

May 2, 2005

No. 2005-013

Suggested Routing: Trading, Legal & Compliance

EFFECTIVE DATE OF AMENDMENTS RESPECTING TRADING DURING CERTAIN SECURITIES TRANSACTIONS

Summary

On May 9, 2005, amendments to the Universal Market Integrity Rules (“UMIR”) to govern trading during certain securities transactions will become effective. The amendments:

- combine prohibitions and restrictions relating to market stabilization and market balancing activities into a single rule;
- introduce exemptions from the prohibitions and restrictions relating to market stabilization and market balancing for trading in “highly-liquid” securities and exchange-traded funds; and
- harmonize the UMIR provisions governing restrictions and prohibitions on trading activities by Participants with requirements of Ontario Securities Commission Rule 48-501 governing the trading activities of dealers and parties connected to the issuer that will also become effective on May 9, 2005.

Summary Description of the Amendments

The amendments govern the activities of dealers, issuers and others in connection with a distribution of securities, securities exchange take-over bid, issuer bid or amalgamation, arrangement, capital reorganization or similar transaction. The amendments prescribe acceptable activities and otherwise restrict trading activities to preclude manipulative conduct by persons with an interest in the outcome of the distribution of securities or other transactions.

The amendments impose prohibitions or restrictions on a “dealer-restricted person” trading in certain securities during a “restricted period”. A dealer-restricted person is defined as including a Participant that has been retained as:

- an underwriter in a prospectus distribution or restricted private placement;
- an agent, but not as an underwriter, in a restricted private placement that involves the distribution of more than 10% of the issued and outstanding shares and the Participant is entitled to sell more than 25% of the distribution;
- a dealer-manager, manager, soliciting dealer or adviser in respect of a securities exchange takeover bid or issuer bid if a security is offered as consideration; or
- a soliciting dealer or adviser in respect of the approval of an amalgamation, arrangement, capital reorganization or similar transaction.

In addition, a number of persons connected to the Participant will be considered to be a dealer-restricted person including:

- a related entity of the Participant (but not including various separate or distinct departments or divisions for which there are adequate policies and procedures to prevent the flow of information);
- a dealer, a partner, director, officer, or employee of the Participant or a related entity of the Participant; and
- a person acting jointly or in concert with the Participant or one of the connected persons.

A restricted security is defined as:

- an offered security, which includes a listed or quoted security:
 - that is the subject of a public distribution,
 - offered in a securities exchange take-over bid or an issuer bid, and
 - issuable pursuant to an amalgamation, arrangement, capital reorganization or similar transaction; or
- a connected security, which includes a listed or quoted security:
 - into which the offered security is immediately convertible, exchangeable or exercisable,
 - that, by the terms of the offered security, may significantly determine the value of the offered security,
 - into which the offered security is exercisable, if the offered security is a special warrant, and
 - that is an equity security of the issuer of the offered security.

During the restricted period (which, in the case of a public distribution, generally commences two days prior to the determination of pricing and ends on the completion of the selling process and, in the case of a take-over bid, issuer bid, amalgamation, arrangement, capital reorganization or similar transaction, commences on the date of the dissemination of the circular or similar document and ends on the termination of the bid or transaction or the approval of the transaction), a dealer-restricted person is not permitted to bid for or purchase a restricted security or attempt to “induce or cause any person to purchase a restricted security”. A number of exemptions apply including the ability to bid or purchase a restricted security:

- in the case of an offered security, at a price which does not exceed the lesser of:
 - the price at which the offered security will be issued if that price has been determined, and
 - the last independent sale price at the time of the entry of the order to purchase;
- in the case of a connected security, at a price which does not exceed the lesser of:
 - the last independent sale price at the commencement of the restricted period, and

- the last independent sale price at the time of the entry of the order to purchase;
- that is a “highly-liquid security” (see “List of Highly-Liquid Securities” below) or an “Exchange-traded Fund” (being a mutual fund the securities of which are listed or quoted and in continuous distribution for the purposes of securities legislation); and
- that is an unsolicited client order or a client order that was solicited prior to the commencement of the restricted period.

Exemptions are also provided for trades that are:

- basket trades (at least 10 securities with restricted securities comprising not more than 20% of the value of the transaction);
- Program Trades (undertaken in conjunction with a trade in a derivative in accordance with marketplace rules);
- rebalancing of portfolios based on index changes;
- arbitrage activities for inter-listed securities;
- activities pursuant to market maker obligations in accordance with marketplace rules; and
- activities undertaken by derivatives market makers.

Where permitted by applicable securities legislation, a dealer-restricted person may “attempt to induce or cause a person to purchase a restricted security” by:

- soliciting tenders to a take-over bid or issuer bid; and
- publishing or disseminating information, opinions or recommendations on any other restricted security if similar information opinions or recommendations are included on other issuers or if the security of the issuer is a “highly-liquid security”.

Subject to certain limited exemptions, a dealer-restricted person may not bid for or purchase a restricted security during the applicable restricted period on behalf of an “issuer-restricted person” (which includes the issuer, a selling securityholder, an affiliated entity, an associated entity, an insider, an account over which any of these persons exercises direction or control, and any person acting jointly or in concert with any of these other persons).

For more details regarding the amendments, including the full text of the amendments, reference should be made to Market Integrity Notice 2005-007 – Notice of Amendment Approval – Amendments Respecting Trading During Certain Securities Transaction issued on March 4, 2005.

Interpretation of the Exemption in Rule 7.7(4)(a)

If an “offered security” is to be issued pursuant to:

- a securities exchange take-over bid;
- an issuer bid; or
- an amalgamation, arrangement, capital reorganization or similar transaction

a dealer-restricted person may bid or purchase the offered security in connection with market stabilization or market balancing activities at a price which does not exceed the lesser of:

- the last independent sale price at the commencement of the restricted period; and
- the last independent sale price at the time of the entry on a marketplace of the order to purchase.

List of “Highly-Liquid Securities”

A “highly-liquid security” is exempt from certain of the restrictions and prohibitions governing trading activity during securities transactions. A “highly-liquid security” is defined as a listed security or quoted security that:

- (a) has traded, in total, on one or more marketplaces as reported on a consolidated market display during a 60-day period ending not earlier than 10 days prior to the commencement of the restricted period:
 - (i) an average of at least 100 times per trading day, and
 - (ii) with an average trading value of at least \$1,000,000 per trading day; or
- (b) is subject to Reg. M and is considered to be an “actively-traded security” under that regulation.

RS is maintaining a list of securities which, based on data available to RS, meet the definition of a “highly-liquid security” as a result of achieving the required number of average daily trades and average daily trading value on Canadian marketplaces. The list maintained by RS does not contain a listed security or a quoted security that is inter-listed with a market in the United States and that is considered to be “actively-traded” under Reg. M but which fails to meet the tests for average daily trades and average daily trading value on Canadian marketplaces.

A separate list of highly-liquid securities will be prepared for each trading day. For convenience, a summary will identify the securities which have been added or deleted from the list of highly-liquid securities on a particular trading day. Persons may rely on the list and summary prepared by RS or they may independently verify if a security meets the requirements of a “highly-liquid security” so long as they retain a record of the data they rely upon in verifying the requirements.

If a security is traded on Canadian marketplaces in both Cdn\$ and US\$ and the security is on the list of “highly-liquid securities” that status will apply to the security regardless of the currency in which the trade is made.

The list of highly-liquid securities and the daily summary of changes is available on the RS website (at www.rs.ca) and may be accessed through the “Quick Links” on the homepage or under the heading “Timely Disclosure” on the “Surveillance” page.

Questions

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