

CSA Staff Notice 21-314

Information Processor for Corporate Debt Securities

June 27, 2014

1. Introduction

Canadian Securities Administrators (CSA) staff (CSA staff or we) are publishing this notice to inform the public that CanPX Inc. (CanPX) will continue to act as an information processor for corporate debt securities under National Instrument 21-101 *Marketplace Operation* (NI 21-101) for a period of 18 months from July 1, 2014 to December 31, 2015.

2. Regulatory Requirements

NI 21-101 provides for the operation and regulation of an information processor. An information processor is defined as a person or company that receives and provides information under NI 21-101 and has filed Form 21-101F5 *Initial Operation Report for Information Processor* (Form 21-101F5). An information processor is designated as a market participant under the *Securities Act* (Ontario) and may be recognized as an information processor under the *Securities Act* (Quebec).

Part 8 of NI 21-101 sets out the transparency requirements applicable to corporate debt securities. Specifically, marketplaces that display orders of corporate debt securities are required to provide information regarding orders for designated corporate debt securities to an information processor, if an information processor is in place. Marketplaces, inter-dealer bond brokers (IDBs) and dealers are also required to provide trade information for corporate debt securities to an information processor, if one is in place, as required by the information processor.¹ CanPX is the information processor for corporate debt securities.

The regulatory requirements that apply to the information processor are set out in Part 14 of NI 21-101. They include:

- a requirement to provide prompt and accurate order and trade information and not unreasonably restrict fair access to such information;
- a requirement to provide timely, accurate, reliable and fair collection, processing, distribution and publication of information for orders for, and trades in, securities;
- an obligation to maintain reasonable books and records; and
- certain system requirements, including an annual independent systems review.

3. CanPX

CanPX has been an information processor for corporate debt securities since 2003. Its status as

¹ For government debt securities, the requirements for marketplaces and IDBs to provide order and trade information have been postponed until December 31, 2014. On April 24, 2014, the CSA published for comment proposed amendments to NI 21-101 that would, among others, extend the exemption from transparency requirements for government debt securities for an additional three year period.

an information processor was most recently renewed in 2009, for a period of five years from July 1, 2009 to June 30, 2014.²

As the information processor for corporate debt securities, CanPX is responsible for designating the corporate debt securities for which it receives and disseminates post-trade information (the Designated Corporate Debt Securities).³ It makes the selection in accordance with a set of selection criteria which are published on its website⁴ and which include trading volumes, whether bonds are included in domestic Canadian corporate bond indices and issue size.⁵ At this time, approximately 340 securities are included on the Designated Corporate Debt Securities list. The information disseminated is subject to volume caps and is disseminated one hour after the trade was reported to CanPX. The volume caps are \$2 million for investment grade corporate debt securities and \$200,000 for non-investment grade corporate debt securities. The trade data is aggregated by CanPX's technical facilitator and made available to market participants and investors through data vendors contracted by CanPX.

CanPX currently requires that only marketplaces and dealers that have achieved a market share of 0.5% of total corporate bond trading provide trade details regarding the Designated Corporate Debt Securities. Currently, this includes 12 investment dealers.

In addition to complying with the applicable requirements in NI 21-101, CanPX has agreed to comply with a number of undertakings that, among others, require CanPX to address conflicts of interest such as those related to the business activities of its board members, maintaining transparency for corporate debt securities and maintaining the integrity of corporate debt data it disseminates. These initial undertakings were published in CSA Staff Notice 21-310 *Information Processor for Corporate Debt Securities*.⁶

4. CSA Oversight over CanPX

CanPX has been subject to ongoing oversight of CSA staff which includes:

- Quarterly and ad-hoc meetings or calls with CanPX board members to discuss issues;
- Staff reviews of changes to the information included in Form 21-101F5 that were filed in accordance with the requirements of NI 21-101;

² CSA staff announced the renewal of CanPX in CSA Staff Notice 21-310 *Information Processor for Corporate Debt Securities*, published in http://www.nbsc-cvmnb.ca/nbsc/uploaded_topic_files/21-310-CSA-SN-2009-06-26-E.pdf.

