

13.1.4 CNQ Application for Recognition as a Stock Exchange - Notice and Request for Comment

CANADIAN TRADING AND QUOTATION SYSTEM INC.

**APPLICATION FOR RECOGNITION
AS A STOCK EXCHANGE**

NOTICE AND REQUEST FOR COMMENT

A. Application

On February 28, 2003, the Commission recognized the Canadian Trading and Quotation System Inc. (CNQ) as a quotation and trade reporting system (QTRS) in accordance with section 21.2.1 of the *Securities Act* (Ontario)(the Act). CNQ is now applying to the Commission for recognition as a stock exchange, pursuant to section 21 of the Act.

CNQ is a private Ontario corporation originally formed to own and operate an electronic marketplace for Ontario investment dealers to trade non-exchange listed equity securities of Ontario reporting issuers. CNQ is a new marketplace primarily for small issuers. It commenced trading operations on July 25, 2003.

CNQ is making the application to be recognized as a stock exchange so that issuers traded on CNQ will automatically become reporting issuers in Ontario upon acceptance to trading. As a QTRS, quoted issuers do not automatically become Ontario reporting issuers and those that are not must make separate application to the OSC. CNQ has indicated that this is an impediment to quotation.

The Commission is publishing for comment the application of CNQ and related documents, as described below.

B. Rule Amendments

CNQ is proposing certain amendments to CNQ rules, policies and forms (Rule Amendments) that will be required if they are recognized as a stock exchange. The Rule Amendments, which are attached, are subject to approval of the Commission. The Rule Amendments are being published for comment at this time. Subject to comments received, the Commission will consider whether to approve the Rule Amendments.

We note that CNQ is proposing to repeal section 1.1 of Policy 2, as previously amended. That section currently provides that only issuers that are reporting issuers under the securities legislation of Alberta, British Columbia, Ontario or Quebec are eligible for quotation on CNQ. In connection with their application for recognition as a stock exchange, CNQ is proposing that there be no limitations on which issuers are eligible for listing on CNQ. Staff are considering whether there should be limitations on eligibility for listing on CNQ, to ensure there is an existing disclosure record prior to listing, and request comments on this specific issue.

- Question 1: Should there be limitations on which issuers are eligible for listing on CNQ?
- Question 2: If yes, what would the appropriate limitation be? Should listing eligibility be limited to companies that are already reporting issuers somewhere in Canada, so as to ensure that the issuer has an existing disclosure record?
- Question 3: Alternatively, should the approach be one of no limitations on issuer eligibility but instead the imposition of additional requirements on certain issuers such as non reporting issuers or foreign issuers?

C. Draft Recognition Order

It is proposed that the recognition of CNQ as a stock exchange be on substantially the same terms and conditions as its recognition as a QTRS. The terms and conditions incorporate the following areas:

1. Corporate Governance
2. Fees
3. Fitness
4. Access
5. Financial Viability
6. Regulation
7. Capacity and Integrity of Systems
8. Purpose of Rules
9. Rules and Rule-Making
10. Financial Statements
11. Discipline Rules
12. Due Process
13. Information Sharing
14. Issuer Regulation
15. Clearing and Settlement
16. Transparency Requirements
17. Additional Information

CNQ must continue to meet each term and condition to the satisfaction of the Commission.

Aside from minor drafting changes to reflect the change from a QTRS to a stock exchange, the only other changes are to the term and conditions relating to financial viability

and to Appendix B, the Rule Review Process. Provisions under term and condition number five of the original recognition order have been amended to recognize that CNQ is in a start-up phase. Specifically, CNQ will be allowed to base adjusted revenues for the purposes of calculating the liquidity measure on forecast earnings for the two years after its recognition as a stock exchange. During this two-year period, CNQ will be required to report to the Commission differences between actual revenues and expenses incurred and forecasted revenues and expenses, and provide explanations for material variances. Appendix B, the Rule Review Process, has been amended to include a process for "housekeeping" rules, as defined in Appendix B, to allow for a more streamlined approval process for such rules.

