

MEMBER REGULATION



INVESTMENT DEALERS
ASSOCIATION OF CANADA

notice



ASSOCIATION CANADIENNE DES
COURTIERS EN VALEURS MOBILIÈRES

Contact:

A. Popovic: (416) 943-6904 – apopovic@ida.ca

J. Kehoe: (416) 943-6996 – jkehoe@ida.ca

MR0282

April 13, 2004

ATTENTION:
Ultimate Designated Persons
Chief Financial Officers
Panel Auditors

Distribute internally to:

- Corporate Finance
- Credit
- Institutional
- Internal Audit
- Legal & Compliance
- Operations
- Registration
- Regulatory Accounting
- Research
- Retail
- Senior Management
- Trading desk
- Training

Positive Affirmation Rule

This notice is being issued to inform IDA Member firms (Members) of the amendments recently made to NASD Rule 3370 - Prompt Receipt and Delivery of Securities, effective April 1, 2004. The amendments are specific to the “affirmative determination” rule that applies to short sales as set out in Rules 3370(b)(2) and 3370(b)(4). The amendments expand the scope of the affirmative determination requirement to include orders received from non-NASD member broker/dealers (including Members) where the orders do not relate to bona fide market making transactions, or do not result in bona fide fully hedged or arbitrated positions. For further details refer to the NASD Notice to Members at the following URL link: <http://www.nasdr.com/pdf-text/0403ntm.pdf>

The effect of this rule change on Members is that no Member or person associated with a Member shall effect a short sale order for any Member or customer account (subject to permitted market maker and hedge position exceptions) in any security traded on a NASD regulated market unless the Member or person associated with the Member makes an affirmative determination that the Member will receive delivery of the security from the customer or that the Member can borrow the security on behalf of the customer by settlement date.

It is our expectation that Members trading directly or indirectly on NASD regulated markets will adjust their trading practices to comply with this rule. Failure by a Member to comply with this rule may be considered to be engaging in a “conduct or practice that is unbecoming or detrimental to the public interest” and therefore a breach of IDA By-law 29.1.