³ The CSA allowed CanPX to make the selection in order to promote an industry solution to corporate debt transparency, in response to significant industry pressure against a solution to fixed income transparency that is mandated by regulators.

⁴ For a description of the criteria and process for selection, see <http://www.canpxonline.ca/selectioncriteria.php>.

⁵ Currently, this is \$250 million, however, CanPX has proposed to eliminate this threshold.

⁶ Ibid 2.

- Review of the reports related to the independent systems reviews that CanPX arranged to have completed in accordance with the requirement in NI 21-101;
- Review of minutes of meetings of the Advisory Committee to understand the issues discussed and how they were resolved;
- Reviews of the self-assessments prepared by CanPX;
- Review of financial information provided by CanPX in accordance with the requirements of NI 21-101; and
- An on-site oversight review to look at areas that may not have been fully covered through ongoing oversight, such as processes to address conflict of interest, processes for maintaining and increasing transparency in the corporate debt market, fees and resources, and the processes for maintaining the integrity of data reported to and disseminated by CanPX.

Our ongoing oversight shows that CanPX generally met its undertakings and was in compliance with the applicable requirements of NI 21-101. As of June 4, 2014, the list of Designated Corporate Debt Securities was approximately 340 securities.

We are concerned, however, that the increase in the number of Designated Corporate Debt Securities has been slow and that CanPX's corporate bond trade data has not been made readily available to investors, and specifically, to retail investors. This calls into question whether CanPX's contribution to corporate fixed income transparency has been meaningful.

We note that fixed income transparency, including corporate debt transparency, is an important regulatory objective. In Ontario, regulation of fixed income securities has been identified as one of the priorities of the Ontario Securities Commission for both the fiscal year 2013-2014⁷ and fiscal year 2014-2015.⁸ We included these considerations in our decision whether to extend CanPX's status as an information processor and for how long it should be extended.

CanPX has committed to a number of measures to increase corporate debt transparency to retail and institutional investors. These measures include enhancing the process through which corporate bonds are designated by CanPX for inclusion on the Designated Corporate Debt Securities list, increasing CanPX's profile in the marketplace to ensure that the public is aware of the existence of this consolidated source of information, and providing greater access to CanPX's transparency products, particularly among retail investors. Despite this, it is our intention to conduct a review of transparency in the corporate debt market to assess whether the current approach is appropriate to achieve our goal. As part of this review, we will determine whether it is appropriate to continue with an industry-led solution to corporate debt transparency or whether additional regulatory intervention is required. We have extended CanPX for the interim period and will assess its role at the conclusion of our review.

⁷ OSC Notice 11-768 – *Notice of Statement of Priorities for Financial Year to End March 31, 2014*, available at http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20130627_11-768_sop-fiscal-2013-2014.htm.

⁸ OSC Notice 11-769 – *Statement of Priorities – Request for Comments Regarding the Statement of Priorities for Financial Year to End March 31, 2015*, available at http://www.osc.gov.on.ca/en/SecuritiesLaw_sn_20140403_11-769_rfc-sop-fiscal-2014-2015.htm.

5. Conclusion

CSA staff believe that it is not contrary to the public interest for CanPX to continue to act as an information processor for corporate debt securities for the interim period of 18 months from July 1, 2014 to December 31, 2015. CanPX has agreed to comply with additional undertakings to reflect this commitment. The new undertakings are listed at Appendix A of this notice.

