INVESTMENT DEALERS ASSOCIATION OF CANADA

bulletin

ASSOCIATION CANADIENNE DES COURTIERS EN VALEURS MOBILIÈRES

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For distribution to relevant parties within your firm

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Discipline

Discipline Penalties Imposed on BMO Nesbitt Burns Inc.; Violations of Regulation 1300.2, 1300.1(o) and Policy 2

Person Disciplined

A Hearing Panel appointed pursuant to the Investment Dealers Association of Canada ("IDA") By-law 20 has imposed discipline penalties on BMO Nesbitt Burns Inc., (BMO) at all material times a Member firm of the IDA.

By-laws, Regulations, Policies Violated

On December 16, 2004, in Toronto, Ontario, a Hearing Panel considered and accepted a Settlement Agreement negotiated between BMO and the IDA.

Pursuant to the Settlement Agreement, BMO admitted that:

During the period from January 1, 2002 to December 31, 2003, BMO failed to implement supervisory systems to address red flags and thereby detect and prevent potentially harmful market timing practices. Specifically, BMO failed to implement supervisory systems to:

a) adequately supervise the activities of its employees; and

b) conduct adequate due diligence into the activities of its employees and clients in these circumstances and thereby was in violation of Association Regulations 1300.2 and 1300.1(o) and Policy 2.

Penalty Assessed

The total monetary penalty assessed against BMO is $3,693,139.20, calculated as follows:

(i) a fine in the amount of	$3,302,974.59
(ii)disgorgement in the amount of	$3,302,974.59
(iii) costs in the amount of	$ 50,000.00
Sub Total	$6,655,949.18

Less:

Credit in recognition of co-operation			
(i)	Fine not applied to hedge in profit		($840,000.00)
(ii)	Reduction in fine to proprietary trading profit voluntary distributed Back to Mutual Funds	($1,111,404.99)	
	Proprietary Trading Fund	($100,000.00)	($1,011,404.99)
(iii)	Proprietary trading profits voluntarily distributed back to mutual funds		($1,110,404.99)
Sub Total:			($2,962,809.98)
Total:			**$ 3,693,139.20**

In addition to the monetary penalty assessed, BMO is required to set up an internal committee to consider how to identify and address emerging issues in the securities industry. BMO will consult with the IDA in setting up the mandate of the committee.

Mitigating factors in assessing the penalty included the fact that: the majority of IDA Member Firms did not have policies or procedures in place to detect or prevent market timing; BMO voluntarily notified the OSC of the market timing activities in the proprietary account prior to initiation of the IDA investigation; BMO repaid, on a voluntary basis, and prior to the initiation of the IDA's investigation, the gross trading revenues earned from the market timing activity in the proprietary account to the respective mutual funds; all market timing activities by BMO ceased voluntarily prior to the initiation of the IDA investigation; and BMO co-operated fully with the IDA during the course of the investigation.

Summary of Facts

BMO acknowledged that from January 1, 2002 to December 31, 2003, it engaged in potentially harmful practices by executing market timing trades for two select retail clients and also in a proprietary account. The majority of the market timing activities in the proprietary account occurred in one mutual fund and was conducted by means of a written special arrangement to conduct market timing activities. The market timing activities in the retail accounts were conducted in the absence of a special arrangement.

During this time period, BMO executed in excess of 3,500 round trips (7,000 trades), for the retail clients involving in excess of 50 funds within approximately 15 fund companies. BMO also executed 200 round trips (400 trades) in the proprietary account involving 25 funds within seven fund companies; one of the funds was BMO Mutual Funds.

BMO should have been aware that market timing was potentially harmful to long-term unitholders. BMO received at least 21 written warnings from 15 mutual fund companies regarding frequent trading by the two retail clients. The written warnings put BMO on notice that market timing was potentially harmful to long-term unitholders and was not welcome or permitted by the funds. Despite the written warnings, BMO failed to prevent its clients from continuing to market time the mutual funds and continued market timing activities in its proprietary account.

For further details, please refer to the Settlement Agreement also posted on the IDA website.

Kenneth A. Nason
Association Secretary