

March 4, 2005

No. 2005-007

Suggested Routing: Trading, Legal & Compliance

NOTICE OF AMENDMENT APPROVAL

AMENDMENTS RESPECTING TRADING DURING CERTAIN SECURITIES TRANSACTIONS

Summary

On February 25, 2005, the Alberta Securities Commission, British Columbia Securities Commission, Manitoba Securities Commission, Ontario Securities Commission (“OSC”) and, in Quebec, the Autorité des marchés financiers (the “Recognizing Regulators”) approved amendments (the “Amendments”) to the Universal Market Integrity Rules (“UMIR”) to:

- 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 the OSC governing the trading activities of dealers and parties connected to the issuer.

On February 15, 2005 the OSC made as a rule under the *Securities Act* (Ontario) OSC Rule 48-501 – *Trading during Distributions, Formal Bids and Share Exchange Transactions* (the “OSC Rule”) and adopted Companion Policy 48-501CP to the OSC Rule. The OSC also revoked Ontario Securities Commission Policy 5.1, paragraph 26 and Ontario Securities Commission Policy 62-601. Unless the Minister responsible for the administration of the *Securities Act* (Ontario) (the “Act”) rejects the OSC Rule or returns it for further consideration, the OSC Rule and the companion policy will come into force on May 9, 2005.

The Amendments will become effective on the date the OSC Rule comes into force. Until that date, the existing provisions of Rule 7.7 (Restrictions on Trading by a Participant Involved in a Distribution) and Rule 7.8 (Restrictions on Trading During a Securities Exchange Take-over Bid) will continue to apply.

Background

Concurrent with the publication of the Request for Comments in Market Integrity Notice 2003-018 on the proposed amendments to UMIR (the “Original Proposal”), the OSC published for comment at (2003) 26 OSCB 6157 proposed OSC Rule 48-501 (the “Original OSC Rule”).

Based on the comments received, both RS and the OSC proposed revisions to their original proposals and republished revised proposals for a second comment period. RS issued Market Integrity Notice 2004-024 on September 10, 2004 (the “Revised Proposal”) and the OSC published revised proposals on September 10, 2004 at (2004) 27 OSCB 7766 (“Revised OSC Rule”).

In response to the publication for comment of the Revised Proposal and the Revised OSC Rule, RS and the OSC received 11 submissions from 10 commenters. As a result of the comments received and further consideration by the OSC and RS, certain non-material revisions have been made to the Revised Proposal. Generally, the comments received by RS were applicable to the Revised OSC Proposal as well as the Revised Proposal. Appendix “C” has been prepared jointly by staff of RS and the OSC and is a summary of the comments received on the revised proposals together with the responses of RS and the OSC to those comments.

Summary 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 are intended to prescribe what is an acceptable activity 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 for 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” (being a security that trades an average of at least 100 times per day with an average trading value of \$1,000,000 per trading day over a 60-day period or a security subject to Regulation M (“Reg. M.”) of the United States Securities and Exchange Commission (“SEC”) and is considered an “actively-traded security” for the purposes of Reg. M) 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).

Summary of Changes from the Revised Proposal

Based on comments received in response to the Request for Comments contained in Market Integrity Notice 2004-024 and based on comments received from the Recognizing Regulators, RS made a number of changes to the Revised Proposal. The text of the Amendments is set out in Appendix “A” and the revisions made to the Revised Proposal are highlighted in Appendix “B”. The following is a summary of the significant changes made to the Revised Proposal on the adoption of the Amendments:

Definitions

- ***“restricted period” – commencement of period for amalgamations, arrangements or capital reorganizations***

In the Revised Proposal, the restricted period in connection with a take-over bid, issuer bid, amalgamation, capital reorganization or similar transaction began on the date of the take-over bid circular, issuer bid circular, similar document or information circular

(materials) for the transaction. Comment was received that the date of dissemination of the materials would be preferable to the date of the materials. The Amendments harmonize with Reg. M so that the restrictions start on the date of the commencement of the dissemination of the materials.

- ***“restricted period” – selling process has ended***

In the Revised Proposal, the restricted period for prospectus distributions and private placements ended on the date that the selling process ended (which for a prospectus distribution meant that the receipt for the prospectus had been issued, the Participant had allocated all of its portion of the securities, and delivered to each subscriber a copy of the prospectus) and all stabilization arrangements relating to the offered security were terminated. Commenters wrote requesting more consistency with Reg. M and greater clarity.

As a result of comments received, several changes have been made. Rule 1.2(6) has been amended with respect to when the selling process shall be considered to end. The requirement that a copy of the prospectus be delivered to each subscriber has been deleted. In summary, there are three requirements for the end of the selling process: a receipt has been issued for the final prospectus, the Participant has allocated all of its portion of the securities to be distributed and all selling efforts have ceased.

Policy 1.2 has been amended to clarify that securities allocated to a Participant in a distribution that are transferred to the Participant’s inventory account at the end of the distribution would be considered to be distributed and therefore that subsequent sales of these securities will not be subject to the restrictions as long as the subsequent sales are not otherwise considered distributions under securities legislation. Clarification has also been added to Policy 1.2 to provide where there is a syndicate, the syndicate must be broken for the restricted period to have ended.

- ***“dealer-restricted person” – agents***

Comments were received regarding the scope of the definition of “dealer-restricted person” as it relates to agents, and in particular, submissions were made that including agent was unnecessary since Participants acting as agents, who would not be considered to be underwriters pursuant to securities legislation, would not generally have the same incentive to manipulate. The OSC and RS believe that where a distribution takes place by way of a private placement, there is still sufficient incentive for a dealer to engage in manipulation where the offering is of sufficient size and the dealer’s allocation is significant enough. To capture when an agent’s involvement is significant, and hence there is a greater incentive to manipulate, the definition in the Amendments provides that when a Participant is acting as an agent but not as an underwriter in a “restricted private placement” of securities, the Participant will be considered to be a “dealer-restricted person” only if the number of securities issued under the restricted private placement would constitute more than 10% of the total issued and outstanding securities and the Participant has been allotted and is entitled to sell more than 25% of the securities to be issued.

- ***“issuer-restricted person” - carve out for insiders without material knowledge***

The definition of “issuer-restricted person” includes insiders of the issuer and selling securityholders. Concern was expressed that certain institutions, such as for example firms that manage discretionary accounts, could become insiders under clause (c) of the definition of insider under the Act or similar provisions of applicable securities legislation by virtue of owning or having control or discretion over more than 10% of the voting securities of an issuer but do not necessarily have an interest in the outcome of a distribution or transaction nor any knowledge which is any different from a securityholder who is not an insider. The definition of “issuer-restricted person” has been changed in the Amendments to exclude a person who is an insider of an issuer only by virtue of clause (c) of the definition of “insider” under the Act or similar provisions of applicable securities legislation if that person has not had within the preceding 12 months any board or management representation in respect of the issuer or selling securityholder and has no knowledge of any material information concerning the issuer or its securities that has not been generally disclosed.

- ***“offered security”***

The Amendments clarify that an “offered security” must be either a listed security or a quoted security including in circumstances where the security is be offered in connection with a take-over bid, issuer bid, amalgamation, arrangement, capital reorganization or similar transaction.

- ***“public distribution”***

In the Revised Proposal, the term “public distribution” was defined as a distribution of a security pursuant to a prospectus or private placement. From the comments received, it was clear that there was some confusion as to type of distribution to which restrictions would apply. The term has been removed and replaced in the Amendments with the terms “prospectus distribution” and “restricted private placement”. The term “restricted private placement” has been defined as a distribution pursuant to subsection 72(1)(b) of the Act or section 2.3 of Ontario Securities Commission Rule 45-501 – Exempt Distributions or similar provisions of applicable securities legislation.

Exemptions

- ***Bids or Purchases at the Last Independent Sale Price***

Comments were received expressing concern that the exemption would limit the market stabilization price to the lesser of the distribution price (or if not determined, the last independent sale price) and the best independent bid price at the time of the bid and may, in certain circumstances, be more restrictive than the current exemption which restricts the bid to the lesser of the issue price (if determined) and the last independent sale price. The OSC was of the view that the price of the last independent sale is the

fairest indicator of where market is since it represents an actual transaction. Use of the last independent sale price is also consistent with the initial stabilizing price in Reg. M. Further, the maximum price at which stabilization activities may take place has been revised in the rule. In the case of an offered security, the bid or purchase must not exceed the lesser of the distribution price and the last independent sale price. In the case of a connected security, the bid or purchase must not exceed the lesser of the last independent sale price at the commencement of the restricted period and at the time of the bid or purchase.

Research Reports

- ***Research on single-issuers - Exemption for highly-liquid securities***

Considerable comment was received regarding the removal of the exemption for the issuance of single-issuer research reports in the first publication of the proposed rule. In particular, commenters noted that Ontario dealers would be significantly disadvantaged compared to their U.S. counterparts in a cross-border offering. Reg. M permits single-issuer reports to be issued, provided certain conditions are met including that the research is contained in a publication which is distributed with reasonable regularity in the normal course of business. In order to facilitate cross-border offerings by harmonizing regulatory requirements in the Amendments and Reg. M, and to provide a level playing field between issuers inter-listed with a market in the United States and other issuers in Ontario, the Amendments include an exemption for research reports in respect of issuers of securities which meet the definition of a “highly-liquid security”.

Differences Between the Amendments and OSC Rule

Concurrent with the publication of this Market Integrity Notice regarding the approval of the Amendments, the OSC is publishing a notice regarding the Commission’s approval of the OSC Rule and the rescission of paragraph 26 of OSC Policy 5.1 and OSC Policy 62-601.

