

10.16 Gatekeeper Obligations of Directors, Officers and Employees of Participants and Access Persons

- (1) An officer, director, partner or employee of a Participant shall forthwith report to their supervisor or the compliance department of the Participant upon becoming aware of activity in a principal, non-client or client account of the Participant or a related entity that the officer, director, partner or employee believes may be a violation of:
 - (a) Subsection (1) of Rule 2.1 respecting just and equitable principles of trade;
 - (b) Rule 2.2 respecting manipulative and deceptive activities;
 - (c) Rule 2.3 respecting improper orders and trades;
 - (d) Rule 4.1 respecting frontrunning;
 - (e) Rule 5.1 respecting best execution of client orders;
 - (f) Rule 5.2 respecting best price obligation;
 - (g) Rule 5.3 respecting client priority;
 - (h) Rule 6.4 respecting trades to be on a marketplace; and
 - (i) any Requirement that has been designated by the Market Regulator for the purposes of this subsection.

- (2) An officer, director, partner or employee of an Access Person shall forthwith report to their supervisor or the compliance department of the Access Person upon becoming aware of activity by the Access Person or a related entity that the officer, director, partner or employee believes may be a violation of:
 - (a) Subsection (2) of Rule 2.1 respecting conduct of business openly and fairly;
 - (b) Rule 2.2 respecting manipulative and deceptive activities;
 - (c) Rules 2.3 respecting improper orders or trades; and
 - (d) any Requirement that has been designated by the Market Regulator for the purposes of this subsection.

- (3) If a supervisor or compliance department of a Participant or Access Person receives a report pursuant to subsection (1) or (2), the supervisor or compliance department shall diligently conduct a review in accordance with the policies and procedures of the Participant adopted in accordance with Rule 7.1 or in accordance with the ordinary practices of the Access Person.

- (4) If the review conducted by the supervisor or compliance department concluded that there may be a violation, the supervisor or compliance department shall:
 - (a) make a written record of the report by the officer, director, partner or employee and the review conducted in accordance with subsection (3);

- (b) diligently investigate the activity that is the subject of the report and review;
 - (c) make a written record of the findings of the investigation; and
 - (d) report the findings of the investigation to the Market Regulator if the finding of the investigation is that a violation of an applicable provision of UMIR has occurred and such report shall be made not later than the 15th day of the month following the month in which the findings are made.
- (5) Each Participant and Access Person shall with respect to the records of the report, the review and the findings required by subsection (4):
- (a) retain the records for a period of not less than seven years from the creation of the record; and
 - (b) allow the Market Regulator to inspect and make copies of the records at any time during ordinary business hours during the period that such record is required to be retained in accordance with clause (a).
- (6) The obligation of a Participant or an Access Person to report findings of an investigation under subsection (4) is in addition to any reporting obligation that may exist in accordance with applicable securities legislation, the requirements of any self-regulatory entity and any applicable Marketplace Rules.

POLICY 10.16 – GATEKEEPER OBLIGATIONS OF DIRECTORS, OFFICERS AND EMPLOYEES OF PARTICIPANTS AND ACCESS PERSONS

Part 1 – The Gatekeeper Obligation

Rule 10.16 requires a Participant or Access Person to conduct further investigation or review where the Participant or Access Person has reason to believe that there may have been a violation of one of the provisions enumerated in Rule 10.16. A Participant or Access Person cannot ignore “red flags” which may be indicative of improper behaviour by a client, director, officer, partner or employee of the Participant, Access Person or related entity.

