight Program will include the following:

(i) Review of information filed by the Exchange or QTRS on critical financial and operational matters and significant changes to operations, including information related to:

- (A) affiliated entities;
- (B) operation of systems and technological capacity;
- (C) financial statements;
- (D) access requirements and forms;
- (E) corporate finance policies, including listing, quoting and filing requirements; and
- (F) corporate governance, including board and committee composition, structure, mandate and function.

(ii) Review and approval of changes to Exchange or QTRS by-laws, rules, policies, and other similar instruments (Regulatory Instruments) under the procedures established by the Lead Regulator from time to time. The current procedures are identified in Appendix B, which may be amended from time to time.

(iii) Periodic examination of Exchange or QTRS functions, including:

- (A) corporate finance policies: policies relating to minimum listing or quoting requirements, continuing listing or quoting requirements or tier maintenance requirements, sponsorship and continuous disclosure;
- (B) trading halts, suspensions and de-listing procedures;

(C) surveillance and enforcement: procedures for detection of non-compliance and resolution of outstanding issues;

(D) access: requirements for access to trade through the facilities of the Exchange or QTRS;

(E) information transparency: procedures for the dissemination of market information;

(F) corporate governance: corporate governance procedures, including policy and rule making process; and

(G) risk management and computer systems.

(b) The Lead Regulator will retain sole discretion regarding the manner in which the Oversight Program is carried out, including determining the order and timing of its examinations of the functions under section 2(a)(iii). However, the Lead Regulator will perform the examinations of these functions at least once every three years. The Lead Regulator will provide to each Exempting Regulator a copy of the report of the examination performed under section 2(a)(iii) and any responses of the Exchange or QTRS to the report.

3. Involvement of an Exempting Regulator

(a) The Lead Regulator acknowledges that an Exempting Regulator may require that the Exchange or QTRS provide to the Exempting Regulator:

- (i) copies of all Regulatory Instruments that the Exchange or QTRS files for review and approval with the Lead Regulator under the Lead Regulator's procedures referred to in section 2(a)(ii) at the same time that the Exchange or QTRS files the Regulatory Instruments with the Lead Regulator;
- (ii) copies of all final Regulatory Instruments once approved by the Lead Regulator under the procedures outlined in section 2(a)(ii); and
- (iii) if requested by the Exempting Regulator, copies of information filed by the Exchange or QTRS pursuant to section 2(a)(i) as identified in the request.

(b) If an Exempting Regulator advises the Lead Regulator that it has specific concerns regarding

² As of September 3, 2002, no prior MOU exists for the oversight of a QTRS.

the operations of the Exchange or QTRS in the jurisdiction of the Exempting Regulator and requests that the Lead Regulator perform an examination of the Exchange or QTRS in that jurisdiction, the Lead Regulator may determine to conduct an examination of

- (i) the office of the Exchange or QTRS in the jurisdiction of the Exempting Regulator; or
- (ii) a function performed by an Exchange or QTRS office in that jurisdiction.

The Exempting Regulator may, as part of its request, ask that the Lead Regulator include staff of the Exempting Regulator in the Lead Regulator's examination. The Lead Regulator may, as a condition of performing the examination, request the assistance of staff of the Exempting Regulator in which case the Exempting Regulator will use its best efforts to provide this assistance.

- (c) If the Lead Regulator advises the Exempting Regulator that it cannot or will not conduct the examination referred to in section 3(b), the Exempting Regulator may conduct the examination without the participation of the Lead Regulator. In that case, the Exempting Regulator will provide copies of the results of the examination to the Lead Regulator.
- (d) If issuers or parties that are directly affected by a decision of the Exchange or QTRS in the jurisdiction of an Exempting Regulator appeal that decision to the Lead Regulator or request a hearing and review of that decision by the Lead Regulator, the Lead Regulator will provide videoconferencing facilities or other electronic equipment as necessary and appropriate to permit and facilitate the participation of the parties in the proceedings from, at or near the office of the Exchange or QTRS in the jurisdiction of the Exempting Regulator. The Lead Regulator will also provide simultaneous translation facilities or other facilities necessary and appropriate to permit the participation of the parties in the proceedings in French or English, at their request.
- (e) The Lead Regulator will inform each Exempting Regulator in writing of any material changes in how it performs its obligations under this MOU.