The provisions adopted under the UMIR parallel the provisions included in the OSC Rule. There are a number of minor differences in language and structure that reflect:

- the use of different defined terms and drafting protocols;
- the application of the UMIR provisions in all jurisdictions in which RS is recognized as a self-regulatory entity as compared to the application of the OSC Rule in Ontario only;
- the application of the UMIR provisions to listed securities and quoted securities as compared to the application of the OSC Rule to all securities the trading of which are subject to transparency requirements under National Instrument 21-101 – *Marketplace Operation*; and
- the application of the UMIR provisions to Participants and Access Persons as compared to the application of the OSC Rule to all persons, including issuers and dealers.

It should be noted that clause 3.1(i) of the OSC Rule allows a dealer to rely on exemptions contained in UMIR. In particular, the UMIR provisions allow a dealer-restricted person to bid for or purchase a restricted security as part of:

- a basket trade;
- a Program Trade;
- rebalancing of portfolios based on index changes;
- arbitrage activities for inter-listed securities;
- activities pursuant to Market Maker Obligations; and
- activities undertaken by derivatives market makers.

There are no substantive differences between the Amendments and the OSC Rule other than as a result of the four factors outlined above.

Future Harmonization with Regulation M and the OSC Rule

One of the key purposes of the Amendments was to harmonize to the extent possible with the OSC Rule and Reg. M.

The SEC published for comment on December 9, 2004 proposed amendments to Reg. M, after having proposed amendments to the provisions regarding research reports on November 3, 2004. The more significant proposed amendments to Reg. M would:

- amend the definition of restricted period for an initial public offering, merger, acquisition and exchange offer;
- update the dollar value thresholds for “actively-traded security” to take into account inflation since the adoption of Reg. M; and
- require disclosure of syndicate covering transactions and penalty bids when stabilization is undertaken.

RS will consider any amendments to Reg. M when adopted. If appropriate, RS may propose additional amendments to UMIR at a future date. It would be anticipated that any amendments to UMIR would be made in conjunction with amendments by the OSC to the OSC Rule.

List of “Highly-Liquid Securities”

The amendments provide that a “highly-liquid security” will be exempt from certain of the restrictions and prohibitions. 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 intends to maintain and distribute a list of securities which, based on data available to RS, fall within 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. RS will not maintain a list of securities considered to be “actively-traded” under Reg. M. Persons may rely on this list 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. RS expects that the list will be available on its website (at www.rs.ca) on or about May 2, 2005.

Appendices

- Appendix “A” sets out the text of the amendments to UMIR and the Policies to replace the current Rules 7.7 and 7.8;
- Appendix “B” highlights the changes made to the Amendments from the Revised Proposal; and
- Appendix “C” contains a summary of the comments received by RS on the Revised Proposal and by the OSC on the Revised OSC Rule together with the joint response of RS and the OSC to each of the comments.

Questions

Questions concerning this notice may be directed to:

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Appendix “A”

Universal Market Integrity Rules

AMENDMENTS RESPECTING TRADING DURING CERTAIN SECURITIES TRANSACTIONS

The Universal Market Integrity Rules are hereby amended as follows:

1. Rule 1.1 is amended by deleting the definition of “restricted person”.
2. Rule 1.1 is amended by deleting the definition of “offered security” and substituting the following:

“offered security” means all securities of the class of security that is, or will be upon issuance, a listed security or a quoted security and:

 - (a) is offered pursuant to a prospectus distribution or a restricted private placement;
 - (b) is offered by an offeror in a securities exchange take-over bid in respect of which a take-over bid circular or similar document is required to be filed under securities legislation;
 - (c) is offered by an issuer in an issuer bid in respect of which an issuer bid circular or similar document is required to be filed under securities legislation; or
 - (d) would be issuable to a securityholder pursuant to an amalgamation, arrangement, capital reorganization or similar transaction in relation to which proxies are being solicited from securityholders that will receive the offered security in such circumstances that the issuance would be a distribution exempt from prospectus requirements in accordance with applicable securities legislation,

provided that, if the security described in clauses (a) to (d) is a unit comprised of more than one type or class, each security comprising the unit shall be considered to be an “offered security”.
3. Rule 1.1 is amended by adding the following definitions:

“basket trade” means a simultaneous purchase of at least 10 listed securities or quoted securities, provided that any restricted security comprises not more than 20% of the total value of the transaction.

“connected security” means, in respect of an offered security:

- (a) a listed security or quoted security into which the offered security is immediately convertible, exchangeable or exercisable unless the price at which the offered security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the listed security or quoted security at the commencement of the restricted period;
- (b) a listed security or quoted security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security;
- (c) if the offered security is a special warrant, a listed security or quoted security which would be issued on the exercise of the special warrant; and
- (d) if the offered security is an equity security, any other equity security of the issuer that is a listed security or quoted security.

"dealer-restricted person" means, in respect of a particular offered security:

- (a) a Participant that:
 - (i) is an underwriter, as defined in applicable securities legislation, in a prospectus distribution or a restricted private placement,
 - (ii) is participating, as agent but not as an underwriter, in a restricted private placement of securities and:
 - (A) the number of securities to be issued under the restricted private placement would constitute more than 10% of the issued and outstanding offered securities, and
 - (B) the Participant has been allotted or is otherwise entitled to sell more than 25% of the securities to be issued under the restricted private placement,
 - (iii) has been appointed by an offeror to be the dealer-manager, manager or soliciting dealer or adviser in respect of a securities exchange take-over bid or issuer bid, or
 - (iv) has been appointed by an issuer to be the soliciting dealer or adviser in respect of obtaining securityholder approval for an amalgamation, arrangement, capital reorganization

or similar transaction that would result in the issuance of securities that would be a distribution exempt from prospectus requirements in accordance with applicable securities law,

where, in each case, adviser means an adviser whose compensation depends on the outcome of the transaction;

- (b) a related entity of the Participant referred to in clause (a) but does not include such related entity, or any separate and distinct department or division of the Participant if:
 - (i) the Participant maintains and enforces written policies and procedures in accordance with Rule 7.1 that are reasonably designed to prevent the flow of information from the Participant regarding the offered security and the related transaction,
 - (ii) the Participant has no officers or employees that solicit client orders or recommend transactions in securities in common with the related entity, department or division, and
 - (iii) the related entity, department or division does not during the restricted period in connection with the restricted security:
 - (A) act as a market maker (other than pursuant to Market Maker Obligations),
 - (B) solicit client orders, or
 - (C) enter principal orders or otherwise engage in proprietary trading;
- (c) a partner, director, officer, employee or a person holding a similar position or acting in a similar capacity, of the Participant referred to in clause (a) or for a related entity of the Participant referred to in clause (b); or
- (d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

“equity security” means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding-up of the issuer, in its assets.

“highly-liquid security” means 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 Regulation M under the 1934 Act and is considered to be an “actively-traded security” under that regulation.

“issuer-restricted person” means, in respect of a particular offered security:

- (a) the issuer of the offered security;
- (b) a selling securityholder of the offered security in connection with a prospectus distribution or restricted private placement;
- (c) an affiliated entity, an associated entity or insider of the issuer or selling securityholder of the offered security as determined in accordance with the provisions of applicable securities legislation but does not include a person who is an insider of an issuer by virtue of clause (c) of the definition of “insider” under the *Securities Act* (Ontario) and similar provisions of applicable securities legislation if that person:
 - (i) does not have, and has not had in the previous 12 months, any board or management representation in respect of the issuer or selling securityholder; and
 - (ii) does not have knowledge of any material information concerning the issuer or its securities that has not been generally disclosed; or
- (d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

“last independent sale price” means the last sale price of a trade, other than a trade that a dealer-restricted person knows or ought reasonably to know has been executed by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person.

“restricted period” means, for a dealer-restricted person or an issuer-restricted person, the period:

- (a) in connection with a prospectus distribution or a restricted private placement of any offered security, commencing two trading days

prior to the day the offering price of the offered security is determined and ending on the date the selling process has ended and all stabilization arrangements relating to the offered security are terminated provided that, if the person is a dealer-restricted person, the period shall commence on the date the Participant enters into an agreement or reaches an understanding to participate in the prospectus distribution or restricted private placement of securities, whether or not the terms and conditions of such participation have been agreed upon if that date is later;

- (b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of dissemination of the securities exchange take-over bid circular or issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid; and
- (c) in connection with an amalgamation, arrangement, capital reorganization or similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date for approval of the transaction by the securityholders that will receive the offered security or the termination of the transaction by the issuer or issuers.

“restricted private placement” means a distribution of offered securities made pursuant to clause 72(1)(b) of the *Securities Act* (Ontario) or section 2.3 of Ontario Securities Commission Rule 45-501 - *Exempt Distributions* or similar provisions of applicable securities legislation.

“restricted security” means:

- (a) the offered security; or
- (b) any connected security.

4. Rule 1.2 is amended by adding the following subsections:

- (6) For the purposes of the definition of “restricted period”:
 - (a) the selling process shall be considered to end:
 - (i) in the case of a prospectus distribution, if a receipt has been issued for the final prospectus by the applicable securities regulatory authority and the Participant has allocated all of its portion of the securities to be distributed under the prospectus and all selling efforts have ceased, and

- (ii) in the case of a restricted private placement, the Participant has allocated all of its portion of the securities to be distributed under the offering; and
 - (b) stabilization arrangements shall be considered to have terminated in the case of a syndicate of underwriters or agents when, in accordance with the syndication agreement, the lead underwriter or agent determines that the syndication agreement has been terminated such that any purchase or sale of a restricted security by a Participant after the time of termination is not subject to the stabilization arrangements or otherwise made jointly for the Participants that were party to the stabilization arrangements.
- (7) Where used to indicate a relationship with an entity, associated entity has the meaning ascribed to the term "associate" in applicable securities legislation and also includes any person of which the entity beneficially owns voting securities carrying more than 10 per cent of the voting rights attached to all outstanding voting securities of the person.