<p>Defined Terms:</p> <p>NI 14-101 section 1.1(3) – “securities legislation”</p> <p>NI 21-101 section 1.1 – “order” and “self-regulatory entity”</p> <p>UMIR section 1.1 – “Access Person”, “client order”, “employee”, “Market Regulator”, “marketplace”, “Marketplace Rules”, “Participant”, “principal account”, “related entity” and “Requirements”</p> <p>UMIR section 1.2(2) – interpretation of “trade”</p> <p>Regulatory History: Effective April 1, 2005, the applicable securities commissions approved an amendment to add Rule 10.16 and Part 1 of Policy 10.16.</p> <p><i>In connection with the recognition of IIROC and its adoption of UMIR, the applicable securities commissions approved an amendment to section 10.16(4)(d) that came into force on June 1, 2008 to replace the word “Rule” with “provision of UMIR”.</i></p> <p>Market Integrity Notice: The following is the relevant text of Market Integrity Notice 2006-007 issued on February 24, 2006 under the heading “Guidance – Gatekeeper Reporting Obligation”. The procedure for filing a Gatekeeper Report has been updated. The procedure as of June 1, 2008 is described in Market Integrity Notice 2008-011 – Guidance – New Procedures for Gatekeeper Reports (May 16, 2008):</p>

Summary

This Market Integrity Notice provides guidance relating to the “gatekeeper” reporting obligation of a Participant or Access Person under Rule 10.16 of the Universal Market Integrity Rules (“UMIR”).

Background

On April 1, 2005, Market Regulation Services Inc. (“RS”) published Market Integrity Notice 2005-011 – Provisions Respecting Manipulative and Deceptive Activities, which set out a series of amendments to UMIR varying the requirements related to manipulative and deceptive activities (the “Amendments”). Among other things, the Amendments introduced a specific rule related to the “gatekeeper” obligations imposed on a Participant or Access Person and their respective directors, officers and employees. While this type of “gatekeeper” obligation may have been implied in the conduct of the affairs of market participants, the Amendments specifically set out the standard in the form of a rule. The new rule identifies the particular provisions of UMIR to which the “gatekeeper” reporting obligation applies and establishes a formal reporting procedure.

Under the Amendments, each Participant or Access Person is expected to act on “red flags” which may be indicative of possible improper behaviour and to report activity which may be a violation of enumerated integrity rules to their respective supervisor or compliance department. In turn, the supervisor or compliance department is expected to make a written record of the report and to investigate the report and record the relevant findings. Where appropriate, the Participant or Access Person must report the relevant findings to RS (a “Report”).

Questions and Answers

The following is a list of the most frequently asked questions regarding the “gatekeeper” reporting obligation and RS’s response to each:

1. How, and to whom, should a Report be made?

In Market Integrity Notice 2005-011, RS requested that the Report to RS by a Participant or Access Person of a violation of one of the enumerated rules be in the form of an e-mail addressed to reports@rs.ca with a copy of the written record of the findings of the investigation by the Participant or Access Person attached to the e-mail. As an alternative, RS suggested the Report may be faxed to RS.

In order to facilitate the filing of a Report, RS has developed a web-based form for submitting a Report which is available under the “Surveillance” section of the RS website at www.rs.ca. (Please click on this link to view the web-based form. The web-based form is available for submitting a Report on or after March 1, 2006.) The web-based form may also be accessed from the “Quick Links” section on the Homepage of the RS website. Certain of the fields on the form must be completed while others are optional. Once the form has been submitted to RS, the sender will be prompted to print a copy of the confirmation of the receipt of the Report by RS. The information submitted is not maintained in a database connected to the RS website and therefore can not be accessed by any person external to RS, including the person who submitted the Report. RS will contact the compliance department of the Participant or Access Person following receipt of the Report.

Effective March 1, 2006, all Reports and related information must be submitted electronically to RS by e-mail or the web-based form. (In order to facilitate the production of confirmations to the filing Participant or Access Person and the statistical analysis of the filings, RS would prefer that Reports be filed through the web-based form if possible).

If a Participant or Access Person wishes to discuss a Report verbally or in person prior to filing the Report, the firm may telephone the Manager of Trading Review & Analysis at Market Regulation Eastern Region at 416.646.7231 or the Manager, Surveillance & Compliance at Market Regulation Western Region at 604.602.6942. However, these telephone calls must always be followed by the submission of a Report in electronic form either through the use of the web-based form or an e-mail addressed to reports@rs.ca.

Effective March 1, 2006, RS will no longer accept the submission of a Report by fax or in any other non-electronic format except in extraordinary circumstances with the prior approval of the Manager of Trading Review and Analysis or the Manager, Surveillance & Compliance.