The draft recognition order, with the terms and conditions, is also being published at this time for comment.

D. Comment Process

You are asked to provide your comments in writing and delivered on or before December 22, 2003, addressed to the attention of the Secretary of the Commission, Ontario Securities Commission, 20 Queen Street West, Toronto, Ontario, M5H 3S8.

We request that you submit a diskette containing an electronic copy of your submission. The confidentiality of submissions cannot be maintained as a summary of written comments received during the comment period will be published.

Questions may be referred to:

Barbara Fydell
Legal Counsel, Market Regulation
(416) 593-8253
email: bfydell@osc.gov.on.ca

Cindy Petlock
Manager, Market Regulation
(416) 593-2351
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September 15, 2003

Ontario Securities Commission
20 Queen Street West
19th Floor, Box 55
Toronto, ON
MM5H 3S8

Attention: *Randee Pavalow, Director, Capital Markets*

Dear Ms. Pavalow:

**Re: Canadian Trading and Quotation System Inc.
("CNQ") — Application for Recognition as a
Stock Exchange**

Canadian Trading and Quotation System Inc. hereby applies under section 21(2) of the *Securities Act* (Ontario), R.S.O. 1990, c. S-5 for an order from the Ontario Securities Commission ("OSC") recognizing CNQ as a stock exchange on the same terms as its existing order recognizing it as a quotation and trade reporting system ("QTRS"). If the order is granted, CNQ further applies under section 144 of the Act that its existing order be revoked so that CNQ will be recognized only as a stock exchange. Our cheque for the applicable fee will be sent under separate cover.

CNQ is making this application so that issuers traded on CNQ will automatically become reporting issuers in Ontario upon acceptance to trading. As a QTRS, quoted issuers do not automatically become Ontario reporting issuers and those that are not must make separate application to the OSC. This is an impediment to quotation.

In order to be accepted, an issuer must file a quotation statement with CNQ that contains prospectus-level disclosure, except for certain historical financial information. This is comparable to, and in some cases is greater than, the information that must be provided to an exchange to qualify for listing.

In making this application, we note that we have previously filed a Form 21-101F1 and related exhibits with the OSC, and there are no changes to that filing that would result from this application other than the category of recognition. We incorporate that form and our application for recognition as a QTRS dated July 16, 2002 by reference into this application, modified to reflect the change of status. Also enclosed are consequential amendments to CNQ rules, policies and forms that will be required if this application is approved. The reference to "as previously amended" is to the rule changes recently approved by the OSC, which were published for comment in the July 18, 2003 *OSC Bulletin*.

The only material change from our previous application is that CNQ was recognized as a QTRS by the OSC on February 28, 2003 and commenced trading on July 25, 2003. It is the first new marketplace to be recognized since the implementation of National Instrument 21-101 — Marketplace Operation. CNQ is not currently recognized or exempted from recognition by any other securities

commission, although we have applied to the Commission des valeurs mobilières du Québec for an order exempting CNQ from recognition as a self-regulatory organization and to the Alberta Securities Commission for an order exempting CNQ from recognition as a QTRS. We continue to be in compliance with the criteria set out in the recognition order.

We look forward to receiving your comments at your earliest convenience. If you have any questions or would like to discuss any aspects of this application, please contact Timothy Baikie at 416-572-2000 x 2282 or Robert Cook at 416-572-2000 x2470.

Yours truly,

CANADIAN TRADING AND QUOTATION SYSTEM INC.

Timothy Baikie
General Counsel & Secretary

cc: Barbara Fydell, Legal Counsel, Market Regulation

CANADIAN TRADING AND QUOTATION SYSTEM INC.