5. Rule 7.7 is deleted and the following substituted:

Trading During Certain Securities Transactions

- (1) **Prohibitions** - Except as permitted, a dealer-restricted person shall not at any time during the restricted period:
 - (a) bid for or purchase a restricted security for an account:
 - (i) of a dealer-restricted person, or
 - (ii) over which the dealer-restricted person exercises direction or control; or
 - (b) attempt to induce or cause any person to purchase a restricted security.
- (2) **Prohibitions on Acting for Issuer-Restricted Persons** - Except as permitted, if a dealer-restricted person knows or ought reasonably to know that a person is an issuer-restricted person, the dealer-restricted person shall not at any time during the restricted period applicable to a particular issuer-restricted person bid for or purchase a restricted security for the account of that issuer-restricted person or an account over which that issuer-restricted person exercises direction or control.

- (3) **Deemed Recommencement of a Restricted Period** - If a Participant appointed to be an underwriter in a prospectus distribution or a restricted private placement receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the offered securities allotted to or acquired by the Participant in connection with the prospectus distribution or the restricted private placement then a restricted period shall be deemed to have commenced upon receipt of such notice or notices and shall be deemed to have ended at the time the Participant has distributed its participation, including the securities that were the subject of the notice or notices of the exercise of statutory rights of withdrawal or rights of rescission.
- (4) **Exemptions** - Subsection (1) does not apply to a dealer-restricted person in connection with:
- (a) market stabilization or market balancing activities where the bid for or purchase of a restricted security is for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security provided that the bid or purchase is at a price which does not exceed the lesser of:
 - (i) in the case of an offered security:
 - (A) the price at which the offered security will be issued in a prospectus distribution or restricted private placement, if that price has been determined, and
 - (B) the last independent sale price at the time of the entry on a marketplace of the order to purchase,
 - (ii) in the case of a connected security:
 - (A) the last independent sale price at the commencement of the restricted period, and
 - (B) the last independent sale price at the time of the entry on a marketplace of the order to purchase,
- provided that if the restricted security has not previously traded on a marketplace, the price also does not exceed

- the price of the last trade of the security executed on an organized regulated market outside of Canada that publicly disseminates details of trades executed on that market other than a trade that the dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person;
- (b) a restricted security that is:
 - (i) a highly-liquid security,
 - (ii) a unit of an Exchange-traded Fund, or
 - (iii) a connected security of a security referred to in subclause (i) or (ii);
 - (c) a bid or purchase by a dealer-restricted person on behalf of a client, other than a client that the dealer-restricted person knows or ought reasonably to know is an issuer-restricted person provided that:
 - (i) the client order has not been solicited by the dealer-restricted person, or
 - (ii) if the client order was solicited, the solicitation by the dealer-restricted person occurred prior to the commencement of the restricted period;
 - (d) the exercise of an option, right, warrant or a similar contractual arrangement held or entered into by the dealer-restricted person prior to the commencement of the restricted period;
 - (e) a bid for or purchase of a restricted security is made pursuant to a Small Securityholder Selling and Purchase Arrangement undertaken in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;
 - (f) the solicitation of a tender of securities to a securities exchange take-over bid or issuer bid;
 - (g) a subscription for or purchase of an offered security pursuant to a prospectus distribution or restricted private placement;
 - (h) a bid or purchase of a restricted security to cover a short position entered into prior to the commencement of the restricted period;

- (i) a bid or purchase of a restricted security is solely for the purpose of rebalancing a portfolio, the composition of which is based on an index as designated by the Market Regulator, to reflect an adjustment made in the composition of the index;
 - (j) a purchase that is or a bid that on execution would be:
 - (i) a basket trade, or
 - (ii) a Program Trade; or
 - (k) a bid for a purchase of a restricted security for an arbitrage account and the dealer-restricted person knows or has reasonable grounds to believe that a bid enabling the dealer-restricted person to cover the purchase is then available and the dealer-restricted person intends to accept such bid immediately.

- (5) **Exemptions on Acting for an Issuer-restricted Person** - Subsection (2) does not apply to a dealer-restricted person in connection with:
 - (a) the exercise by an issuer-restricted person of an option, right, warrant, or a similar contractual arrangement held or entered into by the issuer-restricted person prior to the commencement of the restricted period;
 - (b) a bid or purchase by an issuer-restricted person of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;
 - (c) an issuer bid described in clauses 93(3)(a) through (d) of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation if the issuer did not solicit the sale of the securities sold under those provisions;
 - (d) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid; or
 - (e) a subscription for or purchase of an offered security pursuant to a prospectus distribution or a restricted private placement.

- (6) **Compilations and Industry Research** - Despite subsection (1), a dealer-restricted person may, if permitted under applicable

securities legislation, publish or disseminate any information, opinion or recommendation relating to the issuer of a restricted security, if the information, opinion or recommendation is in a publication that is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person and:

- (a) the restricted security is a highly-liquid security; or
- (b) the publication:
 - (i) includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry or contains a comprehensive list of securities currently recommended by the dealer-restricted person, and
 - (ii) gives no materially greater space or prominence to the information, opinion or recommendation related to the restricted security or the issuer of the restricted security than that given to other securities or issuers.

(7) Transactions by Person with Market Maker Obligations -

Despite subsection (1), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account:

- (a) with the prior approval of a Market Integrity Official, enter a bid to move the calculated opening price of a restricted security to a more reasonable level;
- (b) purchase a restricted security pursuant to their Market Maker Obligations; and
- (c) bid for or purchase a restricted security:
 - (i) that is traded on another market for the purpose of matching a higher-priced bid posted on such market,
 - (ii) that is convertible, exchangeable or exercisable into another listed security for the purpose of maintaining an appropriate conversion, exchange or exercise ratio, and
 - (iii) to cover a short position resulting from sales made under their Market Maker Obligations.

- (8) **Transactions by the Derivatives Market Maker** – Despite subsection (1), a dealer-restricted person who is a derivatives market maker with responsibility for a derivative security the underlying interest of which is a restricted security may, for their derivatives market making trading account, bid for or purchase a restricted security if:
- (a) the restricted security is the underlying security of the option for which the person is the specialist;
 - (b) there is not otherwise a suitable derivative hedge available; and
 - (c) such bid or purchase is:
 - (i) for the purpose of hedging a pre-existing options position,
 - (ii) reasonably contemporaneous with the trade in the option, and
 - (iii) consistent with normal market-making practice.
- (9) **Application of Exemptions to a Dealer-Restricted Person and Issuer-Restricted Person** - Where a dealer-restricted person is also an issuer-restricted person the exemptions in subsections (4), (6), (7) and (8) continue to be available to the dealer-restricted person.

6. Rule 7.8 is deleted.

The Policies under the Universal Market Integrity Rules are hereby amended as follows:

1. The following is added as Policy 1.1:

Policy 1.1 - Definitions

Part 1 – Definition of “connected security”

The definition of a “connected security” includes, among other things, a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may “significantly determine” the value of the offered security. The Market Regulator takes the view that, absent other mitigating factors, a connected security “significantly determines” the value of the offered security, if, in whole or in part, it accounts for more than 25% of the value of the offered security.

Part 2 – Definition of “Exchange-traded Fund”

An “Exchange-traded Fund” is defined, in part, as a mutual fund designated by the Market Regulator as an exchange-traded fund for the purposes of the Rule. As guidance, an exchange-traded fund may be designated by the Market Regulator where it is determined that it would be difficult to manipulate the price of units of the mutual fund.

It would be the intention of the Market Regulator that the designation of a security would be done after consultation with the Ontario Securities Commission or other applicable securities regulatory authority. Acceptance of the designation by applicable securities regulatory authorities would be a pre-condition to any designation of a security as an “Exchange-traded Fund”. Other factors which the Market Regulator would take into account are:

- the liquidity or public float of the security (or the underlying securities which comprise the portfolio of the mutual fund);
- whether the units are redeemable at any time for a “basket” of the underlying securities in addition to cash;
- whether a “basket” of the underlying securities may be exchanged at any time for units of the fund;
- whether the fund tracks a recognized index on which information is publicly disseminated and generally available through the financial media; and
- whether derivatives based on units of the fund, the underlying index or the underlying securities are listed on a marketplace.

None of these additional five factors is determinative in and of itself and each security will be evaluated on its own merits before a request is made to the applicable securities regulatory authority to concur in the designation.

2. The following is added as Policy 1.2:

Policy 1.2 - Interpretation

Part 1 – Meaning of “acting jointly or in concert”

The definitions of a “dealer-restricted person” and “issuer-restricted person” include a person acting jointly or in concert with a person that is also a dealer-restricted person or an issuer-restricted person, as applicable, for a particular transaction. For the purposes of these

definitions, “acting jointly or in concert” has a similar meaning to that phrase as defined in section 91 of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation, with necessary modifications. In the context of these definitions only, it is a question of fact whether a person is acting jointly or in concert with a dealer- or issuer-restricted person and, without limiting the generality of the foregoing, every person who, as a result of an agreement, commitment or understanding, whether formal or informal, with a dealer-restricted person or an issuer-restricted person, bids for or purchases any restricted security will be presumed to be acting jointly or in concert with such dealer- or issuer-restricted person.

