

7.7 Trading During Certain Securities Transactions

- (1) **Prohibitions** - Except as permitted, a dealer-restricted person shall not at any time during the restricted period:
 - (a) bid for or purchase a restricted security for an account:
 - (i) of a dealer-restricted person, or
 - (ii) over which the dealer-restricted person exercises direction or control; or
 - (b) attempt to induce or cause any person to purchase a restricted security.

- (2) **Prohibitions on Acting for Issuer-Restricted Persons** - Except as permitted, if a dealer-restricted person knows or ought reasonably to know that a person is an issuer-restricted person, the dealer-restricted person shall not at any time during the restricted period applicable to a particular issuer-restricted person bid for or purchase a restricted security for the account of that issuer-restricted person or an account over which that issuer-restricted person exercises direction or control.

- (3) **Deemed Recommencement of a Restricted Period** - If a Participant appointed to be an underwriter in a prospectus distribution or a restricted private placement receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the offered securities allotted to or acquired by the Participant in connection with the prospectus distribution or the restricted private placement then a restricted period shall be deemed to have commenced upon receipt of such notice or notices and shall be deemed to have ended at the time the Participant has distributed its participation, including the securities that were the subject of the notice or notices of the exercise of statutory rights of withdrawal or rights of rescission.

- (4) **Exemptions** - Subsection (1) does not apply to a dealer-restricted person in connection with:
 - (a) market stabilization or market balancing activities where the bid for or purchase of a restricted security is for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security provided that the bid or purchase is at a price which does not exceed:
 - (i) in the case of an offered security, the least of:
 - (A) the price at which the offered security will be issued in a prospectus distribution or restricted private placement, if that price has been determined,

- (B) the best independent bid price at the commencement of the restricted period if the price at which the offered security will be issued in a prospectus distribution or restricted private placement has not been determined or if the offered security will be issued pursuant to a securities exchange take-over bid, an issuer bid or an amalgamation, arrangement, capital reorganization or similar transaction, and
 - (C) the best independent bid price at the time of the entry on a marketplace of the order to purchase,
- (ii) in the case of a connected security, the lesser of:
 - (A) the best independent bid price at the commencement of the restricted period, and
 - (B) the best independent bid price at the time of the entry on a marketplace of the order to purchase,

provided that if the restricted security has not previously traded on a marketplace, the price also does not exceed the price of the last trade of the security executed on a foreign organized regulated market other than a trade that the dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person;
- (b) a restricted security that is:
 - (i) a highly-liquid security,
 - (ii) a unit of an Exempt Exchange-traded Fund, or
 - (iii) a connected security of a security referred to in subclause (i) or (ii);
- (c) a bid or purchase by a dealer-restricted person on behalf of a client, other than a client that the dealer-restricted person knows or ought reasonably to know is an issuer-restricted person provided that:
 - (i) the client order has not been solicited by the dealer-restricted person, or
 - (ii) if the client order was solicited, the solicitation by the dealer-restricted person occurred prior to the commencement of the restricted period;
- (d) the exercise of an option, right, warrant or a similar contractual arrangement held or entered into by the dealer-restricted person prior to the commencement of the restricted period;
- (e) a bid for or purchase of a restricted security is made pursuant to a Small Securityholder Selling and Purchase Arrangement undertaken in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;
- (f) the solicitation of a tender of securities to a securities exchange take-over bid or issuer bid;
- (g) a subscription for or purchase of an offered security pursuant to a prospectus distribution or restricted private placement;