4. Information Sharing

- (a) The Lead Regulator will, upon written request from an Exempting Regulator, provide or request the Exchange or QTRS to provide to the Exempting Regulator any information about the marketplace participants, the shareholders and the market operations of the Exchange or QTRS. This would include shareholder and participating

organization lists, product and trading information and disciplinary decisions.

- (b) In specific circumstances, the Lead Regulator may agree to provide additional information to parties to the MOU. The current circumstances in which the Lead Regulator would provide additional information and the information the Lead Regulator would provide are set out in Appendix C, which may be amended from time to time.

5. Oversight Committee

- (a) The parties to the MOU will continue to participate in a committee that will act as a forum and venue for the discussion of issues, concerns and proposals related to the oversight of marketplaces by the parties (Oversight Committee).
- (b) The Oversight Committee will include staff representatives from each of the Lead Regulators and the Exempting Regulators who have responsibility and/or expertise in the areas of marketplace oversight and market regulation.
- (c) The Oversight Committee will meet at least once annually in person and will conduct conference calls at least quarterly.
- (d) At least quarterly, the parties will provide to the Oversight Committee a summary report on their oversight activities that will include a summary description of any material changes made to their oversight program during the period.
- (e) At least annually, the Oversight Committee will provide to the Canadian Securities Administrators a written report of the oversight activities of the committee members during the previous period.

6. Issues Forum

- (a) The parties acknowledge that:
 - (i) more than one Exchange or QTRS may submit the same Regulatory Instruments to different Lead Regulators for review and approval at the same time; or
 - (ii) one Exchange or QTRS may submit a Regulatory Instrument to its Lead Regulator for review and approval that is the same as an existing Regulatory Instrument adopted by a different Exchange or QTRS with a different Lead Regulator.
- (b) In the event the circumstances set out in section 6(a) arise, the Lead Regulators will act in good faith to resolve the issues raised by any of the parties in order to achieve consistent results among the Lead Regulators.

(c) The parties to this MOU will establish a committee of Commissioners (the "Issues Forum") that will attempt to establish a consensus between Lead Regulators on any issue in dispute under section 6(a). The Issues Forum will make recommendations to the various commissions. Staff of any of the Lead Regulators involved in a dispute or disagreement may submit the issue in dispute or the matter causing the disagreement to the Issues Forum.

(d) The Issues Forum will include one Commissioner from each jurisdiction that is a party to this MOU. For purposes of this section, the joint Lead Regulators of the TSX Venture Exchange Inc. (formerly the Canadian Venture Exchange Inc.) (TSXV) will be considered to be separate parties.

7. Waiver and Termination

(a) The terms, conditions and procedures of this MOU may be varied or waived by mutual agreement of the parties. A waiver or variation may be specific or general and may be for a time or for all time, as mutually agreed by the parties.

(b) If the Lead Regulator or an Exempting Regulator of an Exchange or QTRS believes that another party is not satisfactorily performing its obligations under this MOU, it may give written notice to the other party stating that belief and providing particulars in reasonable detail of the alleged failure to perform. If the party receiving the notice has not satisfied the notifying party within two months of the delivery of the notice either that its performance is satisfactory or that it has taken or will take acceptable steps to rectify its performance, the notifying party may by written notice to the other party terminate this MOU as it relates to that Exchange or QTRS on a date not less than six months following delivery of the notice. In that case, the notifying party will send to the Exchange or QTRS a copy of its notice of termination at the same time it sends the notice to the other party or parties.

(c) In the event any significant change to the ownership, structure or operations of an Exchange or QTRS affects the oversight of the Exchange or QTRS, a Lead Regulator or any Exempting Regulator may give written notice to the other parties stating its concerns. If a resolution cannot be reached within two months of the delivery of the notice, the notifying party may by written notice to the other parties terminate this MOU as it relates to the Exchange or QTRS on a date not less than six months following delivery of the notice. In that case, the notifying party will send to the Exchange or QTRS a copy of its notice of termination at the same time it sends the notice to the other parties.