Part 2 – Meaning of “selling process has ended”

The definition of “restricted period”, with respect to a prospectus distribution and a “restricted private placement”, refers to the end of the period as the date that the selling process ends and all stabilization arrangements relating to the offered security are terminated. Rule 1.2(6)(a) provides interpretation as to when the selling process is considered to end. As further clarification, the selling process is considered to end for a prospectus distribution when the receipt for the prospectus has been issued, the Participant has distributed all securities allocated to it and, is no longer stabilizing, all selling efforts have ceased and the syndicate is broken. Selling efforts have ceased when the Participant is no longer making efforts to sell, and there is no intention to exercise an over-allotment option other than to cover the syndicate’s short position. If the Participant or syndicate subsequently exercises an over-allotment option in an amount that exceeds the syndicate short position, the selling efforts would not be considered to have ceased. Securities allocated to a Participant that are held and transferred to the inventory account of the Participant at the end of the distribution are considered distributed. Subsequent sales of such securities are secondary market transactions and should occur on a marketplace subject to any applicable exemptions (unless the subsequent sale transaction is a distribution by prospectus). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the inventory account of the Participant.

3. The following is added as Policy 7.7:

Policy 7.7 – Trading During Certain Securities Transactions

Part 1 – Manipulative or Deceptive Activity

Provisions prohibiting manipulative or deceptive activities, including activities that may create misleading pricing or trading activity that is detrimental to investors and the integrity of the markets, are contained in Rule 2.2. Rule 7.7 generally prohibits purchases of or bids for restricted securities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. Rule 7.7 also provides certain exemptions to permit purchases and bids in situations where there is no, or a very low possibility of manipulation. However, the Market Regulator is of the view that notwithstanding that certain trading activities are permitted under Rule 7.7, these activities continue to be subject to the general provisions relating to manipulative or deceptive activities in Rule 2.2 and the provisions on manipulation and fraud found in applicable securities legislation such that any activities carried out in accordance with Rule 7.7 must still meet the spirit of the general anti-manipulation provisions.

Part 2 - Market Stabilization and Market Balancing

Rule 7.7(4)(a) provides a dealer-restricted person with an exemption from the prohibitions in subsection (1) for market stabilization and market balancing activities subject to price limitations. Market stabilization and market balancing activities should be engaged in for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security.

The Market Regulator considers it to be inappropriate for a dealer to engage in market stabilization activities in circumstances where dealer knows or should reasonably know that the market price is not fairly and properly determined by supply and demand. This might exist where, for example, the dealer is aware that the market price is a result of inappropriate activity by a market participant or that there is undisclosed material information regarding the issuer.

Market balancing activities should contribute to a fair and orderly market by contributing to price continuity and depth and by minimizing supply-demand disparity. Market balancing does not seek to prevent or unduly retard any price movements, but merely to prevent erratic or disorderly changes in price.

Part 3 – Short Position Exemption

Rule 7.7(4)(h) provides an exemption from the prohibitions in subsection (1) for a dealer-restricted person in connection with a bid for or purchase to cover a short position provided that short position was entered into before the commencement of the restricted period. Short positions entered into during the restricted period may be covered by purchases made in reliance upon the market stabilization exemption in Rule 7.7(4)(a), subject to the price limits set out in that exemption. (See “Part 5 – Trading Pursuant to Market Maker Obligations” for a discussion of the ability of persons with Market Maker Obligations to cover short positions arising during the restricted period pursuant to their Market Maker Obligations.)

Part 4 – Research

The Market Regulator is of the view that although sections 4.1 and 4.2 of OSC Rule 48-501 do permit a dealer-restricted person to disseminate research reports, this dissemination continues to be subject to the usual restrictions that are applicable to a dealer-restricted person in possession of material information regarding the issuer that has not been generally disclosed.

Rule 7.7(6) provides circumstances where a dealer-restricted person may publish or disseminate information, an opinion, or a recommendation relating to the issuer of a restricted security. The Rule requires that the information, opinion or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person. The Market Regulator considers that it is a question of fact whether a publication was disseminated “with reasonable regularity” and whether it was in the “normal course of business”. A research publication would not likely be considered to have been published with reasonable regularity if it had not been published within the previous twelve month period or there had been no coverage of the issuer within the previous twelve month period. The nature and extent of the published information should also be consistent with prior publications and the dealer should not undertake new initiatives in the context of the distribution. For example, the inclusion of projections of issuers’ earnings and revenues would likely only be permitted if they had previously been included on a regular basis. The Market Regulator may consider the distribution channels for the dissemination of the publication when considering whether a publication was “in the normal course of business”. The research should be distributed through the dealer-restricted person’s usual research distribution channels and should not be targeted or distributed specifically to prospective investors in the distribution as part of a marketing effort. However, the research may be

distributed to a prospective investor if that investor was previously on the mailing list for the research publication.

Rule 7.7(6)(b) requires that the information, opinion or recommendation includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry. In this context, reference should be made to the relevant industry when determining what constitutes a "substantial number of issuers". Generally, the Market Regulator would consider a minimum of six issuers to be a sufficient number. However, where there are less than six issuers in an industry, then all issuers should be included in the research report, and in any event the number of issuers should not be less than three.

Part 5 – Trading Pursuant to Market Maker Obligations

Under Rule 7.7(7)(b), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account, purchase a restricted security pursuant to their Market Making Obligations. Not every purchase of a restricted security by a Market Maker will be considered to undertaken pursuant to their Market Making Obligations. For example, if a market making system of a marketplace permits a Market Maker to voluntarily participate in trades that participation may only result in purchases that are:

- made at prices which are permitted by Rule 7.7(4)(a); or
- to cover a short position resulting from sales made under their Market Maker Obligations.

Use of a voluntary participation feature in other circumstances, may result in the Market Maker not complying with the prohibitions or restrictions on trading under Rule 7.7.

"Market Maker Obligations" are defined as the obligations imposed by the rules of an Exchange or a QTRS on a member or user or a person employed by a member or user to guarantee:

- a two-sided market for a particular security on a continuous or reasonably continuous basis; and
- the execution of orders for the purchase or sale of a particular security which are less than a minimum number of units of the security as designated by the marketplace.

Appendix “B”

Universal Market Integrity Rules

AMENDMENTS RESPECTING TRADING DURING CERTAIN SECURITIES TRANSACTIONS MARKED TO THE REVISED PROPOSAL IN MARKET INTEGRITY NOTICE 2004-024

The Universal Market Integrity Rules are hereby amended as follows:

1. Rule 1.1 is amended by deleting the definition of “restricted person”.
2. Rule 1.1 is amended by deleting the definition of “offered security” and substituting the following:

“**offered security**” means all securities of the class of security that is, or will be upon issuance, a listed security or a quoted security and:

- (a) ~~is a listed security or quoted security of the class that~~ is offered pursuant to a prospectus~~public~~ distribution or a restricted private placement;
- (b) is offered by an offeror in a securities exchange take-over bid in respect of which a take-over bid circular or similar document is required to be filed under securities legislation;
- (c) is offered by an issuer in an issuer bid in respect of which an issuer bid circular or similar document is required to be filed under securities legislation; or
- (d) would be issuable to a securityholder pursuant to an amalgamation, arrangement, capital reorganization or similar transaction in relation to which proxies are being solicited from securityholders that will receive the offered security in such circumstances that the issuance would be a distribution exempt from prospectus requirements in accordance with applicable securities legislation~~aw~~,

provided that, if the security described in clauses (a) to (d) is a unit comprised of more than one type or class, each security comprising the unit shall be considered to be an “offered security”.

3. Rule 1.1 is amended by adding the following definitions:

“basket trade” means a simultaneous purchase of at least 10 listed securities or quoted securities, provided that any restricted security comprises not more than 20% of the total value of the transaction.

~~“best independent bid price” means the best bid price, other than a bid that a dealer restricted person knows or ought reasonably to know has been entered by or on behalf of a person that is a dealer restricted person or an issuer restricted person.~~

“connected security” means, in respect of an offered security:

- (a) a listed security or quoted security into which the offered security is immediately convertible, exchangeable or exercisable unless the price at which the offered security is convertible, exchangeable or exercisable is greater than 110% of the best ask price of the listed security or quoted security at the commencement of the restricted period;
- (b) a listed security or quoted security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may significantly determine the value of the offered security;
- (c) if the offered security is a special warrant, a listed security or quoted security which would be issued on the exercise of the special warrant; and
- (d) if the offered security is an equity security, any other equity security of the issuer that is a listed security or quoted security.

"dealer-restricted person" means, in respect of a particular ~~offered~~~~restricted~~ security:

- (a) a Participant that:
 - (i) ~~has been appointed by an issuer to be~~is an underwriter, as defined in applicable securities legislation, in a prospectus public distribution or a restricted private placement,
 - (ii) is participating, as agent but not as an underwriter, in a ~~public distribution~~restricted private placement of securities and:
 - (A) the number of securities to be issued under the restricted private placement ~~which~~ would constitute

more than 10% of the issued and outstanding offered securities, and

(B) the Participant has been allotted or is otherwise entitled to sell more than 25% of the securities to be issued under the restricted private placement,

- (iii) has been appointed by an offeror to be the dealer-manager, manager or soliciting dealer or adviser in respect of a securities exchange take-over bid or issuer bid, or
- (iv) has been appointed by an issuer to be the soliciting dealer or adviser in respect of obtaining securityholder approval for an amalgamation, arrangement, capital reorganization or similar transaction that would result in the issuance of securities that would be a distribution exempt from prospectus requirements in accordance with applicable securities law,

where, in each case, adviser means an adviser whose compensation depends on the outcome of the transaction;

- (b) a related entity of the Participant referred to in clause (a) but does not include such related entity, or any separate and distinct department or division of the Participant if:
 - (i) the Participant maintains and enforces written policies and procedures in accordance with Rule 7.1 that are reasonably designed to prevent the flow of information from the Participant regarding the offered security and the related transaction,
 - (ii) the Participant has no officers or employees that solicit client orders or recommend transactions in securities in common with the related entity, department or division, and
 - (iii) the related entity, department or division does not during the restricted period in connection with the restricted security:
 - (A) act as a market maker (other than pursuant to Market Maker Obligations),
 - (B) solicit client orders, or
 - (C) enter principal orders or otherwise engage in proprietary trading;
- (c) a partner, director, officer, employee or a person holding a similar position or acting in a similar capacity, of the Participant referred to in clause (a) or for a related entity of the Participant referred to in clause (b); or

- (d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

“equity security” means any security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon liquidation or winding-up of the issuer, in its assets.