- (h) a bid or purchase of a restricted security to cover a short position entered into prior to the commencement of the restricted period;
 - (i) a bid or purchase of a restricted security is solely for the purpose of rebalancing a portfolio, the composition of which is based on an index as designated by the Market Regulator, to reflect an adjustment made in the composition of the index;
 - (j) a purchase that is or a bid that on execution would be:
 - (i) a basket trade, or
 - (ii) a Program Trade; or
 - (k) a bid for a purchase of a restricted security for an arbitrage account and the dealer-restricted person knows or has reasonable grounds to believe that a bid enabling the dealer-restricted person to cover the purchase is then available and the dealer-restricted person intends to accept such bid immediately.
- (5) **Exemptions on Acting for an Issuer-restricted Person** - Subsection (2) does not apply to a dealer-restricted person in connection with:
- (a) the exercise by an issuer-restricted person of an option, right, warrant, or a similar contractual arrangement held or entered into by the issuer-restricted person prior to the commencement of the restricted period;
 - (b) a bid or purchase by an issuer-restricted person of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;
 - (c) an issuer bid described in clauses 93(3)(a) through (d) of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation if the issuer did not solicit the sale of the securities sold under those provisions;
 - (d) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid; or
 - (e) a subscription for or purchase of an offered security pursuant to a prospectus distribution or a restricted private placement.
- (6) **Compilations and Industry Research** - Despite subsection (1), a dealer-restricted person may, if permitted under applicable securities legislation, publish or disseminate any information, opinion or recommendation relating to the issuer of a restricted security, if the information, opinion or recommendation is in a publication that is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person and:
- (a) the restricted security is a highly-liquid security; or
 - (b) the publication:
 - (i) includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the

issuer's industry or contains a comprehensive list of securities currently recommended by the dealer-restricted person, and

- (ii) gives no materially greater space or prominence to the information, opinion or recommendation related to the restricted security or the issuer of the restricted security than that given to other securities or issuers.

(7) **Transactions by Person with Marketplace Trading Obligations** - Despite subsection (1), a dealer-restricted person with Marketplace Trading Obligations for a restricted security may, for their trading account in respect of such Marketplace Trading Obligations:

- (a) with the prior approval of a Market Integrity Official, enter a bid to move the calculated opening price of a restricted security to a more reasonable level;
- (b) purchase a restricted security pursuant to their Marketplace Trading Obligations; and
- (c) bid for or purchase a restricted security:
 - (i) that is traded on another marketplace or foreign organized regulated market for the purpose of matching a higher-priced bid posted on such marketplace or foreign organized regulated market,
 - (ii) that is convertible, exchangeable or exercisable into another listed security for the purpose of maintaining an appropriate conversion, exchange or exercise ratio, and
 - (iii) to cover a short position resulting from sales made under their Marketplace Trading Obligations.

(8) **Transactions by the Derivatives Market Maker** – Despite subsection (1), a dealer-restricted person who is a derivatives market maker with responsibility for a derivative security the underlying interest of which is a restricted security may, for their derivatives market making trading account, bid for or purchase a restricted security if:

- (a) the restricted security is the underlying security of the option for which the person is the specialist;
- (b) there is not otherwise a suitable derivative hedge available; and
- (c) such bid or purchase is:
 - (i) for the purpose of hedging a pre-existing options position,
 - (ii) reasonably contemporaneous with the trade in the option, and
 - (iii) consistent with normal market-making practice.

(9) **Application of Exemptions to a Dealer-Restricted Person and Issuer-Restricted Person** – Where a dealer-restricted person is also an issuer-restricted person the exemptions in subsections (4), (6), (7) and (8) continue to be available to the dealer-restricted person.

POLICY 7.7 – TRADING DURING CERTAIN SECURITIES TRANSACTIONS

Part 1 – Manipulative or Deceptive Activity

Provisions prohibiting manipulative or deceptive activities, including activities that may create misleading pricing or trading activity that is detrimental to investors and the integrity of the markets, are contained in Rule 2.2. Rule 7.7 generally prohibits purchases of or bids for restricted securities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. Rule 7.7 also provides certain exemptions to permit purchases and bids in situations where there is no, or a very low possibility of manipulation. However, the Market Regulator is of the view that notwithstanding that certain trading activities are permitted under Rule 7.7, these activities continue to be subject to the general provisions relating to manipulative or deceptive activities in Rule 2.2 and the provisions on manipulation and fraud found in applicable securities legislation such that any activities carried out in accordance with Rule 7.7 must still meet the spirit of the general anti-manipulation provisions.