In the meantime, as described above, we will conduct a review of the framework for corporate debt transparency and will consider steps to increase corporate debt transparency in the coming year

6. Questions

Please refer your questions to any of the following:

Ruxandra Smith
Ontario Securities Commission
(416) 593-8322

Tracey Stern
Ontario Securities Commission
(416) 593-8167

Alina Bazavan
Ontario Securities Commission
(416) 593-8082

Stephane Dupuis
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(514) 395-0337 ext. 4326

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Alberta Securities Commission
(403) 355-6290

Serge Boisvert
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(514) 395-0337 ext. 4358

Paula White
Manitoba Securities Commission
(204) 945-5195

Douglas MacKay
British Columbia Securities Commission
(604) 899-6609

APPENDIX A

UNDERTAKINGS PROVIDED BY CANPX

In connection its role as the information processor for corporate debt securities, CanPX undertakes the following:

1. Changes to Form 21-101F5

- a. As required by section 14.2 of National Instrument 21-101 *Marketplace Operation* (NI 21-101), CanPX will file with the CSA amendments to the information provided in Form 21-101F5. The significant changes referred to in section 14.2(1) of NI 21-101 will be reviewed and approved by CSA staff prior to their implementation. These significant changes include the following:
- changes to the governance of CanPX, including the structure of the Advisory Committee referred to in paragraph 2b below,
 - significant changes to the fees charged for corporate debt information distributed as the IP,
 - changes to the fee structure and fee / revenue sharing model related to the services provided as the IP,
 - changes to the data products offered as the IP,
 - changes to the threshold for reporting trades in corporate debt securities,
 - removal of marketplaces, dealers or inter-dealer bond brokers required to report trade data regarding corporate debt securities,
 - changes to the selection criteria for the corporate debt securities reported to CanPX,
 - any reduction in the number of corporate debt securities reported to CanPX,
 - significant changes to the systems, technology or technology provider used by CanPX, including those affecting capacity, or
 - changes affecting the independence of the IP from the contributors of corporate debt securities information (Data Contributors) or the business activities of its technology provider.

2. Governance

- a. CanPX's Board of Directors will meet at regular times, and no less than quarterly.
- b. CanPX will maintain its Advisory Committee that includes representation from Data Contributors, and from subscribers and vendors (Data Purchasers) and will provide a report within 15 days after each of its meetings that describes the topics discussed and their resolution.
- c. CanPX will notify CSA staff of any changes to the composition of the Advisory Committee and of any changes to its mandate within 15 days from making the change.
- d. The mandate of the Advisory Committee will continue to make reference to the ability of the

committee to contact the Director of the Market Regulation Branch of the Ontario Securities Commission and the Senior Director, Market Structures at the Autorité des marchés financiers with any concerns that it may have regarding the governance or operations of the IP.

- e. The Advisory Committee will maintain minutes of its meetings and these minutes will reflect the views and recommendations provided to CanPX's management. The minutes will be made available, upon request, to CSA staff.

3. Conflicts of Interest

- a. CanPX will maintain and monitor compliance with policies and procedures to address the conflicts of interest related to the business activities of its board members.
- b. CanPX will maintain and monitor compliance with policies and procedures to address the potential conflicts of interest that arise due to the fact that its technology provider is also a marketplace and a distributor of data.
- c. CanPX will provide any changes to the policies and procedures referred to in paragraphs 3a and 3b to CSA staff for review and approval.

4. IP Products

- a. CanPX will limit the products distributed as the IP to a consolidated feed (the Consolidated Data Product) that displays the information related to corporate debt securities provided to it in accordance with the requirements set out in Part 8 of NI 21-101 and Part 10 of the Companion Policy 21-101CP (Designated Corporate Debt Securities). CanPX will display this information no later than one hour from the time of the trade.
- b. CanPX will not distribute, as the IP, any additional products using the data provided to it under Part 8 of NI 21-101 unless it obtains prior approval from CSA staff.
- c. If CanPX intends to create and distribute, other than as the IP, any products using the data provided to it under Part 8 of NI 21-101:
 - i. the data required to be provided to the IP by Data Contributors will not be used for such other products without the permission of the Data Contributors; and
 - ii. the additional products will be made available for purchase separately from, and will not be bundled with, the Consolidated Data Product and any other products approved under paragraph 4b.