“highly-liquid security” means 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 Regulation M under the 1934 Act and is considered to be an “actively-traded security” ~~thereunder~~ that regulation.

“issuer-restricted person” means, in respect of a particular ~~offered~~~~restricted~~ security:

- (a) the issuer of the offered security;
- (b) a selling securityholder of the offered security in connection with a prospectus ~~public~~-distribution or restricted private placement;
- (c) an affiliated entity, an associated entity or insider of the issuer or selling securityholder of the offered security as determined in accordance with the provisions of applicable securities legislation but does not include a person who is an insider of an issuer by virtue of clause (c) of the definition of “insider” under the Securities Act (Ontario) and similar provisions of applicable securities legislation if that person:
- (i) does not have, and has not had in the previous 12 months, any board or management representation in respect of the issuer or selling securityholder; and
 - (ii) does not have knowledge of any material information concerning the issuer or its securities that has not been generally disclosed; or
- (d) any person acting jointly or in concert with a person described in clause (a), (b) or (c) for a particular transaction.

“last independent sale price” means the last sale price of a trade, other than a trade that a dealer-restricted person knows or ought reasonably to know has been executed by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person.

~~“public distribution” means a distribution of a security pursuant to:~~

- ~~(a) — a prospectus; or~~
- ~~(b) — a private placement.~~

“restricted period” means, for a dealer-restricted person or an issuer-restricted person, the period:

- (a) in connection with a prospectus public distribution or a restricted private placement of any offered security, commencing two trading days prior to the day the offering price of the offered security is determined and ending on the date the selling process has ended and all stabilization arrangements relating to the offered security are terminated provided that, if the person is a dealer-restricted person, the period shall commence on the date the Participant enters into an agreement or reaches an understanding to participate in the prospectus public distribution or restricted private placement of securities, whether or not the terms and conditions of such participation have been agreed upon if that date is later;
- (b) in connection with a securities exchange take-over bid or issuer bid, commencing on the date of dissemination of the securities exchange take-over bid circular or issuer bid circular or similar document and ending with the termination of the period during which securities may be deposited under such bid, including any extension thereof, or the withdrawal of the bid; and
- (c) in connection with an amalgamation, arrangement, capital reorganization or similar transaction, commencing on the date of dissemination of the information circular for such transaction and ending on the date for approval of the transaction by the securityholders that will receive the offered security or the termination of the transaction by the issuer or issuers.

“restricted private placement” means a distribution of offered securities made pursuant to clause 72(1)(b) of the Securities Act (Ontario) or section 2.3 of Ontario Securities Commission Rule 45-501 - Exempt Distributions or similar provisions of applicable securities legislation.

“restricted security” means:

- (a) the offered security; or
- (b) any connected security.

4. Rule 1.2 is amended by adding the following subsections:

(6) For the purposes of the definition of “restricted period”:

(a) the selling process shall be considered to end:

(i) in the case of a prospectus distribution ~~pursuant to a prospectus~~, if a receipt has been issued for the final prospectus by the applicable securities regulatory authority and the Participant has allocated all of its portion of the securities to be distributed under the prospectus and all selling efforts have ceased~~delivered to each subscriber a copy of the prospectus as required by applicable securities legislation~~, and

(ii) in the case of a restricted private placement, the Participant has allocated all of its portion of the securities to be distributed under the offering ~~and delivered to each subscriber a copy of all offering documents required to be provided to subscribers in connection with such offering~~; and

(b) stabilization arrangements shall be considered to have terminated in the case of a syndicate of underwriters or agents when, in accordance with the syndication agreement, the lead underwriter or agent determines that the syndication agreement has been terminated such that any purchase or sale of a restricted security by a Participant after the time of termination is not subject to the stabilization arrangements or otherwise made jointly for the Participants that were party to the stabilization arrangements.

(7) Where used to indicate a relationship with an entity, associated entity has the meaning ascribed to the term "associate" in applicable securities legislation and also includes any person of

which the entity beneficially owns voting securities carrying more than 10 per cent of the voting rights attached to all outstanding voting securities of the person.

5. Rule 7.7 is deleted and the following substituted:

Trading During Certain Securities Transactions

- (1) **Prohibitions** - Except as permitted, a dealer-restricted person shall not at any time during the restricted period:
 - (a) bid for or purchase a restricted security for an account:
 - (i) of a dealer-restricted person, or
 - (ii) over which the dealer-restricted person exercises direction or control; or
 - (b) attempt to induce or cause any person to purchase a restricted security.
- (2) **Prohibitions on Acting for Issuer-Restricted Persons** - Except as permitted, if a dealer-restricted person knows or ought reasonably to know that a person is an issuer-restricted person, the dealer-restricted person shall not at any time during the restricted period applicable to a particular issuer-restricted person bid for or purchase a restricted security for the account of that issuer-restricted person or an account over which that issuer-restricted person exercises direction or control.
- (3) **Deemed Recommencement of a Restricted Period** - If a Participant appointed to be an underwriter in a prospectus~~public~~ distribution or a restricted private placement receives a notice or notices of the exercise of statutory rights of withdrawal or rights of rescission from purchasers of, in the aggregate, not less than 5% of the offered securities allotted to or acquired by the Participant in connection with the ~~public~~prospectus distribution or the restricted private placement then a restricted period shall be deemed to have commenced upon receipt of such notice or notices and shall be deemed to have ended at the time the Participant has distributed its participation, including the securities that were the subject of the notice or notices of the exercise of statutory rights of withdrawal or rights of rescission.

(4) **Exemptions** - Subsection (1) does not apply to a dealer-restricted person in connection with:

(a) market stabilization or market balancing activities where the bid for or purchase of a restricted security is for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security provided that the bid or purchase is at a price which does not exceed the lesser of:

(i) in the case of an offered security:

(A) the price at which the offered security will be issued in a ~~prospectus~~public distribution or restricted private placement, if that price has been determined, ~~and otherwise, the last independent sale price~~, and

(B) the ~~best~~last independent ~~bid~~sale price at the time of the entry on a marketplace of the order to bid or purchase,

(ii) in the case of a connected security:

(A) the ~~last~~best independent ~~sale~~bid price at the commencement of the restricted period, and

(B) the ~~best~~last independent ~~bid~~sale price at the time of the entry on a marketplace of the order to bid or purchase,

provided that:

~~(iii) — if the dealer-restricted person enters the bid prior to the commencement of trading on a trading day, the price also does not exceed the last sale price of the restricted security on the previous trading day, and~~

~~(iv) — if the restricted security has not previously traded on a marketplace, the price also does not exceed the price of the last trade of the security executed on an organized regulated market outside of Canada that publicly disseminates details of trades executed on that market other than a trade that the dealer-restricted person knows or ought reasonably to know has been entered by or on behalf of a person that is a dealer-restricted person or an issuer-restricted person;~~

(b) a restricted security that is:

- (i) a highly-liquid security,
 - (ii) a unit of an Exchange-traded Fund, or
 - (iii) a connected security of a security referred to in subclause (i) or (ii);
- (c) a bid or purchase by a dealer-restricted person on behalf of a client, other than a client that the dealer-restricted person knows or ought reasonably to know is an issuer-restricted person provided that:
 - (i) the client order has not been solicited by the dealer-restricted person, or
 - (ii) if the client order was solicited, the solicitation by the dealer-restricted person occurred prior to the commencement of the restricted period;
- (d) the exercise of an option, right, warrant or a similar contractual arrangement held or entered into by the dealer-restricted person prior to the commencement of the restricted period;
- (e) a bid for or purchase of a restricted security is made pursuant to a Small Securityholder Selling and Purchase Arrangement undertaken in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;
- (f) the solicitation of a tender of securities to a securities exchange take-over bid or issuer bid;
- (g) a subscription for or purchase of an offered security pursuant to a prospectus^{public} distribution or restricted private placement;
- (h) a bid or purchase of a restricted security to cover a short position entered into prior to the commencement of the restricted period;
- (i) a bid or purchase of a restricted security is solely for the purpose of rebalancing a portfolio, the composition of which is based on an index as designated by the Market Regulator, to reflect an adjustment made in the composition of the index;
- (j) a purchase that is or a bid that on execution would be:
 - (i) a basket trade, or
 - (ii) a Program Trade; or

- (k) a bid for a purchase of a restricted security for an arbitrage account and the dealer-restricted person knows or has reasonable grounds to believe that a bid enabling the dealer-restricted person to cover the purchase is then available and the dealer-restricted person intends to accept such bid immediately.