2. What information must be in the Report?

At a minimum, the Report must contain:

- the identification of the provisions of UMIR which may have been violated;
- the specific dates on which the violative activity took place (or may have taken place);
- the identification of the security or securities involved;
- if applicable, the identification of specific orders or trades including:
 - the time of the order entry or trade execution,
 - the marketplace on which the orders were entered or executed, and
 - volume and price of the orders or trades;
- names of all employees involved in the handling or entry of the orders;
- if applicable, the identification of the client on whose behalf the order or trade was entered or executed;

- *how and when the behaviour was detected;*
- *all investigative and other actions taken by the Participant or Access Person in response to the initial detection;*
- *all actions taken or proposed to be taken by the Participant or Access Person in response to the findings of the investigation; and*
- *the name, title and contact information of the person filing the Report.*

In the view of RS, all information contained in a Report is being submitted for a regulatory purpose. Participants and Access Persons should refer to the Joint Regulatory Notice on Federal and Provincial Privacy Legislation, jointly published December 3, 2003 by RS, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, the Bourse de Montreal Inc. and the Canadian Investor Protection Fund regarding the obligation of a Participant or Access Person to provide such information.

3. When is a Report due?

*The Amendments state that the Report should be “not later than the 15th day of the month following the month in which the findings are made”. RS encourages Reports to be submitted as soon as possible and in any event **not later** than the 15th day of the month following the month in which the Participant or Access Person makes the findings of its investigation. For example, if a Participant or Access Person detects potentially violative behaviour in late January of 2006, the Participant or Access Person is under an obligation to “diligently” pursue an investigation so that the completion of any investigation should not be unduly delayed. If the Participant or Access Person diligently investigates the behaviour and concludes on February 20, 2006 that a violation of one of the Rules listed in Rule 10.16 has occurred, the Report should be submitted to RS as soon as possible and, in any event, no later than March 15, 2006.*

4. Does the reporting obligation extend to activity in principal, non-client and client accounts?

Rule 10.16(1) explicitly states that a Participant is expected to act on “red flag” activity “in a principal, non-client or client account of the Participant”. As such, if after diligent investigation, violative behaviour has occurred in any of these types of accounts, a Report must be filed with RS.

5. Does a Participant or Access Person have to report every violation of UMIR that is detected?

A Participant must file a Report with RS if the Participant finds that one of the following Rules has been violated:

- *Subsection (1) of Rule 2.1 respecting just and equitable principles of trade;*
- *Rule 2.2 respecting manipulative and deceptive activities;*
- *Rule 2.3 respecting improper orders and trades;*
- *Rule 4.1 respecting frontrunning;*
- *Rule 5.1 respecting best execution of client orders;*
- *Rule 5.2 respecting best price obligation;*
- *Rule 5.3 respecting client priority; and*
- *Rule 6.4 respecting trades to be on a marketplace.*

An Access Person must file a Report with RS if the Access Person finds that one of the following Rules has been violated:

- *Subsection (2) of Rule 2.1 respecting conduct of business openly and fairly;*
- *Rule 2.2 respecting manipulative and deceptive activities; and*
- *Rule 2.3 respecting improper orders or trades.*

The Amendments provide that RS may designate additional Rules in respect of which a Report must be filed in the event a violation has been detected by a Participant or Access Person. As of February 24, 2006, RS has not designated any Rules in addition to those listed above.

6. Is there an obligation to file a Report where a Participant or Access Person has concluded that there “may have been a violation” and not only that there “was a violation”?

