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CHANGES IN BENEFICIAL AND ECONOMIC OWNERSHIP

Background

Following discussions with traders and compliance staff of Participants, RS wishes to confirm the types of trades that, in the opinion of RS, do not involve a change in beneficial and economic ownership. In addition, RS wishes to confirm the treatment of trades that do not involve a change in beneficial and economic ownership. To assist traders and Participants in complying with the Universal Market Integrity Rules ("UMIR"), this Market Integrity Notice outlines some guidelines and examples for the treatment of orders that do not constitute a change in beneficial and economic ownership.

Historically, the TSX Venture Exchange (formerly the Canadian Venture Exchange) required trades between spouses to be executed off-marketplace. The Toronto Stock Exchange (the "TSX"), however, viewed these trades as changes in beneficial ownership and required such trades to be executed on a marketplace. Effective April 1, 2002, the requirements of UMIR replaced the previous market integrity components of the rules of TSX and TSX VE. The requirements of UMIR must be applied consistently to Participants, regardless of which marketplace the trade occurs upon. Consequently, it is the position of RS that trades that involve a change in beneficial and economic ownership must be traded upon a marketplace on which the Participant is a member, participating organization, user or subscriber.

To this end, Rule 6.4 of UMIR requires trades to be executed on a marketplace where a Participant is acting as principal or agent unless the trade falls within one of the exemptions to the rule. For instance, a Participant that interposes itself between the trades of a client (e.g. the dealer purchases as principal from the client and sells as principal to the client) creates two transactions, which similarly creates a change in beneficial and economic ownership. Such trades are not permitted as off-marketplace transactions. Conversely, trades that do not involve a change in beneficial and economic ownership must be executed off-marketplace.

Manipulative or Deceptive Method of Trading

Trades that do not constitute either a change in beneficial ownership or a change in economic ownership should not take place on a marketplace as such trades constitute a deceptive and manipulative method of trading pursuant to Rule 2.2 of UMIR. For example, a transfer of stock between an individual and a wholly-owned corporation,

although constituting a change in beneficial ownership, does not constitute a change in economic ownership and therefore must be done off-marketplace.

Trades for Tax Reasons

Participants receive many requests each year to facilitate large volume or value trade transactions between spouses, for income tax or RRSP purposes, off-marketplace. A trade for tax purposes may only be executed off-marketplace without prior consultation with RS provided the trade:

- does not constitute a legal or beneficial change in ownership of the security;
- is not an action to evade tax or securities laws and does not contravene UMIR, or the rules and policies of the exchange upon which the trade would otherwise occur; and
- is executed at a price that is within the context of the market for that particular security at the time of the trade.

Trades between spouses that are executed for tax reasons are viewed by RS to constitute a change in both beneficial and economic ownership and therefore would have to be executed on a marketplace. This requirement applies where a person sells securities to the RRSP of their spouse. However, the contribution of securities to a spousal RRSP does not constitute a trade (as there is no valuable consideration) and must be executed off-marketplace.

Gifts or Charitable Donations

Security transfers that are gifts or charitable donations are to be executed off-marketplace, even if the transfer is facilitated by a Participant. Such transfers are done without consideration or payment and therefore do not constitute “trades” pursuant to applicable securities legislation, including the *Securities Act* (Ontario).

Examples

The following examples illustrate trades that would not constitute a change in beneficial and economic ownership:

- A client executing a simultaneous purchase and sale for one account for income tax purposes or for the purpose of revaluing a portfolio. Such trades do not constitute a change in beneficial or economic ownership and therefore are to be executed off-marketplace.
- A client executing a trade with a corporation would constitute a change in beneficial and economic ownership and would have to be executed on a marketplace unless the corporation is 100% owned by the individual in which case it would not constitute a change in economic ownership and would be required to be executed off-marketplace.

- A client transferring securities from their personal account to their RRSP would not constitute a change in beneficial or economic ownership and the trade must be executed off-marketplace whether or not the transfer was in the form of a sale of the securities to the RRSP or a contribution of the securities to the RRSP as a premium.
- A client transferring securities to a spouse for tax purposes and valuable consideration would constitute a change in beneficial and economic ownership and therefore the transfer should be executed on a marketplace. A gift of securities to a spouse or the contribution of securities to a spousal RRSP would not constitute a trade and the transfer should be completed off-marketplace.

Further Information

For additional information regarding this notice please call James Twiss at 416-646-7277, Noelle Wood at 416-646-7275 or email RS at inquiries@regulationservices.com.

ALEX DASCHKO
VICE PRESIDENT,
OPERATIONS, GENERAL COUNSEL
AND CORPORATE SECRETARY