- (5) **Exemptions on Acting for an Issuer-restricted Person** - Subsection (2) does not apply to a dealer-restricted person in connection with:
 - (a) the exercise by an issuer-restricted person of an option, right, warrant, or a similar contractual arrangement held or entered into by the issuer-restricted person prior to the commencement of the restricted period;
 - (b) a bid or purchase by an issuer-restricted person of a restricted security pursuant to a Small Securityholder Selling and Purchase Arrangement made in accordance with National Instrument 32-101 or similar rules applicable to any marketplace on which the bid or purchase is entered or executed;
 - (c) an issuer bid described in clauses 93(3)(a) through (d) of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation if the issuer did not solicit the sale of the securities sold under those provisions;
 - (d) the solicitation of the tender of securities to a securities exchange take-over bid or issuer bid; or
 - (e) a subscription for or purchase of an offered security pursuant to a prospectus public distribution or a restricted private placement.

- (6) **Compilations and Industry Research** - Despite subsection (1), a dealer-restricted person may, if permitted under~~in accordance with~~ applicable securities legislation, publish or disseminate any information, opinion or recommendation relating to the issuer of a restricted security if the~~provided that such~~ information, opinion or recommendation:
 - ~~(a)~~ — is ~~contained~~ in a publication ~~that~~ which:
 - ~~(i)~~ — is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person; and:
 - (a) the restricted security is a highly-liquid security; or

- ~~(b)~~ the publication ~~and (ii)~~ (i) includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer's industry or contains a comprehensive list of securities currently recommended by the dealer-restricted person; and
- ~~(b)~~ (ii) ~~is given~~ no materially greater space or prominence to the information, opinion or recommendation related to the restricted security or the issuer of the restricted security in that publication than that given to other securities or issuers.

(7) Transactions by Person with Market Maker Obligations - Despite subsection (1), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account:

- (a) with the prior approval of a Market Integrity Official, enter a bid to move the calculated opening price of a restricted security to a more reasonable level;
- (b) purchase a restricted security pursuant to their Market Maker Obligations; and
- (c) bid for or purchase a restricted security:
 - (i) that is traded on another market for the purpose of matching a higher-priced bid posted on such market,
 - (ii) that is convertible, exchangeable or exercisable into another listed security for the purpose of maintaining an appropriate conversion, exchange or exercise ratio, and
 - (iii) to cover a short position resulting from sales made under their Market Maker Obligations.

(8) Transactions by the Derivatives Market Maker – Despite subsection (1), a dealer-restricted person who is a derivatives market maker with responsibility for a derivative security the underlying interest of which is a restricted security may, for their derivatives market making trading account, bid for or purchase a restricted security if:

- (a) the restricted security is the underlying security of the option for which the person is the specialist;

- (b) there is not otherwise a suitable derivative hedge available; and
- (c) such bid or purchase is:
 - (ii) for the purpose of hedging a pre-existing options position,
 - (ii) reasonably contemporaneous with the trade in the option, and
 - (iii) consistent with normal market-making practice.

(9) **Application of Exemptions to a Dealer-Restricted Person and Issuer-Restricted Person**

Where a dealer-restricted person is also an issuer-restricted person the exemptions in subsections (4), (6), (7) and (8) continue to be available to the dealer-restricted person.

6. Rule 7.8 is deleted.

The Policies under the Universal Market Integrity Rules are hereby amended as follows:

1. The following is added as Policy 1.1: Policy 1.1 - Definitions

Part 1 – Definition of “connected security”

The definition of a “connected security” includes, among other things, a security of the issuer of the offered security or another issuer that, according to the terms of the offered security, may “significantly determine” the value of the offered security. The Market Regulator takes the view that, absent other mitigating factors, a connected security “significantly determines” the value of the offered security, if, in whole or in part, it accounts for more than 25% of the value of the offered security.

Part 2 – Definition of “Exchange-traded Fund”

An “Exchange-traded Fund” is defined, in part, as a mutual fund designated by the Market Regulator as an exchange-traded fund for the purposes of the Rule. As guidance, an exchange-traded fund may be designated by the Market Regulator where it is determined that it would be difficult to manipulate the price of units of the mutual fund.

It would be the intention of the Market Regulator that the designation of a security would be done after consultation with the Ontario Securities Commission or other applicable securities regulatory authority. Acceptance of the designation by applicable securities regulatory authorities would be a pre-condition to any designation of a security as an “Exchange-traded Fund”. Other factors which the Market Regulator would take into account are:

- the liquidity or public float of the security (or the underlying securities which comprise the portfolio of the mutual fund);
- whether the units are redeemable at any time for a “basket” of the underlying securities in addition to cash;
- whether a “basket” of the underlying securities may be exchanged at any time for units of the fund;
- whether the fund tracks a recognized index on which information is publicly disseminated and generally available through the financial media; and
- whether derivatives based on units of the fund, the underlying index or the underlying securities are listed on a marketplace.

None of these additional five factors is determinative in and of itself and each security will be evaluated on its own merits before a request is made to the applicable securities regulatory authority to concur in the designation.

2. The following is added as Policy 1.2:

Policy 1.2 - Interpretation

Part 1 – Meaning of “acting jointly or in concert”

The definitions of a “dealer-restricted person” and “issuer-restricted person” include a person acting jointly or in concert with a person that is also a dealer-restricted person or an issuer-restricted person, as applicable, for a particular transaction. For the purposes of these definitions, “acting jointly or in concert” has a similar meaning to that phrase as defined in section 91 of the *Securities Act* (Ontario) or similar provisions of applicable securities legislation, with necessary modifications. In the context of these definitions only, it is a question of fact whether a person is acting jointly or in concert with a dealer- or issuer-restricted person and, without limiting the generality of the foregoing, every person who, as a result of an agreement, commitment or understanding, whether formal or informal, with a dealer-restricted person or an issuer-restricted person, bids for or purchases any restricted

security will be presumed to be acting jointly or in concert with such dealer- or issuer-restricted person.

Part 2 – Meaning of “selling process has ended”

The definition of “restricted period”, with respect to a prospectus distribution and a “restricted private placement”, refers to the end of the period as the date that the selling process ends and all stabilization arrangements relating to the offered security are terminated. Rule 1.2(6)(a) provides interpretation as to when the selling process is considered to end. As further clarification, the selling process is considered to end for a prospectus distribution when the receipt for the prospectus has been issued, the Participant has distributed all securities allocated to it and, is no longer stabilizing, all selling efforts have ceased and the syndicate is broken. Selling efforts have ceased when the Participant is no longer making efforts to sell, and there is no intention to exercise an over-allotment option other than to cover the syndicate’s short position. If the Participant or syndicate subsequently exercises an over-allotment option in an amount that exceeds the syndicate short position, the selling efforts would not be considered to have ceased. Securities allocated to a Participant that are held and transferred to the inventory account of the Participant at the end of the distribution are considered distributed. Subsequent sales of such securities are secondary market transactions and should occur on a marketplace subject to any applicable exemptions (unless the subsequent sale transaction is a distribution by prospectus). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the inventory account of the Participant.

3. The following is added as Policy 7.7:

Policy 7.7 – Trading During Certain Securities Transactions

Part 1 – Manipulative or Deceptive Activity

Provisions prohibiting manipulative or deceptive ~~activities~~trading, including activities that may create misleading pricing or trading activity that is detrimental to investors and the integrity of the markets, are contained in Rule 2.2. Rule 7.7 generally prohibits purchases of or bids for restricted securities in circumstances where there is heightened concern over the possibility of manipulation by those with an interest in the outcome of the distribution or transaction. Rule 7.7 also provides certain exemptions to permit purchases and bids in situations where there is no, or a very low possibility of manipulation. However, the Market Regulator is of the view that notwithstanding that certain trading activities

are permitted under Rule 7.7, these activities continue to be subject to the general provisions relating to manipulative or deceptive ~~activities~~ trading in Rule 2.2 and the provisions on manipulation and fraud found in applicable securities legislation such that any activities carried out in accordance with Rule 7.7 must still meet the spirit of the general anti-manipulation provisions.

Part 2 - Market Stabilization and Market Balancing

Rule 7.7(4)(a) provides a dealer-restricted person with an exemption from the prohibitions in subsection (1) for market stabilization and market balancing activities subject to price limitations. Market stabilization and market balancing activities should be engaged in for the purpose of maintaining a fair and orderly market in the offered security by reducing the price volatility of or addressing imbalances in buying and selling interests for the restricted security.

The Market Regulator considers it to be inappropriate for a dealer to engage in market stabilization activities in circumstances where dealer knows or should reasonably know that the market price is not fairly and properly determined by supply and demand. This might exist where, for example, the dealer is aware that the market price is a result of inappropriate activity by a market participant or that there is undisclosed material information regarding the issuer.

Market balancing activities should contribute to a fair and orderly market by contributing to price continuity and depth and by minimizing supply-demand disparity. Market balancing does not seek to prevent or unduly retard any price movements, but merely to prevent erratic or disorderly changes in price.

Part 3 – Short Position Exemption

Rule 7.7(4)(h) provides an exemption from the prohibitions in subsection (1) for a dealer-restricted person in connection with a bid for or purchase to cover a short position provided that short position was entered into before the commencement of the restricted period. Short positions entered into during the restricted period may be covered by purchases made in reliance upon the market stabilization exemption in Rule 7.7(4)(a), subject to the price limits set out in that exemption. (See “Part 5 – Trading Pursuant to Market Maker Obligations” for a discussion of the ability of persons with Market Maker Obligations to cover short positions arising during the restricted period pursuant to their Market Maker Obligations.)