Part 2 - Market Stabilization and Market Balancing

Rule 7.7(4)(a) provides a dealer-restricted person with an exemption from the prohibitions in subsection (1) for market stabilization and market balancing activities subject to price limitations. Market stabilization and market balancing activities should be engaged in for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security.

The Market Regulator considers it to be inappropriate for a dealer to engage in market stabilization activities in circumstances where dealer knows or should reasonably know that the market price is not fairly and properly determined by supply and demand. This might exist where, for example, the dealer is aware that the market price is a result of inappropriate activity by a market participant or that there is undisclosed material information regarding the issuer.

Market balancing activities should contribute to a fair and orderly market by contributing to price continuity and depth and by minimizing supply-demand disparity. Market balancing does not seek to prevent or unduly retard any price movements, but merely to prevent erratic or disorderly changes in price.

Part 3 – Short Position Exemption

Rule 7.7(4)(h) provides an exemption from the prohibitions in subsection (1) for a dealer-restricted person in connection with a bid for or purchase to cover a short position provided that short position was entered into before the commencement of the restricted period. Short positions entered into during the restricted period may be covered by purchases made in reliance upon the market stabilization exemption in Rule 7.7(4)(a), subject to the price limits set out in that exemption. (See “Part 5 – Trading Pursuant to Marketplace Trading Obligations” for a discussion of the ability of persons with Marketplace Trading Obligations to cover short positions arising during the restricted period pursuant to their Marketplace Trading Obligations.)

Part 4 – Research

The Market Regulator is of the view that although sections 4.1 and 4.2 of OSC Rule 48-501 do permit a dealer-restricted person to disseminate research reports, this dissemination continues to be subject to the usual restrictions that are applicable to a dealer-restricted person in possession of material information regarding the issuer that has not been generally disclosed.

Rule 7.7(6) provides circumstances where a dealer-restricted person may publish or disseminate information, an opinion, or a recommendation relating to the issuer of a restricted security. The Rule requires that the information, opinion or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person. The Market Regulator considers that it is a question of fact whether a publication was disseminated “with reasonable regularity” and whether it was in the “normal course of business”. A research publication would not likely be considered to have been published with reasonable regularity if it had not been published within the previous twelve month period or there had been no coverage of the issuer within the previous twelve month period. The nature and extent of the published information should also be consistent with prior publications and the dealer should not undertake new initiatives in the context of the distribution. For example, the inclusion of projections of issuers’ earnings and revenues would likely only be permitted if they had previously been included on a regular basis. The Market Regulator may consider the distribution channels for the dissemination of the publication when considering whether a publication was “in the normal course of business”. The research should be distributed through the dealer-restricted person’s usual research distribution channels and should not be targeted or distributed specifically to prospective investors in the distribution as part of a marketing effort. However, the research may be distributed to a prospective investor if that investor was previously on the mailing list for the research publication.

Rule 7.7(6)(b) requires that the information, opinion or recommendation includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer’s industry. In this context, reference should be made to the relevant industry when determining what constitutes a “substantial number of issuers”. Generally, the Market Regulator would consider a minimum of six issuers to be a sufficient number. However, where there are less than six issuers in an industry, then all issuers should be included in the research report, and in any event the number of issuers should not be less than three.