*RS expects each Participant and Access Person to diligently investigate all possible violations of the enumerated rules of UMIR. If the investigation by the Participant or Access Person concludes that a violation of one of the enumerated rules of UMIR **has occurred**, the Participant or Access Person **must** file a Report with RS. If the investigation concludes that a violation of one of the enumerated rules of UMIR may have occurred, RS does not require the Participant or Access Person to file a Report with RS, but does encourage the Participant or Access Person to do so. If a Participant or Access Person is filing a Report on a voluntary basis in circumstances that would not require the submission of Report, the Report should contain as much of the information listed in Answer 2 above as is practical. RS recognizes that the information may not be complete if the voluntary filing has been made on an “interim basis” prior to the conclusion of the investigation or if the investigation has been inconclusive.*

If the investigation conducted by a Participant or Access Person is properly diligent but is nevertheless not definitive, RS does not expect a Participant or Access Person to exhaust its resources in pursuing a definitive answer. In these circumstances, RS would encourage a Participant or Access Person to make a Report, so that RS may have to opportunity to utilize its resources to investigate further.

A Participant or Access Person has an obligation to retain all records related to its review, investigation and findings for a period of seven years regardless of whether a Report was submitted to RS or the findings indicated that there had been no breach of UMIR.

7. Is a Report required if a Participant or Access Person has detected that a violation has occurred only once?

RS expects a Participant or Access Person to diligently investigate a possible violation of any of the enumerated rules of UMIR. If the investigation by the Participant or Access Person concludes that a violation of one of the enumerated rules of UMIR has occurred, RS expects the Participant or Access Person to file a Report with RS, even if the investigation concludes that the violation has occurred only once. It is not appropriate for a Participant or Access Person to wait to conclude that there is or may be a pattern of violative behaviour before making a Report.

8. What “feedback” may a Participant or Access Person expect from RS once the Participant or Access Person has made a Report of a violation or possible violation?

RS cannot comment publicly on any ongoing investigation that it is undertaking or considering undertaking. As such, a Participant or Access Person should not expect to be “updated” on the status of RS’s investigation of a Report. However, RS understands that general information regarding Reports and RS investigations may be of assistance to Participants and Access Persons in their compliance efforts. As such, RS intends to compile statistics and other information that may be helpful to Participants and Access Persons including how many Reports result in further action by RS including follow up, formal investigation, enforcement action or referral to a securities regulatory authority or other self-regulatory organization. For example, RS may include information regarding interesting or novel situations, on a “no names” basis, in the quarterly Regulatory Highlights publication. RS also proposes to issue a “Report Card” to each Participant on a quarterly basis indicating the filing experience of the Participant in comparison to other Participants and to the trading activity of the Participant during that three-month period.

Market Integrity Notice: The following is the relevant text of Market Integrity Notice 2007-012 issued on April 27, 2007 under the heading “**Guidance – Feedback on Gatekeeper Reports**”. The procedure for filing a Gatekeeper Report has been updated. The procedure as of June 1, 2008 is described in Market Integrity Notice 2008-011 – **Guidance – New Procedures for Gatekeeper Reports (May 16, 2008)**:

Summary

This Market Integrity Notice provides feedback on the “gatekeeper” reports (“Reports”) received by Market Regulation Services Inc. (“RS”) for the one-year period ended February 28, 2007.

The most common deficiencies identified include:

- Participants not including proper identification of the client that is the subject of the Report;
- submission of Reports by non-electronic means; and
- under-reporting by Participants or Access Persons in circumstances where a violation may have occurred.

After **May 1, 2007**, RS will no longer accept Reports other than those submitted electronically. Reports may be filed by e-mail to reports@rs.ca or the web-based form which may be accessed from the “Quick Links” section on the homepage of the RS website.

Background

On February 24, 2006, RS published Market Integrity Notice 2006-007 – **Guidance – Gatekeeper Reporting Obligation**, (the “Gatekeeper Notice”) which provided guidance on the gatekeeper reporting obligation of a Participant or Access Person under Rule 10.16 of the Universal Market Integrity Rules (“UMIR”). Among other things, the guidance set out RS’s expectations with respect to:

- the manner in which a Report is to be submitted;
- information that must be included in a Report;
- account types to which a reporting obligation extends; and
- factors to be considered by a Participant or Access Person in determining whether a Report is required.

With the publication of the Gatekeeper Notice, RS undertook to:

- compile statistics and other information based on the Reports received by RS; and
- provide feedback to Participants and Access Persons that may assist in the review and update of their policies and procedures regarding their gatekeeper reporting obligation.