Part 4 – Research

The Market Regulator is of the view that although sections 4.1 and 4.2 of OSC Rule 48-501 ~~does not~~ permit a dealer-restricted person ~~dealers~~ to disseminate research reports, this dissemination continues to be subject to the usual restrictions that are applicable to a ~~where the dealer-restricted person or the analyst covering the issuer of the offered security or any other representative of the dealer is~~ in possession of material information regarding the issuer that has not been generally ~~publicly~~ disclosed.

Rule 7.7(6) provides circumstances where a dealer-restricted person may publish or disseminate information, an opinion, or a recommendation relating to the issuer of a restricted security. The Rule requires that the information, opinion or recommendation is contained in a publication which is disseminated with reasonable regularity in the normal course of business of the dealer-restricted person. The Market Regulator considers that it is a question of fact whether a publication was disseminated “with reasonable regularity” and whether it was in the “normal course of business”. A research publication would not likely be considered to have been published with reasonable regularity if it had not been published within the previous twelve month period or there had been no coverage of the issuer within the previous twelve month period. The nature and extent of the published information should also be consistent with prior publications and the dealer should not undertake new initiatives in the context of the distribution. For example, the inclusion of projections of issuers’ earnings and revenues would likely only be permitted if they had previously been included on a regular basis. The Market Regulator may consider the distribution channels for the dissemination of the publication when considering whether a publication was “in the normal course of business”. The research should be distributed through the dealer-restricted person’s usual research distribution channels and should not be targeted or distributed specifically to prospective investors in the distribution as part of a marketing effort. However, the research may be distributed to a prospective investor if that investor was previously on the mailing list for the research publication.

Rule 7.7(6)(b) requires that the information, opinion or recommendation includes similar coverage in the form of information, opinions or recommendations with respect to a substantial number of issuers in the issuer’s industry. In this context, reference should be made to the relevant industry when determining what constitutes a “substantial number of issuers”. Generally, the Market Regulator would consider a minimum of six issuers to be a sufficient number. However, where there are less than six issuers in an industry, then all issuers should be included in the research report, and in any event the number of issuers should not be less than three.

Part 5 – Trading Pursuant to Market Maker Obligations

Under Rule 7.7(7)(b), a dealer-restricted person with Market Maker Obligations for a restricted security may, for their market making trading account, purchase a restricted security pursuant to their Market Making Obligations. Not every purchase of a restricted security by a Market Maker will be considered to be undertaken pursuant to their Market Making Obligations. For example, if a market making system of a marketplace permits a Market Maker to voluntarily participate in trades that participation may only result in purchases that are:

- made at prices which are permitted by Rule 7.7(4)(a); or
- to cover a short position resulting from sales made under their Market Maker Obligations.

Use of a voluntary participation feature in other circumstances, may result in the Market Maker not complying with the prohibitions or restrictions on trading under Rule 7.7.

“Market Maker Obligations” are defined as the obligations imposed by the rules of an Exchange or a QTRS on a member or user or a person employed by a member or user to guarantee:

- a two-sided market for a particular security on a continuous or reasonably continuous basis; and
- the execution of orders for the purchase or sale of a particular security which are less than a minimum number of units of the security as designated by the marketplace.

~~As such, a Market Maker on the Toronto Stock Exchange will be entitled to make bids or purchases at prices above those permitted by Rule 7.7(4)(a) if the bid or purchase is required to satisfy:~~

- ~~• the spread goal commitments of the Market Maker;~~
- ~~• the minimum guaranteed fill obligation; or~~
- ~~• the obligation for the trading of odd lots.~~

Appendix “C”

OSC RULE 48-501 AND AMENDMENTS TO THE UNIVERSAL MARKET INTEGRITY RULES

Joint Summary of Comments and Responses

On September 10, 2004, the Ontario Securities Commission (“OSC”) published for comment the proposed OSC Rule 48-501 (the “OSC rule”) and Market Regulation Services Inc. (“RS”) issued Market Integrity Notice 2004-024 requesting comments on proposed amendments to the Universal Market Integrity Rules (“UMIR”) respecting restrictions and prohibitions on trading during certain securities transactions, including distributions, amalgamations, issuer bids and takeover bids. Comments received by the OSC in respect of the OSC rule were generally addressed to RS and concerned amendments to UMIR as well. Accordingly, a Joint Summary of Comments and Responses has been prepared reflecting the responses of the OSC and RS on their respective proposed rules (collectively, the “rules”). The OSC and RS received comments from the following persons:

BMO Nesbitt Burns
Canaccord Capital Inc.
CIBC World Markets Inc.
Dorsey & Whitney LLP
National Bank Financial Inc.
Ontario Teachers’ Pension Plan
Osler, Hoskin & Harcourt
RBC Financial Group
Scotia Capital Inc.
UBS Securities Inc.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
General Comments			
1.	Price References in Rules	The commenter noted that all references to price variables in the rules should be modified to give effect to prices on the principal market. The principal market should be defined to include any of the Canadian or US exchanges or NASDAQ which has the largest aggregate reported trading volume for the class of securities in the previous 12 months.	The concept of a “principal market” was deleted, effective December 31, 2003, from National Instrument 21-101 – Marketplace Operation. Price references in the rules are intended to refer to trading on any marketplace in Canada. Price variables do not reference foreign markets for a variety of reasons including difficulties in determining appropriate and consistent foreign exchange rates and lack of general access to comprehensive trade data.
2.	Extraterritorial Application of Rules	A comment was received that the rules did not clearly indicate whether they were to apply to trading outside of Canada and noted that if they were not to apply to such trading, they could be easily circumvented by trading conducted on a US or other foreign market. Further, if the intention is to have the rules applied to all	The OSC Rule applies to all trading activity conducted by an Ontario resident or in Ontario but does not purport to regulate the trading activity of a foreign resident outside of Ontario. However, an Ontario resident would not be permitted to carry out prohibited activities indirectly through a related entity, affiliate or associate that is a foreign

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		<p>dealers worldwide for a Canadian distribution the concept has not been sufficiently articulated. The commenter questions whether the OSC could enforce such restrictions where they involved trading or persons outside of Ontario.</p> <p>The commenter suggested that an offeror and managing underwriter could jointly elect to be subject to Regulation M under the <i>Securities and Exchange Act of 1934</i> ("Reg M") rather than the rules if the distribution involved an inter-listed security. The commenter stated that this would reduce confusion regarding regulation.</p>	<p>resident. The UMIR provision will apply to trading by a Participant regardless of the jurisdiction in which the trade or activity occurs.</p> <p>To the extent that a security is inter-listed with a US market, the security will be exempt from the prohibitions and restrictions under the rules if the security meets the criteria for an "actively-traded security" under Reg M. If the bulk of the trading activity in an inter-listed security occurs outside of Canada and trading in the security is subject to the restrictions under Reg M, RS may grant an exemption from compliance with the UMIR provision on the condition that there is compliance with Reg M. In the view of RS, it is appropriate to grant such exemptions on a case by case basis taking into account the circumstances of the distribution or transaction.</p> <p>The OSC and RS are of the view that allowing a dealer to elect to be subject to Reg M rather than the OSC rule or UMIR is not practical from the perspective of monitoring and enforcement.</p>
3.	Publication of Final Amendment Prior to Implementation	A commenter wrote that it would be helpful to publish the final form of the rules some period (two weeks) before implementation to allow dealers and other regulated persons an opportunity to amend procedures and policies to ensure compliance.	The OSC rule will become effective on May 9, 2005 unless the Minister responsible for the administration of the <i>Securities Act</i> (Ontario) rejects the OSC rule or returns it to the Commission for further consideration. The amendments to UMIR will become effective on the implementation date of the OSC rule.
4.	Definition of "marketplace"	A commenter noted that the definition of "marketplace" in the Companion Policy to 48-501 references the term "recognized marketplace" and National Instrument 21-101 – Marketplace Operation. The commenter expressed a concern that this reference may exclude trading activity on ATSs from being counted when a security is a "highly-liquid security". The commenter expressed a belief that trading activity on an ATS should be counted when determining whether a security is a "highly-liquid security" and suggested that the reference to "recognized" be deleted in the Companion Policy.	The intention was that the trading activity on all marketplaces in Canada as defined in National Instrument 21-101 – <i>Marketplace Operation</i> be considered when determining whether a security is a "highly-liquid security". Appropriate changes to the Companion Policy have been made to clarify this point.
Definitions			
5.	<p>"connected security"</p> <p>48-501 s.1.1</p> <p>UMIR s.1.1</p>	One commenter noted that the definition of "reference security" in Reg M does not include a requirement that the connected security must be a security into which the offered security is immediately convertible nor does it include a threshold price for conversion, exchange or exercise. The commenter urged that the definition in the rules be conformed to Reg M and expressed a belief that dealer activity in "connected securities" would be suspect even if the conditions excluding it from restrictions applied.	The OSC and RS considered adopting a definition similar to the definition of "reference security" in Reg M but, in our view, the restrictions that would be imposed by the adoption of such a definition were unnecessary. The definition of "connected security" was intended to include securities into which the offered security could be converted during the course of the relevant securities transaction. The OSC and RS believe that if a security is not immediately convertible or if the conversion, exchange or exercise price exceeds the ask price for the security by 110%, there is a reduced likelihood that changes in the price of that