Part 5 – Trading Pursuant to Marketplace Trading Obligations

Under Rule 7.7(7)(b), a dealer-restricted person with Marketplace Trading Obligations for a restricted security may, for their trading account in connection with such Marketplace Trading Obligations, purchase a restricted security pursuant to their Marketplace Trading Obligations. Not every purchase of a restricted security by a person with Marketplace Trading Obligations will be considered to be undertaken pursuant to their Marketplace Trading Obligations. For example, if a market making system of an Exchange or QTRS permits a market maker to voluntarily participate in trades that participation may only result in purchases that are:

- made at prices which are permitted by Rule 7.7(4)(a); or*
- to cover a short position resulting from sales made under their Marketplace Trading Obligations.*

Use of a voluntary participation feature in other circumstances, may result in the market maker not complying with the prohibitions or restrictions on trading under Rule 7.7.

Defined Terms:	<p>NI 14-101 section 1.1(3) – “issuer bid”, “securities legislation” and “take-over bid”</p> <p>NI 21-101 section 1.4 – Interpretation -- “security”</p> <p>UMIR section 1.1 – “arbitrage account”, “basket trade”, “best independent sale price”, “client order”, “connected security”, “dealer-restricted person”, “derivatives market maker”, “Exchange”, “Exempt Exchange-traded Fund”, “foreign organized regulated market”, “hedge”, “highly-liquid security”, “issuer-restricted person”, “listed security”, “Market Integrity Official”, “marketplace”, “Marketplace Trading Obligations”, “Marketplace Rules”, “Market Regulator”, “Program Trade”, “offered security”, “restricted period”, “restricted private placement”, “restricted security”, “securities exchange take-over bid” and “QTRS”</p> <p>UMIR section 1.2(2) – “person” and “trade”</p>
Related Provisions:	UMIR section 1.2(6) – Interpretation of “restricted period” and UMIR section 2.2
Regulatory History:	<p>Effective February 25, 2005, the applicable securities commissions approved amendments effective May 9, 2005 to repeal and replace section 7.7 and to add Parts 1, 2, 3, 4 and 5 of Policy 7.7. See Market Integrity Notice 2005-007 – “Amendments Respecting Trading During Certain Securities Transactions” (March 4, 2005).</p> <p>Effective May 16, 2008, the applicable securities commissions approved an amendment to Rule 7.7 to replace the phrase “an organized regulated market outside of Canada that publicly disseminates details of trades executed on that market” with “foreign organized regulated market or other market”. See Market Integrity Notice 2008-008 – “Provisions Respecting “Off-Marketplace” Trades” (May 16, 2008).</p> <p>Effective January 8, 2010, the applicable securities commissions approved amendments to subsection (4) of section 7.7 to delete the words “the lesser of” in clause (a); amendments to subsection (4) of section 7.7 to repeal and replace subclause (a)(i), to add the words “the lesser of” after the word “security” in subclause (a)(ii), to replace the “last independent sale price” by “best independent sale price” in paragraphs (A) and (B) of subclause (a)(ii), to replace the words “Exchange-traded Fund” by “Exempt Exchange-traded Fund” in subclause (b)(ii), and to replace the word “market” by “marketplace or foreign organized regulated market” in clause (c). See IROC Notice 10-0006 – “Provisions Respecting Trading During Certain Securities Transactions” (January 8, 2010).</p> <p>Effective August 26, 2011, the applicable securities regulatory authorities approved amendments to section 7.7 and Policy 7.7 principally to replace the definition of “Market Maker Obligations” with a definition of “Marketplace Trading Obligations”. See IROC Notice 11-0251 – “Provisions Respecting Market Maker, Odd Lot and Other Marketplace Trading Obligations” (August 26, 2011).</p> <p>Effective December 9, 2013, the applicable securities commissions approved amendments to the French version of UMIR. See IROC Notice 13-0294 – “Amendments to the French version of UMIR” (December 9, 2013).</p>
Guidance:	See Market Integrity Notice 2005-013 – “ Effective Date of Amendments Respecting Trading During Certain Securities Transactions ” (May 2, 2005).
Repealed Guidance:	See Market Integrity Notice 2005-023 – “ Securities Trading on Multiple Marketplaces ” (July 29, 2005) which was repealed and replaced by Market Integrity Notice 2006-017 – “ Securities Trading on Multiple Marketplaces ” (September 1, 2006).
Guidance:	See Market Integrity Notice 2006-003 – “ Solicitation of Client Orders During a Restricted Period ” (January 31, 2006).
Guidance:	See Market Integrity Notice 2006-016 – “ Trading During Certain Securities Transactions ” (July 10, 2006).
Guidance:	See Market Integrity Notice 2006-017 – “ Guidance – Securities Trading on Multiple Marketplaces ” (September 1, 2006).
Guidance:	See IROC Notice 09-0007 – “ “Principal Market” Determination for 2009 ” (January 9, 2009).
Guidance:	See IROC Notice 10-0095 – “ “Principal Market” Determination for 2010 ” (April 6, 2010).
General Commentary:	<p>A current list of the securities which have been designated to be excluded from the definition as an “Exempt Exchange-traded Fund” is available on the IROC website (at www.iroc.ca).</p> <p>A list of the securities which on any particular trading day qualify as a “highly-liquid security” is available on the IROC website (at www.iroc.ca).</p> <p>A current list of the indices which have been designated by IROC for the purposes of UMIR is available on the IROC website (at www.iroc.ca).</p>