RULE AMENDMENT 2003-03

Be it resolved that:

1. Section 1.4 of Policy 1, as previously amended, is further amended by replacing the phrase "Ontario securities law" with "applicable securities legislation" wherever it appears.
2. Section 1.1 of Policy 2, as previously amended, is repealed.
3. Paragraph 2.3(i) of Policy 2 is repealed.
4. Sections 3.2-4 of Policy 2 are repealed.
5. Item 25.1 (a) of Form 2A, as previously amended, is further amended by repealing the phrase "prepared and filed with the Commission under Ontario securities law, as if the issuer were subject to such law, for the preceding three years" with "prepared and filed under applicable securities law."
6. All references to "quote" and "quotation" and grammatical variations thereof in the Rules, Policies and forms, when referring to a CNQ Issuer or a company applying to become a CNQ Issuer, are replaced with references to "list", "listing" and appropriate grammatical variations thereof.

Pursuant to subsection 129(1) of the Act, the foregoing resolution is signed by all of the directors of the Corporation, a majority of whom are resident Canadians, as of this 4th day of September, 2003. This resolution is to become effective immediately upon Ontario Securities Commission approval and upon recognition of the Corporation as an exchange following public notice and comment.

**IN THE MATTER OF
THE SECURITIES ACT, R.S.O. 1990,
CHAPTER S.5, AS AMENDED (the "Act")**

AND

**IN THE MATTER OF
CANADIAN TRADING AND QUOTATION INC.**

**RECOGNITION ORDER
(Section 21 of the Act)**

AND

**REVOCATION ORDER
(Section 144 of the Act)**

WHEREAS the Commission issued an order dated February 28, 2003, recognizing the Canadian Trading and Quotation System Inc. (CNQ) as a quotation and trade reporting system (QTRS) pursuant to section 21.2.1 of the Act (QTRS Recognition Order);

AND WHEREAS CNQ has now applied for recognition as a stock exchange pursuant to section 21 of the Act so that issuers traded on CNQ will automatically become reporting issuers in Ontario upon acceptance for trading on CNQ;

AND WHEREAS CNQ has agreed to be recognized as a stock exchange on the same terms and conditions as contained in the QTRS Recognition Order;

AND WHEREAS CNQ requests that the QTRS Recognition Order be rescinded so that it will be recognized only as a stock exchange;

AND WHEREAS CNQ is operating a screen-based, automated electronic marketplace;

AND WHEREAS the Commission has received certain representations and undertakings from CNQ in connection with CNQ's application for recognition as a stock exchange;

AND WHEREAS CNQ's application for recognition as a stock exchange incorporates by reference its application for recognition as a QTRS dated July 16, 2002, modified only to reflect the fact that CNQ has now commenced trading operations;

AND WHEREAS the Commission has determined that the recognition of CNQ as a stock exchange on the same terms and conditions in the QTRS Recognition Order would not be prejudicial to the public interest;

THE COMMISSION hereby recognizes CNQ as a stock exchange pursuant to section 21 of the Act, subject to the terms and conditions attached at Schedule A, and revokes the QTRS Recognition Order pursuant to section 144 of the Act.

DATED ●

SCHEDULE A

TERMS AND CONDITIONS

1. CORPORATE GOVERNANCE

(a) CNQ's arrangements with respect to the appointment, removal from office and functions of the persons ultimately responsible for making or enforcing the rules, policies and other similar instruments (Rules) of CNQ, namely, the governing body, are such as to ensure a proper balance between the interests of the different entities desiring access to the facilities of CNQ (CNQ Dealer) and companies seeking to be quoted on CNQ (CNQ Issuer), and a reasonable number and proportion of directors will be "independent" in order to ensure diversity of representation on the Board. An independent director is a director that is not:

- i) an associate, director, officer or employee of a CNQ Dealer;
- ii) an officer or employee of CNQ or its affiliates;
- iii) an associate, director, officer or employee of any person or company who owns or controls, directly or indirectly, over 10% of CNQ; or
- iv) a person who owns or controls, directly or indirectly, over 10% of CNQ.

