



INVESTMENT INDUSTRY ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

Ian C.W. Russell FCSI
President & Chief Executive Officer

November 2, 2006

Mr. David Wilson
Chair
Ontario Securities Commission
P.O. Box 55, Suite 1903
20 Queen Street West
Toronto ON M5H 3S8

Dear David:

Re: Best Execution and Best Price Standards for Equity Transactions in Multiple Markets

In the past several months the Canadian Securities Administrators and Regulation Services Inc. have issued notifications to the marketplace in respect of best execution and best price obligations for market participants. The requirement to reference global markets in connection with the CSA best execution obligation has created uncertainty in respect of RS Inc requirements for best price and best execution, and raised practical difficulties for compliance with the CSA and RS Inc rules. We have outlined our concerns in a detailed submission that responds to an RS Inc Request for Comments in the Market Integrity Notice issued in October.

The RS Inc Notices issued last September and more specifically in October indicated that, as a result of the CSA "clarification" issued in July 2006, market participants must reference the global marketplace in meeting obligations for best execution. However, notwithstanding the global market requirement for best execution, RS Inc stipulates that the best price obligation would be satisfied if dealers have the capability to access market information and route orders electronically to the marketplace. The marketplaces identified as meeting these criteria are the Canadian stock exchanges and one ATS (Pure Trading Inc).

The CSA clarification and latest RS Inc Notice creates confusion about what constitutes compliance with best price obligation and raises concerns about the practicalities of global market reference to a best execution and best price rule. As many Canadian equities are interlisted on international exchanges and markets, particularly given international investor interest in the Canadian resource sector, dealers have identified practical impediments in terms of accessing real-time price information and electronic routing to these markets. While the majority of trading in Canadian equities occurs on

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Canadian exchanges, trading for many Canadian stocks also takes place on diverse international exchanges as the AIM marketplace in London, the Australian Stock Exchange, the Oslo Stock Exchange, etc.

The CSA interpretation of best execution would require dealers to subscribe, at a minimum, to information vendors providing real-time pricing of stocks listed on international stock exchanges where there is a reasonable likelihood of liquidity for the specific securities, and find jitney services or obtain direct access, to these exchanges. The varying liquidity of individual Canadian equities traded in offshore markets will compel dealers to survey most global markets in connection with the best execution obligation. The costs will be significant and, even with the aforementioned initiatives, may not be sufficient in all cases to discharge the best execution obligation. These additional costs could adversely impact the market-making operations of small dealers. Moreover, we believe RS Inc will encounter similar practical difficulties monitoring dealer trading in global markets to ensure compliance with the best execution rule.

More seriously, the efforts dealers undertake to meet the comprehensive best price obligation in global markets may not achieve intended results. A share of the costs of meeting best execution will be passed to investors, off-setting a good part, if not all, price improvement from seeking to obtain best price. This is particularly the case when price improvement in most cases will be minimal given the small volume of Canadian equities traded on exchanges outside North America and the impact of arbitrage activity on traded price differentials. Most importantly, in fast moving markets, as a result of the time taken to identify price improvement and execute in offshore markets, particularly without the benefit of a data consolidator and requirement to funnel transactions through jitney services, there will be significant price movement prior to execution, raising the likelihood investors will get a worse price fill than if the dealers executed electronically through a Canadian stock exchange.

The CSA interpretation of best execution represents a significant departure from normal market practice that had interpreted the obligation in terms of those markets providing dealers with real-time information availability and electronic routing to the transaction. This CSA interpretation appears to have been undertaken without any underpinning cost-benefit analysis.

We respectfully conclude the cost of implementing a comprehensive best execution obligation that includes all global markets where Canadian equities are traded will exceed the benefits to investors, and furthermore could have serious negative consequences for Canadian capital markets and the dealer community. We recommend the CSA adopt a more practical definition of best execution that will derive net benefit to investors and ensure effective compliance with the rule.

We understand Pure Trading Inc will launch operations shortly in Canada. We further recommend the CSA and RS Inc delay enforcement of best price and execution rules until Canadian dealers can access real-time price information through TSX Datalinx and orders can be routed electronically so dealers are in a position to discharge best execution obligations.

We have set out the aforementioned arguments and recommendations in more detail in the IIAC response to the RS Inc request for comments in the Market Integrity Notice dated October 4, 2006. We would be pleased to discuss our position with you and your officials, if it would be helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'W. Hatanaka', written in a cursive style.

cc: William Hatanaka, Chair, Investment Industry Association of Canada
Timothy E. Price, Vice Chair, Investment Industry Association of Canada