5. Data reported to and disseminated by CanPX

- a. CanPX will maintain and monitor compliance with:

- i. policies and procedures to verify the timeliness and accuracy of information received and disseminated by the IP; and
 - ii. processes to resolve on a timely basis any data integrity issues identified.
- b. CanPX will provide any changes to the policies and procedures referred to in paragraph 5a to CSA staff for review and approval'
- c. CanPX will monitor the timeliness and accuracy of information received by and disseminated by the IP on an ongoing basis and take adequate measures to resolve any data integrity issues on a timely basis. CanPX will report to its Board of Directors at each of their quarterly meeting on the timeliness and accuracy of the information received by and disseminated by the IP, along with significant data integrity issues, for the most recent quarter. Within 15 days following the board meeting, a report will be provided by CanPX to CSA staff outlining the issues identified, if any, and the measures CanPX will take to address them.
- d. CanPX will provide to CSA staff updates to its plan to increase the number of Designated Corporate Debt Securities by December 31, 2014 and by June 30, 2015.
- e. CanPX will conduct additional reviews of the adequacy of the list of Designated Corporate Debt Securities by December 31, 2014 and by June 30, 2015 and prepare a report outlining the results of these reviews and its analysis to CSA staff within 15 days of the completion of the reviews. The report must include an analysis showing the coverage of retail-sized bonds trades, coverage of corporate bonds traded and coverage of total bonds issued, as well as statistics indicating the types of bonds on the Designated Corporate Debt Securities and the frequency of trades for bonds not included on the list.
- f. CanPX will provide reports of the corporate debt securities removed from the Designated Corporate Debt Securities within 15 days of their removal. Such reports will include a brief analysis supporting the reason for their removal from the list.
- g. CanPX will introduce a web-based application displaying end-of-day pricing for the previous day for each Designated Corporate Debt Securities, including the high and low traded prices and yields, by July 31, 2014.
- h. CanPX will provide updates to staff regarding developments on new or potential agreements with data distributors on a monthly basis.
- i. CanPX will assess, on an annual basis, the continuing adequacy of the existing threshold for reporting of corporate debt securities and of the parties that qualify as Data Contributors and will report the results of the assessment to CSA staff. This assessment will be included as part of the self-assessment described in paragraph 7a below.

6. Resources

- a. CanPX will maintain sufficient financial resources to ensure its financial viability.
- b. CanPX will provide to CSA staff its audited financial statements, along with the report signed by an independent auditor within 90 days of the end of each fiscal year.
- c. CanPX will ensure that it has an adequate number of staff dedicated to its systems and operations to ensure the proper performance of its functions, including staff directly responsible for monitoring of the corporate debt data reported to it in accordance with the requirements of NI 21-101.

7. Self-assessment

- a. In addition to arranging from an annual independent system review referred to in section 14.5 of NI 21-101, CanPX will conduct an annual self-assessment of its compliance with subsections 14.4(2), (4) and (5) of NI 21-101 and with its performance with respect to the undertakings provided to the CSA. A report on the self-assessment will be provided to CanPX's Advisory Committee promptly upon its completion. CanPX will ask the Advisory Committee to review the report and provide its views in writing. The report and the views of the Advisory Committee will be provided to CSA staff within 90 days of the end of CanPX's fiscal year.

8. Agreements with Data Contributors

- a. CanPX will ensure that all Data Contributors are given access to CanPX on fair and reasonable terms.
- b. New standard agreements or contracts to be entered into between CanPX and Data Contributors in connection with the IP services will be provided to CSA staff for review and approval prior to their execution. In addition, any proposed material changes to these standard agreements or contracts will be provided to CSA staff for review and approval.

9. Fees / Fee structure / Revenue sharing

CanPX will make available, on its website, the fee schedule for the Consolidated Data Product, and any additional products subsequently approved by CSA staff to be distributed by CanPX as an information processor.

10. Non-exclusivity

CanPX acknowledges that the selection as an IP does not grant that IP exclusive rights to consolidate and disseminate order and trade data. CanPX will not seek such exclusivity through the terms of any contract with a Data Contributor or Data Purchaser.

11. Term and notice

- a. CanPX will continue to act as an information processor for corporate debt securities for a period of 18 months starting from July 1, 2014. CanPX will use best efforts to provide CSA staff with at least one year notice should it determine that it does not wish to continue as an information processor upon the expiry of this 18 month term.