In particular, CNQ will ensure that at least fifty per cent (50%) of its directors will be independent. In the event that at any time CNQ fails to meet such requirement, it will promptly remedy such situation.

(b) Without limiting the generality of the foregoing, CNQ's governance structure provides for:

- (i) fair and meaningful representation on its governing body, in the context of the nature and structure of CNQ, and any governance committee thereto and in the approval of Rules;
- (ii) appropriate representation of independent directors on any CNQ Board committees; and
- (iii) appropriate qualifications, remuneration, conflict of interest provisions and limitation of liability and indemnification protections for directors and officers and employees of CNQ generally.

2. FITNESS

In order to ensure that CNQ operates with integrity and in the public interest, each person or company that owns or controls, directly or indirectly, more than 10% of CNQ and each officer or director of CNQ is a fit and proper person

and the past conduct of each person or company that owns or controls, directly or indirectly, more than 10% of CNQ and each officer or director of CNQ affords reasonable grounds for belief that the business of CNQ will be conducted with integrity.

3. FAIR AND APPROPRIATE FEES

- (a) Any and all fees imposed by CNQ will be equitably allocated. Fees will not have the effect of creating barriers to access and must be balanced with the criteria that CNQ will have sufficient revenues to satisfy its responsibilities.
- (b) CNQ's process for setting fees will be fair, appropriate and transparent.

4. ACCESS

- (a) CNQ's requirements permit all properly registered dealers that are members of a recognized SRO and satisfy access requirements established by CNQ to access the facilities of CNQ.
- (b) Without limiting the generality of the foregoing, CNQ will:
 - (i) establish written standards for granting access to CNQ Dealers trading on CNQ;
 - (ii) not unreasonably prohibit or limit access by a person or company to services offered by it; and
 - (iii) keep records of
 - (A) each grant of access including, for each CNQ Dealer, the reasons for granting such access, and
 - (B) each denial or limitation of access, including the reasons for denying or limiting access to any applicant.

5. FINANCIAL VIABILITY

- (a) CNQ will maintain sufficient financial resources for the proper performance of its functions.
- (b) CNQ will calculate and report those financial ratios described below to permit trend analysis and provide an early warning signal with respect to the financial health of the company.
- (c) CNQ will maintain: (i) a liquidity measure greater than or equal to zero; (ii) a debt to cash flow ratio less than or equal to 4.0/1; and (iii) a leverage ratio less than or equal to 4.0/1. For this purpose:

- (i) liquidity measure is:
- (working capital + borrowing capacity)
- 2 (adjusted budgeted expenses + adjusted capital expenditures – adjusted revenues)
- where:
- A) working capital is current assets minus current liabilities,
- B) borrowing capacity is the principal amount of long term debt available to be borrowed under loan or credit agreements that are in force,
- C) adjusted budgeted expenses are 95% of the expenses (other than depreciation and other non-cash items) provided for in the budget for the current fiscal year,
- D) adjusted capital expenditures are 50% of average capital expenditures for the previous three fiscal years, except that in each of the first three years, adjusted capital expenditures shall be determined as follows:
- in the first year after February 28, 2003 (Year 1), 50% of 1/3rd of Start Up Capital Expenditures;
 - in the second year after February 28, 2003 (Year 2), 50% of [1/3rd (2/3rd Start-up Capital Expenditures plus Year 1 Capital Expenditures)]; and,
 - in the third year after February 28, 2003 (Year 3), 50%[1/3rd(1/3rd Start-up Capital Expenditures plus Year 1 Capital Expenditures plus Year 2 Capital Expenditures)]
- where Start-up Capital Expenditures are the total Capital Expenditures prior to July 25, 2003, and
- E) adjusted revenues are 80% of revenues plus 80% of investment income for the previous fiscal year, except that in each of the first two years after recognition as a stock exchange, adjusted revenues shall be calculated as 80% of revenues plus 80% of investment income as forecasted on •,
- (ii) debt to cash flow ratio is the ratio of total debt (including any line of credit drawdowns, term loans (current and long-term portions) and debentures, but excluding accounts payables, accrued expenses and other liabilities) to EBITDA (or earnings before interest, taxes depreciation and amortization) for the previous month multiplied by 12, and
- (iii) financial leverage ratio is the ratio of total assets to shareholders' equity,
- in each case following the same accounting principles as those used for the audited financial statements of CNQ, except as provided in paragraphs "h" and "i" below.
- (d) On a quarterly basis (along with the quarterly financial statements required to be filed pursuant to paragraph 10), CNQ will report to the Commission the monthly calculation of the liquidity measure and debt to cash flow and financial leverage ratios, the appropriateness of the calculations and whether any alternative calculations should be considered.
- (e) Except as provided in "g" below, if CNQ fails to maintain any of the liquidity measure, the debt to cash flow ratio or the financial leverage ratio in any month, it shall immediately report to the Commission or its staff.
- (f) Except as provided in "g" below, if CNQ fails to maintain any of the liquidity measure, the debt to cash flow ratio or the financial leverage ratio for a period of more than three months, its President will immediately deliver a letter advising the Commission or its staff of the reasons for the continued ratio deficiencies and the steps being taken to rectify the problem, and CNQ will not, without the prior approval of a Director of the Commission, make any capital expenditures not already reflected in the financial statements, or make any loans, bonuses, dividends or other distributions of assets to any director, officer, related company or shareholder until the deficiencies have been eliminated for at least six months.
- (g) Recognizing that CNQ is a start-up operation expecting to incur losses, the following apply during the first two years of operations after recognition as a stock exchange:
- (i) paragraphs "e" and "f" above shall not apply if the debt to cash flow ratio is negative or greater than 4.0/1, but CNQ will not, without the permission of the Director, make any loans, bonuses, cash dividends or other distributions of assets to any director, officer, related company or shareholder until the deficiencies have been eliminated for six months, except for bonuses payable to employees under a profit sharing bonus plan included in the forecast financial statements provided to the Commission as part of the application for recognition, and

- (ii) on a quarterly basis (along with the quarterly financial statements required to be filed pursuant to paragraph 10), CNQ will provide the Commission with the following:
 - A) a comparison of the revenues and expenses incurred by CNQ with the revenues and expenses forecasted on ●, for each of the months, and
 - B) for each revenue item whose actual was lower than its forecasted amount by 15% or more, and for each expense item whose actual was higher than its forecasted amount by 15% or more, the reasons for the variance and the steps that will be or have been taken to address any issues arising from the variance.
- (h) CNQ may recognize the subordinated, convertible debentures described in the term sheet dated November 29, 2002 ("Subordinated, Convertible Debentures") as equity for the purposes of calculating the financial ratios in paragraph "c" above, provided that:
 - (i) the amount of the Subordinated, Convertible Debentures recognized as equity should not exceed \$5,000,000;
 - (ii) CNQ shall not repay the Subordinated, Convertible Debentures or pay cash interest on the Subordinated, Convertible Debentures if such payment will result in CNQ not meeting the financial ratios; and
 - (iii) prior to making a cash interest payment or principal repayment, CNQ should demonstrate to the satisfaction of the Commission that it will continue to meet the financial ratios after payment.
- (i) CNQ may recognize the debts owed by CNQ described in the subordinated agreement dated December 23, 2002 between 1141216 Ontario Limited, Wendsley Lake Corporation, CNQ and The Business, Engineering, Science & Technology Discoveries Fund Inc. ("Junior Debt") as equity for the purposes of calculating the financial ratios in paragraph "c" above, provided that:
 - (i) CNQ shall not repay the Junior Debt or pay cash interest on the Junior Debt if such payment will result in CNQ not meeting the financial ratios; and
 - (ii) prior to making a cash interest payment or principal repayment, CNQ should demonstrate to the satisfaction of the Commission that it will continue to meet the financial ratios after payment.

