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Evidence of Beneficial Ownership of Accounts

Market Regulation Services Inc. (“RS”) is the regulation services provider for the TSE and CDNX. RS enforces marketplace requirements that include the Universal Market Integrity Rules (“UMIR”). UMIR came into effect on these markets on April 1, 2002.

Rule 10.12(1) of UMIR requires Participants to retain a record of each order and sufficient evidence to identify the beneficial owner of each account. At a recent UMIR Education Seminar for Participants, questions were raised about the extent and application of this Rule. In this Market Integrity Notice, RS sets out its interpretation of Rule 10.12(1)(b). The key points are:

- Rule 10.12 is a record keeping requirement. The obligation to maintain “sufficient evidence” of the beneficial ownership of an account under the rule is the responsibility of the Participant (dealer) and will generally be met in each province by compliance with securities legislation and the requirements of self-regulatory organizations other than RS.
- Generally it is not expected that a record of the beneficial ownership will be created as the trade occurs but rather the record of beneficial ownership will have been prepared previously (for example account opening documentation) as required by applicable legislation and SRO requirements.
- A Participant must retain the information on the beneficial ownership of an account for a period of not less than seven years from the date of the creation of the record of an order for the purchase or sale of a security for the account.

Applicable Legislation and SRO requirements include the following:

- Section 39 of the British Columbia Securities Rules requires a dealer to maintain, subject to certain exceptions, a record to show the beneficial owner of securities held in an account if different from the client.
- TSE Rule 2-402 (in effect prior to the adoption of UMIR on April 1, 2002) required a Participating Organization of the TSE to maintain at its principal office in Canada evidence of the beneficial owner or the party or parties financially responsible for an account.

- Regulation 200 of the Investment Dealers Association sets out minimum record requirements for a Participant that is a member of the IDA. In particular Regulation 200.1(i) sets out the requirements for the identification of beneficial owner of accounts. Regulation 1300.1(a) establishes that “(E)ach Member shall use due diligence to learn and remain informed of the essential facts relative to every customer and to every order or account accepted”.
- Section 29(3)(h)(i) of The Alberta Securities Commission Rules provides that, subject to Section 30(4) of those Rules, each Registrant shall maintain books and records relating to a client record for each cash and margin account containing “the name and address of the beneficial owner and the guarantor, if any, of the account”.
- Section 222(6) of the Commission des valeurs mobilières du Québec Regulations concerning Securities requires each dealer to maintain a file for each client containing “the name and address of the account holder and, where applicable, of his guarantor”.

Further Information

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