Statistics and Information on Reports Received by RS

Based on a review of the Reports received by RS during the one-year period ended February 28, 2007, RS found that:

- all Reports received by RS involved activity on the Toronto Stock Exchange or TSX Venture Exchange;
- 17 Participants filed a Report with RS, of which bank-owned Participants accounted for 79% of Reports and non-bank Participants accounted for 21% (which is consistent with the level of trading activity by these bank-owned Participants and non-bank Participants during the period);
- no Reports were received from Access Persons;

- approximately 5% of Reports were in connection with trading by a “Dealer-Sponsored Access” account (“DSA Account”);
- slightly more than 50% of Reports were in connection with trading by an “Order Execution” account (“Execution Account”);
- some Participants continue to file Reports by non-electronic means; and
- the most common deficiency was Reports that fail to properly identify the client that is the subject of the Report.

Generally, Reports received have been used by RS staff to conduct cross-Participant and marketplace surveillance to identify patterns of improper market activity and other “trends” that may require further action by RS staff. Reports received by RS have also been useful in the course of existing investigations by RS staff.

Feedback on Gatekeeper Reports

Obligation to File a Report

While RS is generally satisfied with the level of reporting by Participants, RS continues to encourage a Participant or Access Person to file a Report in all circumstances if an investigation by the Participant or Access Person concludes that a violation of one or more of the integrity rules enumerated in Rule 10.16(1) has **or may have** occurred. To the extent that an investigation conducted by a Participant or Access Person determines that a violation **may have occurred**, RS would encourage a Participant or Access Person to file a Report notwithstanding that the information contained in the Report may not be complete (i.e. filing has been made on an “interim basis” prior to the conclusion of the investigation) or the investigation, while properly diligent, is inconclusive as to whether a violation of UMIR has occurred.

Rule 10.16 provides that a Participant is expected to act on “red flag” activity in a principal, non-client or client account of a Participant. To the extent that an investigation by a Participant determines that a violation has or may have occurred in any of these account types, a Report should be filed with RS. The filing of a Report with RS extends to all client account types, and includes a DSA Account or Execution Account. In the view of RS, orders entered by such accounts, to the extent that they are entered directly on a marketplace without the involvement of staff of the Participant, present heightened risks to both market integrity and the Participant through whom the order is routed. As such, RS expects a Participant to have adequate policies and procedures with respect to the filing of Reports with RS which include provisions for filing Reports for such “higher risk” account types.

Identification of Client

In the course of its review, RS has noted that a number of Reports do not properly identify the client that is the subject of the Report. In the Gatekeeper Notice, RS explicitly states that a Report filed by a Participant related to a client account must, among other information, “contain the identification of the client on whose behalf the order or trade was entered or executed”. RS expects that a Participant when filing a Report involving a client account, (including a DSA account or Execution Account), will include all relevant information on the identity of the client(s).

In the view of RS, all information contained in a Report is being submitted by a Participant or Access Person for a regulatory purpose. Participants and Access Persons should refer to the Joint Regulatory Notice on Federal and Provincial Privacy Legislation, jointly published on December 3, 2003 by RS, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, the Bourse de Montréal Inc. and the Canadian Investor Protection Fund regarding the obligation of a Participant or Access Person to provide such information.

Next Steps

As part of its current trade desk review process, RS staff will review the policies and procedures adopted by a Participant relating to their gatekeeper reporting obligation under Rule 10.16 of UMIR. In particular, RS staff will review the adequacy of internal policies and procedures related to the detection, investigation and escalation of violations or potential violations of UMIR, as well as the adequacy of policies and procedures relating to the filing of a Report with RS.

Market Integrity Notice: The following is the relevant text of Market Integrity Notice 2008-011 issued on May 16, 2008 under the heading “**Guidance – New Procedures for Gatekeeper Reports**”:

Summary

This Market Integrity Notice provides notice that, **effective June 2, 2008**, a Participant or Access Person will be required to file any gatekeeper report (“Gatekeeper Report”) required under Rule 10.16 of the Universal Market Integrity Rules (“UMIR”) using the secure web-based form available on the Investment Industry Regulatory Organization of Canada (“IIROC”) website at www.iiroc.ca. This Market Integrity Notice also provides feedback on the gatekeeper reports received by Market Regulation Services Inc. (“RS”) for the one-year period ended February 28, 2008.