6. REGULATION

- (a) CNQ will maintain its ability to perform its regulation functions including setting requirements governing the conduct of CNQ Dealers and CNQ Issuers and disciplining CNQ Dealers and CNQ Issuers.
- (b) CNQ has retained and will continue to retain Market Regulation Services Inc. (RS Inc.) as a regulation services provider to provide, as agent for CNQ, certain regulation services which have been approved by the Commission. CNQ will provide to the Commission, on an annual basis, a list outlining the regulation services performed by RS Inc. and the regulation services performed by CNQ. All amendments to those listed services are subject to the prior approval of the Commission.
- (c) CNQ will provide the Commission with an annual report with such information regarding its affairs as may be requested from time to time. The annual report will be in such form as may be specified by the Commission from time to time.
- (d) CNQ will perform all other regulation functions not performed by RS Inc.
- (e) Management of CNQ (including the President and CEO) will at least annually assess the performance by RS Inc. of its regulation functions and report to the Board, together with any recommendations for improvements. CNQ will provide the Commission with copies of such reports and shall advise the Commission of any proposed actions arising therefrom.
- (f) CNQ shall provide the Commission with the information set out in Appendix A, as amended from time to time.

7. CAPACITY AND INTEGRITY OF SYSTEMS

For each of its systems that support order entry, order routing, execution, data feeds, trade reporting and trade comparison, capacity and integrity requirements, CNQ will:

- (a) on a reasonably frequent basis, and in any event, at least annually,
 - (i) make reasonable current and future capacity estimates;
 - (ii) conduct capacity stress tests of critical systems to determine the ability of those systems to process transactions in an accurate, timely and efficient manner;
 - (iii) develop and implement reasonable procedures to review and keep current the development and testing methodology of those systems;

(iv) review the vulnerability of those systems and data centre computer operations to internal and external threats including physical hazards, and natural disasters;

(v) establish reasonable contingency and business continuity plans;

(b) annually, cause to be performed an independent review and written report, in accordance with established audit procedures and standards, of its controls for ensuring that it is in compliance with paragraph (a) and conduct a review by senior management of the report containing the recommendations and conclusions of the independent review; and

(c) promptly notify the Commission of material systems failures and changes.

8. PURPOSE OF RULES

(a) CNQ will establish Rules that are necessary or appropriate to govern and regulate all aspects of its business and affairs.

(b) More specifically, CNQ will ensure that:

(i) the Rules are designed to:

(A) ensure compliance with securities legislation;

(B) prevent fraudulent and manipulative acts and practices;

(C) promote just and equitable principles of trade;

(D) foster cooperation and coordination with persons or companies engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities; and

(E) provide for appropriate discipline.

(ii) the Rules do not:

(A) permit unreasonable discrimination among CNQ Issuers and CNQ Dealers; or

(B) impose any burden on competition that is not necessary or appropriate in furtherance of securities legislation.

(iii) the Rules are designed to ensure that its business is conducted in a manner so as to afford protection to investors.

9. RULES AND RULE-MAKING

CNQ will comply with the rule review process set out in Appendix B, as amended from time to time, concerning Commission approval of changes in its Rules.

10. FINANCIAL STATEMENTS

CNQ will file unaudited quarterly financial statements within 60 days of each quarter end and audited annual financial statements within 90 days of each year end, prepared in accordance with generally accepted accounting principles.

11. DISCIPLINE RULES

(a) CNQ will ensure, through Market Regulation Services Inc. and otherwise, that any person or company subject to its regulation is appropriately disciplined for violations of securities legislation and the Rules.

(b) CNQ will have general disciplinary and enforcement provisions in its Rules that will apply to any person or company subject to its regulation.

12. DUE PROCESS

CNQ will ensure that:

(a) its requirements relating to access to the facilities of CNQ, the imposition of limitations or conditions on access and denial of access are fair and reasonable;

(b) parties are given an opportunity to be heard or make representations; and

(c) it keeps a record, gives reasons and provides for appeals of its decisions.