(d) For purposes of this Part, the joint Lead Regulators of the TSXV will be considered one party.

8. Amendments to Appendices

The parties agree that the appendices to this MOU may be amended from time to time.

9. Effective Date

In order to have a coordinated effective date, in Alberta, British Columbia, Ontario and Manitoba, this MOU comes into effect on the date it is approved by the Minister of Finance in Ontario. In Québec, the MOU comes into effect on the date the CVMQ executes the MOU.

Alberta Securities Commission
Per: _____
Title: _____

Commission des valeurs mobilières du Québec
Per: _____
Title: _____

British Columbia Securities Commission
Per: _____
Title: _____

Ontario Securities Commission
Per: _____
Title: _____

Manitoba Securities Commission
Per: _____
Title: _____

Appendix A

List of Lead Regulators and Exempting Regulators

(Information as of September 3, 2002)

1. **TSX Venture Exchange Inc.** (formerly Canadian Venture Exchange Inc.)
 - a. *Lead Regulator* - The ASC and BCSC act jointly as the Lead Regulator for TSX Venture Exchange Inc.
 - b. *Exempting Regulators* - CVMQ, OSC, and MSC
2. **TSX Inc.** (formerly The Toronto Stock Exchange Inc.)
 - a. *Lead Regulator* - OSC
 - b. *Exempting Regulator* - BCSC, CVMQ and ASC
3. **Bourse de Montréal Inc.**
 - a. *Lead Regulator* - CVMQ
 - b. *Exempting Regulator* - OSC
4. **Winnipeg Commodity Exchange Inc.**
 - a. Lead Regulator - MSC
 - b. *Participating Regulator*³ - OSC

Appendix B

Procedures for Review and Approval of Changes to Regulatory Instruments

(information as of September 3, 2002)

1. **TSX Venture Exchange Inc.** - The current procedures are set out in letters dated November 26, 1999 and February 24, 2000.
2. **TSX Inc.** - The current procedures are set out by protocol dated October 23, 1997 published at (1997) 20 OSCB 5684.
3. **Bourse de Montréal Inc.** - Section 177 of the *Securities Act* (Québec)
4. **Winnipeg Commodity Exchange Inc.** - Section 17 of *The Commodity Futures Act* (Manitoba)

3 A Participating Regulator has the rights of an Exempting Regulator under this MOU.

Appendix C

Additional Information Provided by the Lead Regulator

(information as of September 3, 2002)

1. As part of the reorganization of TSX Inc. (TSX), under which TSX will become a wholly owned subsidiary of TSX Group Inc. (TSX Group) and TSX Venture Exchange Inc. (TSXV) will continue to be a wholly owned subsidiary of TSX, the OSC agreed to provide the following information to the ASC and BCSC:

For as long as the OSC recognizes and acts as the Lead Regulator for TSX and recognizes TSX Group, the OSC will promptly advise the Lead Regulators of TSXV in writing, if the OSC

- a) becomes concerned about the financial viability of TSX Group or TSX;
- b) is advised by TSX Group that TSX Group will not allocate sufficient financial and other resources to TSX to ensure that TSX can carry out its functions in a manner that is consistent with the public interest and the terms and conditions of the OSC's recognition order for TSX Group and TSX;
- c) is advised by TSX that TSX has failed to satisfy any of the financial tests set out in the OSC's recognition order for TSX Group and TSX;
- d) is considering revoking or revokes its recognition of TSX Group or TSX; or
- e) becomes aware of any impending change of control of TSX Group or TSX or of an intention by TSX Group or TSX to cease operations or dispose of all or substantially all of its assets.

For as long as the OSC recognizes and acts as the Lead Regulator for TSX, the OSC will, immediately upon receipt of same, provide to the Lead Regulators of TSXV any reports provided to the OSC by TSX regarding the results of any tests, reviews or monitoring performed by TSX in connection with its systems.