Disciplinary Proceedings: In the Matter of David William Trim (“Trim”) (October 30, 2002) OOS 2002-005

Facts – On January 16, 2001, Trim, a trader employed by BMO Nesbitt Burns Inc. (“BMO”), entered into a trade for shares of a company at a price in excess of the maximum permitted stabilization price during a restricted period which the security was subject to. In a separate transaction, on September 6, 2001, Trim, entered into a trade to cover an outstanding short position in a security that, at the time of the trade, was on BMO’s restricted list. Trim was advised by BMO’s Corporate Compliance Department that he could cover his outstanding short position so long as the bid or purchase price was not higher than the maximum permitted stabilization price, in this case \$4.50. Trim subsequently entered into a trade for the shares at \$4.54.

Disposition – Trim executed prohibited trades in two securities at a time when BMO was involved in a distribution of these securities and had restricted trading of the securities.

Requirements Considered – TSX Rules 7-106(b) and 4-303. Comparable UMIR Provision - Rule 7.7

Sanction - \$10,000 fine and costs of \$3,500

Disciplinary Proceedings: *Rule 7.7(5) (pre-May 2005 version) was considered In the Matter of Scotia Capital Inc. (“Scotia”) (February 26, 2007) DN 2007-001. See Disciplinary Proceedings under Rule 6.4.*

Disciplinary Proceedings: In the Matter of Global Securities Corporation (“Global”) (December 3, 2007) DN 2007-005

Facts – Between October 6, 2005, and November 16, 2005, Global, while acting as an underwriter for a private placement of securities for Jasper Mining Corporation (“Jasper”), entered twenty-five orders to buy shares of Jasper (resulting in forty-three trades) for non-client, inventory and client accounts (on a solicited or discretionary basis).

Disposition – Subject to certain exemptions, UMIR imposes trading restrictions on a dealer with an interest in the outcome of the distribution of securities or other transactions (“Dealer-Restricted Person”). During the relevant period, Global was a Dealer-Restricted Person, and as such, was prohibited from bidding for or purchasing shares of Jasper for its own account, for an account over which Global exercised direction or control or soliciting the purchase of shares of Jasper. By purchasing shares of Jasper for non-client, inventory and client accounts over which Global had discretion or solicited such purchase, Global did harm to the reputation of the marketplace and the public’s perception of the capital markets.

Requirements Considered – Rule 7.7

Sanction – \$65,000 fine and costs of \$25,000

Disciplinary Proceedings: *Rule 7.7(5) [as it existed prior to May, 2005] was considered In the Matter of David Berry (“Berry”) (January 17, 2013) DN 13-0018. See Disciplinary Proceeding under Rule 6.4.*