13. INFORMATION SHARING

CNQ will share information and otherwise co-operate with the Commission and its staff, the Canadian Investor Protection Fund, other Canadian exchanges and recognized self-regulatory organizations and regulatory authorities responsible for the supervision or regulation of securities firms and financial institutions.

14. ISSUER REGULATION

(a) CNQ has sufficient authority over its issuers.

(b) CNQ carries out appropriate review procedures to monitor and enforce issuer compliance with the Rules.

(c) CNQ will amend its Policies and Forms, from time to time, at the request of the Director, Corporate Finance, to reflect changes to the disclosure requirements of Ontario securities law.

15. CLEARING AND SETTLEMENT

CNQ has appropriate arrangements in place for clearing and settlement through a clearing agency recognized by the Commission for the purposes of the *Securities Act* (Ontario).

16. TRANSPARENCY REQUIREMENTS

CNQ will comply with the pre-trade and post-trade transparency requirements set out in National Instrument 21-101 Marketplace Operation.

17. ADDITIONAL INFORMATION

- (a) CNQ has completed and submitted Form 21-101F1 (including the exhibits) to the Commission.
- (b) CNQ will provide the Commission with any additional information the Commission may require from time to time.

Appendix A

Information to be filed

1. Quarterly Reporting on Exemptions or Waivers Granted

On a quarterly basis, CNQ will submit to the Commission a report summarizing all exemptions or waivers granted pursuant to the rules, policies or other similar instruments (Rules) to any CNQ Dealer or CNQ Issuer during the period. This summary should include the following information:

- (a) The name of the CNQ Dealer or CNQ Issuer;
- (b) The type of exemption or waiver granted during the period
- (c) Date of the exemption or waiver, and
- (d) A description of CNQ staff's reason for the decision to grant the exemption or waiver.

2. Quarterly Reporting on Quotation Applications

On a quarterly basis, CNQ will submit to the Commission a report containing the following information:

- (a) The number of listing applications filed;
- (b) The number of listing applications that were accepted;
- (c) The number of listing applications that were rejected and the reasons for rejection, by category;
- (d) The number of listing applications that were withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category;
- (e) The number of listing applications filed by CNQ Issuers as a result of a Fundamental Change;
- (f) The number of listing applications filed by CNQ Issuers as a result of a Fundamental Change that were accepted;
- (g) The number of listing applications filed by CNQ Issuers as a result of a Fundamental Change that were that were rejected and the reasons for rejection, by category;
- (h) The number of listing applications filed by CNQ Issuers as a result of a Fundamental Change that were withdrawn or abandoned and, if known, the reasons why the application was withdrawn or abandoned, by category.

In each of the foregoing cases, the numbers shall be broken down by industry category and in any other manner that a Director of the Commission requests.

3. Notification of suspensions and disqualifications

If a CNQ Issuer has been suspended or disqualified from qualification for listing, CNQ will immediately issue a press release setting out the reasons for the suspension and file this information with the Commission.

Appendix B

Rule Review Process

1. CNQ will file with the Commission each new or amended rule, policy and other similar instrument (Rules) adopted by its Board.
2. More specifically, CNQ will file the following information:
 - (a) the Rule;
 - (b) a notice of publication including:
 - (i) a description of the Rule and its impact;
 - (ii) a concise statement, together with supporting analysis, of the nature, purpose and effect of the Rule;
 - (iii) the possible effects of the Rule on marketplace participants, competition and the costs of compliance;
 - (iv) a description of the rule-making process, including a description of the context in which the Rule was developed, the process followed, the issues considered, the consultation process undertaken, the alternative approaches considered and the reasons for rejecting the alternatives;
 - (v) where the Rule requires technological changes to be made by CNQ, CNQ Dealers or CNQ Issuers, CNQ will provide a description of the implications of the Rule and, where possible, an implementation plan, including a description of how the Rule will be implemented and the timing of the implementation;
 - (vi) a reference to other jurisdictions including an indication as to whether another regulator in Canada, the United States or another jurisdiction has a comparable rule or has made or is contemplating making a comparable rule and, if applicable, a comparison of the Rule to the rule of the other jurisdiction; and
 - (vii) whether the Rule is classified as "public interest" or "housekeeping"; and
 - (viii) where the Rule is classified as "housekeeping", the effective date of the Rule.
3. For the purposes of the Rule Review Process, a Rule may be classified as "housekeeping" if it does not affect the meaning, intent or substance of an existing rule and involves only:

