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BY ELECTRONIC MAIL

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Re: Rules Bulletin 24-0213 Proposed Amendments Respecting Net Asset Value Orders and Intentional Crosses

Dear CIRO/CSA,

Fidelity Clearing Canada ULC (FCC) welcomes and appreciates the opportunity to comment on the proposed CIRO Universal Market Integrity (UMIR) amendments respecting Net Asset Value orders and Intentional Crosses. We support CIRO for their commitment to investor protection, providing efficient and consistent regulation and building trust in financial regulation. We also thank CIRO and the ETF trading community in Canada for the inclusive, supportive and collaborative approach that is taken on

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reforms such as these proposals. These groups keep regulatory and client best interest at the forefront of the discussion and ensure the interests of their clients, sponsoring firms, manufacturing issuers and other participants are well represented during the process.

FCC is a Canadian Investment Dealer and executing Participant on Canadian Marketplaces. We clear, carry and execute equity, option, FX, Fixed Income and Digital Asset trades for > 40 Investment Dealers and over 90 provincially regulated Portfolio Managers. We are an active executing agent in ETFs on behalf of our clients including both Portfolio Managers and non-executing Dealers. We are not a market maker in ETF securities but carefully choose the execution path that best suits our clients from a price, liquidity, cost and service standpoint.

Fidelity Clearing Canada generally supports the proposed amendments as they will bring improvements to our marketplace and will improve the execution process. These improvements will allow greater flexibility in the acceptance, execution and subsequent reporting of NAV trades and will remove an outdated definition that created an uneven liquidity hurdle for some participants. It is with the updates to the definition of intentional cross where we will focus most of our comments.

Question 1

Should we impose any restrictions on the entry of a Net Asset Value Order? (e.g., should we restrict the entry of a Net Asset Value Order to orders greater than a minimum size?) If so, please explain why and set out what the minimum size should be.

No new restrictions should be created specifically for Net Asset Value orders. Additional transparency would be realized with the accepted proposals, and we feel this transparency would be a benefit to the community. The exclusions from the pricing, dark order, last sale and disclosed volume definitions are appropriate. Existing market conventions, competitive forces and trading patterns negate the need for new restrictions.

Question 2

Should we impose any restrictions on the use of an intentional cross with jitney? (e.g., should we impose a minimum size threshold that would apply when entering an intentional cross with jitney on one side of the trade?) If you believe a minimum size threshold is appropriate, please explain why and set out what the threshold should be.

The ability to interact directly with market makers and have these executing dealers intentionally cross block liquidity on our behalf with, a jitney marker, would be a benefit to FCC, and other non-market

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making participants. Controlling the timing and pricing of a cross in an individual ETF trade, or list of ETF trades, limits risk and execution quality fade from anticipated, or related, order flow. FCC would maintain the ability to execute order flow in a flexible manner for the benefit of our clients. This includes direct, non-intermediated exposure to marketplaces as well as interaction with alternate strategies including dark order types and venues in the pursuit of price and size improvement. It also includes interacting directly with a market making desk, negotiating with these desks and asking them to compete aggressively for access to order flow. The revised definition of intentional cross would also even the playing field between participants and non-participant executing dealers as the latter can currently participate in an intentional cross.

It is not necessary to impose additional restrictions on participants with the revised definition of intentional cross. Both the executing dealer of the cross including a jitney participant, and the originating jitney dealer in the cross, have existing regulations and guidance they currently adhere to, including UMIR 5.3 (Client Priority), UMIR 6.3 (Exposure of Client Orders) and IDPC 3119-3129 Best Execution rules. No new concerns are created with cross orders if this proposal is accepted.

Question 3

While CIRO would generally expect that a Net Asset Value Order should be executed as soon as is practical after publication of NAV by the issuer of the ETF, should this be directly included as a requirement for entry of a Net Asset Value Order (i.e., where NAV is published after trading hours have ended on all Canadian marketplaces, should Participants be required to execute those trades as soon as trading hours begin on a Canadian marketplace the following trading day)?

All market participants benefit from timely execution of Net Asset Value orders and current conventions normally see their execution prior to the opening of the general session the next day. Mandating a relevant timeframe following the Net Asset Value strike should not be an inconvenience.

Question 4

The Proposed Amendments would add a new designation of a "Net Asset Value Order" in UMIR 6.2(1)(b) that would be required to be applied with the entry of a "Net Asset Value Order" on a marketplace, and which would be required to be disclosed for display by the marketplace on which the "Net Asset Value Order" is entered. Have you identified any concerns with public disclosure of an order that is a "Net Asset Value Order"?

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Question 5

The definition of a “Net Asset Value Order” as proposed does not require the execution price to be the exact NAV as published by the issuer of the ETF, but instead at a price that references the published NAV. This reference price may include fees incurred by the executing Participant and/or commissions embedded in the execution price. Please identify any concerns with this proposed approach.

Question 6

Have we identified all the material impacts on clients, issuers, Participants, Access Persons, marketplaces or CIRO as a result of the Proposed Amendments? If not, please list any other impacts that you believe will materially impact one or more parties and why. In particular, please provide comments on the potential costs associated with the proposed introduction of a Net Asset Value Order, and associated designation requirements under UMIR 6.2.

The requirement to provide client identifiers including Legal Entity Identifiers (LEI’s), account numbers or dealer LEI’s may potentially present material impacts that prevent some executing dealers from efficiently handling orders containing this data. Although vendors of Canadian marketplace execution tools support the handling of Designations and Identifiers in UMIR 6.2 (1) additional consultation will need to take place to ensure the same vendors, and any additionally required vendors, can receive, and reflect the additional tags that a jitney dealer would be required to transmit under the proposal. The lack of encryption for the dealer LEI tag may also prevent a jitney dealer from relaying orders on behalf of a non-executing client dealer to maintain confidentiality.

Due to these concerns, this proposal could be modified without muting the regulatory benefit achieved with the 2021 Client Identifiers implementation. With this implementation, definitions, and order tags, for multiple client (MC) or bundled orders (BU) were created and were required to be transmitted to marketplaces. Dealers were required to maintain accurate allocation records for audit trail purposes when utilizing these markers and would transmit to regulators if requested. The same recordkeeping process could be utilized here to alleviate material hurdles for affected dealers.

Question 7

Overall, do you agree with CIRO’s qualitative assessment that the benefits of the Proposed Amendments are proportionate to their costs? Please provide reasons for your views.

Question 8

Would 90 days for implementation be sufficient time for:

- Participants and marketplaces to undertake required systems changes to support the new “Net Asset Value Order” designation, and



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- Participants to update their processes and policies and procedures to ensure the use, and supervision of, the new “Net Asset Value Order” designation as appropriate.

As evidenced above, these proposals will not only bring improvements to our marketplace but will advance the existing execution process. The greater flexibility that these improvements will affect, will elevate the acceptance, execution and subsequent reporting of NAV trades. We applaud your consideration of the adjustments to outdated legislation and look forward to a more robust and even playing field.

Thank you again for the opportunity to comment.

Sincerely,

FIDELITY CLEARING CANADA ULC

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