RS expects to merge with the Investment Dealers Association of Canada (“IDA”) effective June 1, 2008 to form a new self-regulatory organization known as IIROC. Given the impending merger, all references to RS in this notice should be read as including IIROC.

Background on Regulatory Communications

In Market Policy Notice 2007-006 – General – New Requirements for Secure Electronic Regulatory Communications (September 26, 2007), RS provided that a Gatekeeper Report had to be submitted to RS through the use of Echoworx Encrypted Message eXchange (“EMX”) system or through the web-based gatekeeper form available on the RS website. Given the impending merger with the IDA, RS has decided to transition the web-based form to the newly developed IIROC website. The Gatekeeper Form that will be available through the IIROC website will be substantively the same as the current form on the RS website. As of June 2,

2008, all Gatekeeper Reports must be filed using **only** the secure web-based form found under the ["Quick Links"](#) section on the Homepage of the IIROC website.

As with the EMX system, the new web-based form will be password protected and will leverage the same access procedures currently in place at the IDA for the on-line Continuing Education and ComSet systems. Each Participant or Access Person must appoint a person within its organization to act as administrator ("Gatekeeper Report Administrator"). The Gatekeeper Report Administrator will have the authority to add or delete other users within the Participant or Access Person. The Gatekeeper Report Administrator may file Gatekeeper Reports on behalf of the Participant or Access Person or may delegate the responsibility to other users within the Participant or Access Person. The Gatekeeper Report Administrator may be the same individual as the "Administrator" for the current IDA Continuing Education and ComSet systems.

Effective June 2, 2008, Gatekeeper Reports will not be able to be submitted using either the current RS web-based gatekeeper form or EMX. A Participant or Access Person should continue to use the EMX system for all other types of regulatory communications that RS currently requires be filed using the EMX system.

In order to facilitate the introduction of the new procedures, each Participant and Access Person must provide the name and email address of their Gatekeeper Report Administrator to Thomas Moppett at thomas.moppett@rs.ca not later than May 30, 2008.

Gatekeeper Reporting Obligation

Market Integrity Notice 2006-007 – Guidance – Gatekeeper Reporting Obligation, (February 24, 2006) provided guidance on the gatekeeper reporting obligation of a Participant or Access Person under Rule 10.16 of UMIR. That guidance set out RS's expectations with respect to:

- the manner in which a Gatekeeper Report is to be submitted;
- information that must be included in a Gatekeeper Report;
- account types to which a gatekeeper reporting obligation extends; and
- factors to be considered by a Participant or Access Person in determining whether a Gatekeeper Report is required.

Statistics and Information on Gatekeeper Reports Received by RS

Market Integrity Notice 2007-012 – Guidance – Feedback on Gatekeeper Reports (April 27, 2007) set out statistical information on the Gatekeeper Reports received in the year ended February 28, 2007 ("2007 Review"). Based on a review of the Gatekeeper Reports received during the year ended February 28, 2008 ("2008 Review"), RS was able to undertake a year-over-year comparison of reporting trends, anomalies and deficiencies. Some of the key findings include:

- Gatekeeper Reports received by RS for both the 2007 Review and 2008 Review involved activity on the Toronto Stock Exchange, TSX Venture Exchange or Canadian Trading and Quotation System
- 22 Participants filed a Gatekeeper Report during the 2008 Review, an increase of 30% from the 2007 Review.
- No Gatekeeper Reports were filed for the 2007 Review or the 2008 Review in connection with activities on an alternative trading system.
- No Gatekeeper Reports were received from an Access Person during either the 2007 Review or 2008 Review.
- During the 2008 Review, approximately 12.5% of Gatekeeper Reports involved trading by a "Dealer-Sponsored Access" account ("DSA Account"). This represents a significant increase over the 2007 Review in which only 5% of Reports were in connection with trading by a DSA Account.
- During both the 2007 Review and 2008 Review, slightly more than 50% of Gatekeeper Reports involved trading by an "Order Execution Account".
- The bulk of Gatekeeper Reports received during both the 2007 Review and the 2008 Review were related to:
 - Rule 2.1 (Just and Equitable Principles),
 - Rule 2.2 (Manipulative and Deceptive Activities),
 - Rule 2.3 (Improper Orders and Trades), and
 - Rule 6.4 (Trades to be on a Marketplace).