- (a) the correction of spelling, punctuation, typographical or grammatical mistakes or inaccurate cross-referencing;
- (b) stylistic formatting, including changes to headings or paragraph numbers;
- (c) amendments required to ensure consistency with an existing approved rule; or
- (d) changes in routing procedures and administrative practices of CNQ provided that such changes do not impose any significant burden or any barrier to competition that is not appropriate.

Any Rule falling outside of this definition would be categorized as a “public interest” Rule. Prior to proposing a Rule that is of a “public interest” nature, as defined above, the Board of Directors of CNQ shall have determined that the entry into force of such “public interest” Rule would be in the best interests of the capital markets in Ontario. The material filed with the Commission in relation to “public interest” Rules shall be accompanied by a statement to that effect.

- 4. Where a Rule has been classified as “public interest”, the Commission will publish for a 30 day comment period in its bulletin or on its website the notice filed by CNQ and the Rule. If amendments to the Rule are necessary as a result of comments received, the Commission shall have discretion to determine whether the Rule should be re-published for comment. If the Rule is re-published, the request for comment shall include CNQ’s summary of comments and responses thereto together with an explanation of the revisions to the Rule and the supporting rationale for the amendments.
- 5. A “public interest” Rule will be effective as of the date of Commission approval or on a date determined by CNQ, whichever is later. A “housekeeping” Rule shall be deemed to have been approved upon being filed with the Commission, unless staff of the Commission communicate to CNQ, within five business days of receipt of the Rule, their disagreement with CNQ’s classification of the Rule as “housekeeping” and the reasons for their disagreement. Where staff of the Commission disagree with CNQ’s classification, CNQ shall re-file the Rule as a “public interest” Rule. A “housekeeping” Rule shall be effective on the date indicated by CNQ in the filing.
- 6. The Commission shall publish a Notice of Commission Approval of both “public interest” and “housekeeping” Rules in its bulletin or on its website. All such notices relating to “public interest” Rules shall also include CNQ’s summary of comments and responses thereto. All such notices relating to “housekeeping” Rules shall be accompanied by the notice filed by CNQ and the Rule itself.
- 7. If CNQ is of the view that there is an urgent need to implement a Rule, CNQ may make a Rule effective

immediately upon approval by CNQ’s board of directors provided that CNQ:

- (a) provides the Commission with written notice of the urgent need to implement the Rule prior to the submission of the Rule to CNQ’s board of directors; and
 - (b) includes in the notice referenced in 2(b)(ii) an analysis in support of the need for immediate implementation of the Rule.
- 8. If the Commission does not agree that immediate implementation is necessary, the Commission will advise CNQ that it disagrees and provide the reasons for its disagreement. If no notice is received by CNQ within 5 business days of the Commission receiving CNQ’s notification, CNQ shall assume that the Commission agrees with its assessment.
 - 9. A Rule that is implemented immediately shall be published, reviewed and approved in accordance with the procedure set out above. Where the Commission subsequently disapproves a Rule that was implemented immediately, CNQ shall repeal the Rule and publish a notice informing its marketplace participants.
 - 10. The terms, conditions and procedures set out in this section may be varied or waived by the Commission. A waiver or variation may be specific or general and may be made for a time or for all time.