Feedback on Gatekeeper Reports

Obligation to File a Gatekeeper Report

While RS is generally satisfied with the level of reporting by Participants, RS continues to encourage a Participant or Access Person to file a Gatekeeper Report in all circumstances if an investigation by the Participant or Access Person concludes that a violation of one or more of the integrity rules enumerated in Rule 10.16(1) has **or may have occurred**. To the extent that an investigation conducted by a Participant or Access Person determines that a violation **may have occurred**, RS would encourage a Participant or Access Person to file a Gatekeeper Report notwithstanding that the information contained in the Gatekeeper Report may not be complete (i.e. filing has been made on an "interim basis" prior to the conclusion of the investigation) or the investigation, while properly diligent, is inconclusive as to whether a violation of UMIR has occurred.

Rule 10.16 provides that a Participant is expected to act on "red flag" activity in a principal, non-client or client account of a Participant. To the extent that an investigation by a Participant determines that a violation has or may have occurred in any of these

account types, a Report should be filed with RS. The filing of a Gatekeeper Report with RS extends to all client account types, and includes a DSA Account or Order Execution Account. In the view of RS, orders entered by such accounts, to the extent that they are entered directly on a marketplace without the involvement of staff of the Participant, present heightened risks to both market integrity and the Participant through whom the order is routed. As such, RS expects a Participant to have adequate policies and procedures with respect to the filing of Gatekeeper Reports with RS which include provisions for filing Gatekeeper Reports for such "higher risk" account types.

Identification of Client

During the 2007 Review, RS noted that a number of Reports did not properly identify the client that was subject of the Gatekeeper Report. During the 2008 Review, RS staff found that all Gatekeeper Reports received properly identified the name of the client(s) involved. RS thanks all Participants for their attention to this issue and reminds all Participants to continue to include all relevant information on the identity of clients, including DSA Accounts and Order Execution Accounts.

In the view of RS, all information contained in a Report is being submitted by a Participant or Access Person for a regulatory purpose. Participants and Access Persons should refer to the Joint Regulatory Notice on Federal and Provincial Privacy Legislation, jointly published on December 3, 2003 by RS, the Investment Dealers Association of Canada, the Mutual Fund Dealers Association of Canada, the Bourse de Montréal Inc. and the Canadian Investor Protection Fund regarding the obligation of a Participant or Access Person to provide such information.

Next Steps

As part of its current trade desk review process, IIROC staff continues to review the policies and procedures adopted by a Participant relating to their gatekeeper reporting obligation under Rule 10.16 of UMIR. In particular, IIROC staff will review the adequacy of internal policies and procedures related to the detection, investigation and escalation of violations or potential violations of UMIR, as well as the adequacy of policies and procedures relating to the filing of a Gatekeeper Report.

Disciplinary Proceedings: Rule 10.16 was considered **In the Matter of Dominick & Dominick Securities Inc. ("Dominick")** (December 19, 2002) OOS 2002-009. See Disciplinary Proceedings under Rule 7.1.

Disciplinary Proceedings: Rule 10.16 was considered **In the Matter of Luke Roger Beresford Smith ("Smith")** (October 24, 2002) OOS 2002-011. See Disciplinary Proceedings: under Rule 2.1

Disciplinary Proceedings: Rule 10.16 was considered **In the Matter of Douglas Francis Corrigan ("Corrigan")** (May 28, 2003) OOS 2003-002. See Disciplinary Proceedings under Rule 2.1.