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
			security will have a substantial impact on the price of the offered security. As such, the risk of manipulation of the price of the offered security is also greatly reduced.
6.	“dealer-restricted period” – commencement – public distribution 48-501 s.1.1 UMIR s.1.1	It was submitted that the rules indicate that the commencement of the dealer-restricted period (commencing the later of two business days prior to the date the offering price is determined and the date that the dealer has been retained to participate in the offering) is different from the restricted period currently set out in Reg M. The commenter also indicated that the Securities and Exchange Commission (“SEC”) intends to amend the section and urged that the proposed amendment be evaluated.	The OSC and RS have decided to maintain the two-day period. Comment was specifically requested on this issue previously and no commenter expressed support for Reg M’s tiered approach for the commencement of the restricted period. Comments provided were supportive of maintaining a single, two-day period. However, the OSC and RS will monitor proposed amendments to Reg M and will revise the rules at a future date, if appropriate.
7.	“dealer-restricted period” – commencement of the restricted period 48-501 s.1.1 UMIR s.1.1	A commenter stated that knowledge of an agreement, entered into by the dealer, relating to the dealer’s involvement in a distribution will be limited to a small group of persons who may be behind an “information wall” to ensure the limited distribution of non-public information. The commenter requested additional direction on how the restrictions are to be implemented without broadly disclosing the distribution within the organization.	The restricted period for prospectus distribution or a restricted private placement commences on the <u>later</u> of two day prior to pricing of the offering and the date the dealer enters into an agreement to participate in the distribution. As such, the earliest that the restricted period can commence is two days prior to pricing when knowledge of the distribution would be public. While the OSC and RS are aware that the imposition of trading restrictions within a dealer firm will signal to all those made aware of the restrictions that a transaction is pending, they believe that the imposition of restrictions is necessary. If certain information has not been made public, it is necessary to minimize the effect of information leakage, dealers are currently expected to have policies in place which ensure that restrictions are imposed immediately upon the commencement of a restricted period even though the particulars of the distribution or other transaction are not disclosed.
8.	“dealer-restricted period” – commencement of restricted period for amalgamation, arrangement, capital reorganization 48-501 s.1.1 UMIR s.1.1	One submission was received supporting the change in the commencement of the restricted period for amalgamations, arrangements, etc from the date of the announcement of the transaction to the date of the information circular (circular). Another commenter suggested that the date of dissemination of circular may be a preferable date for the commencement of restrictions as the date of the circular may be an arbitrary date fixed by the person drafting the circular. The commenter noted that the ability to pre-date or post-date the circular may result in difficulties in determining when the restrictions should be applied. The commenter suggested that the commencement of restrictions commence on the date of commencement of distribution of the circular in harmonization with Reg M.	The Commission and RS agree with the comment and have made the appropriate changes so that the restrictions will start on the date of the commencement of the distribution of the circular. The Commission and RS staff will monitor proposed amendments to Reg M and respond as considered appropriate.
9.	“dealer-restricted period” –	A commenter was of the view that the rules provide that the dealer-restricted period ends on	Amendments to the rules have been made to clarify that the conclusion of the restricted period

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
	<p>conclusion of restricted period for distribution</p> <p>48-501 ss.1.1 and 1.2</p> <p>UMIR s.1.1</p>	<p>the date the selling process ends and all stabilization arrangements relating to the offered security are terminated and that this is inconsistent with Reg M which provides that restrictions are to be complete upon conclusion of the dealer's participation in the distribution. In addition the commenter indicated that the termination provision lacks sufficient clarity. The commenter recommended that the restriction period end upon the issuance of a receipt for a final prospectus and the completion of all selling efforts by the dealer.</p> <p>Two commenters indicated that the requirement that a receipt for the final prospectus be issued and that the final prospectus be delivered to each subscriber before the restricted period end will unnecessarily extend the restricted period. The commenter indicated that traditionally final prospectuses are only considered to have been received after two business days have passed.</p> <p>One of these commenters expressed a concern that the proposed regulation considers stabilization arrangements to be operative until purchases or sales of restricted securities by a participating dealer are no longer being made jointly for the underwriting syndicate. The commenter noted that where an over-allotment option has been granted to the syndicate these restrictions will continue to apply as long as the syndicate retains an over-allotment short position. The commenter noted that this has the potential of extending the restricted period for as many as 30 days following the closing of the offering. The commenter suggested that the existing rules and practices be retained.</p>	<p>under the rules will be substantially similar to the conclusion of period under Reg M. The rules now reference the completion of the distribution which, for a prospectus distribution will be considered to have ended when a receipt has been issued for the final prospectus, the Participant has allocated its portion of the securities to be distributed provided all selling efforts have ceased. While Reg M uses the language "completion of participation in a distribution", that expression is defined in Rule 100 of Reg M by reference to essentially the same components as are included in the determination of the restricted period for the purpose of the rules.</p> <p>The conclusion of the restricted period under the rules will only require that a receipt for a final prospectus be issued but not that the prospectus be delivered.</p>
10.	<p>"dealer-restricted period" – conclusion of restricted period</p> <p>48-501 s.1.1</p> <p>UMIR s.1.1</p>	<p>A commenter urged that a provision (like Reg M) be added acknowledging that an underwriter who holds securities in their inventory account at the end of distribution will not be subject to restrictions upon resale of the securities unless the subsequent resale qualifies as a distribution.</p>	<p>The OSC and RS agree that securities retained by a dealer at the end of the distribution are to be considered "distributed". Subsequent sales of such securities are secondary market transactions and should occur on a marketplace (unless the subsequent sale transaction is a further distribution). To provide certainty around when the distribution has ended, appropriate steps should be taken to move the securities from the syndication account to the dealer's inventory account. Changes have been made to the Companion Policy and to Policy 1.2 of UMIR to clarify this point.</p>
11.	<p>"dealer-restricted period" – termination of restricted period for amalgamation, arrangement, capital reorganization</p>	<p>One commenter indicated that the termination of the restricted period on the approval of the transaction was inappropriate and that the more appropriate time for termination of the restricted period was on the date of mailing of the information circular. The commenter indicated that the period of time between the distribution of information circulars and the closing can be considerable, particularly where regulatory</p>	<p>The OSC and RS believe that the relevant period, where an incentive exists to manipulate the price of the offered security, is the period leading up to the securityholders' vote on approval of the transaction. As there is an increased incentive to manipulate during this period, the OSC and RS believe that the application of restrictions is appropriate.</p>

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
	48-501 s.1.1 UMIR s.1.1	approval of the transaction is required. The commenter noted that the information circular will provide full disclosure of the particulars of the transaction including all material confidential information in the dealer's possession and that regulators and dealers have processes in place to monitor sales and trading to ensure that no manipulative trading takes place.	
12.	"dealer-restricted period" – Soliciting Dealer Manager 48-501 s.1.1 UMIR s.1.1	A comment was received that the restricted period for the dealer acting as Soliciting Dealer Manager (who is subject to OSC Policy 33-601) should last only during the last ten days of the bid. The commenter indicated a belief that a Soliciting Dealer Manager has no pecuniary interest in the outcome of the vote and therefore little incentive to affect a specific stock price. The commenter indicated that the Soliciting Dealer Manager will have access to certain information relating to the outcome of the vote during the final 10 days which would make the restrictions appropriate.	The provisions in the rules are consistent with the requirements of Reg M. The OSC and RS recognize that a soliciting dealer-manager does not have pecuniary interest in the outcome of the vote but also note that a soliciting dealer-manager may have a "reputational" interest in the outcome. It is the opinion of the OSC and RS that the imposition of restrictions on soliciting dealer-managers is appropriate.
13.	"dealer-restricted person" – scope - agents 48-501 s.1.1 UMIR s.1.1	<p>A commenter noted that the definition of underwriter in the <i>Securities Act</i> (Ontario) (the "Act") already would include a dealer acting as selling agent and indicated a concern that the clause has no purpose unless it is to include selling group participants as restricted parties. The commenter expressed a view that selling group participants should not be restricted parties as they would have little incentive to manipulate.</p> <p>Another commenter expressed a concern that inclusion of transactions involving dealers acting as agent in a public distribution of securities which would constitute more than 10% of the issued and outstanding offered securities would be excessive as there is little real incentive on the part of a dealer to manipulate the price of the security. The restrictions would then be applied to issuers with a relatively small market capitalization which should not be a cause of concern as there would be little incentive to manipulate.</p>	<p>The OSC and RS have amended the definition of "dealer-restricted person" to clarify the application of restrictions.</p> <p>When a Participant is acting as an underwriter, as that term is defined under appropriate securities legislation, for either a prospectus distribution or a restricted private placement, the Participant will be considered to be a "dealer-restricted person". The term "restricted private placement" has been defined in the rules as a distribution of securities pursuant to clause 72(1)(b) of the Act or section 2.3 of OSC Rule 45-501 or similar provisions in applicable securities legislation.</p> <p>When a Participant is acting as an agent, but not as an underwriter, in a restricted private placement of securities, the Participant will be considered to be a "dealer-restricted person" if the size of the private placement and the agent's portion of the offering each reaches a minimum threshold. In particular:</p> <ul style="list-style-type: none"> the number of securities issued under the restricted private placement must constitute more than 10% of the total issued and outstanding securities; and the Participant has been allotted or is entitled to sell not less than 25% of the securities to be issued pursuant to the restricted private placement.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
14.	“dealer-restricted person” – scope - advisers 48-501 s.1.1 UMIR s.1.1	A commenter stated that the requirement that the advisers be provided with compensation which “depends on the outcome of the transaction” provides a broad exemption to the rules which does not exist in Reg M. The commenter noted that an adviser’s desire to enhance its reputation is sufficient motivation for it to engage in manipulative trading and that restrictions should be applied. It was noted that soliciting dealer groups for transactions are not common in the US. In recognizing the different Canadian practice it was suggested that the restriction should be recast to provide a more limited exemption for members of a soliciting dealer group whose compensation is limited to a customary fee for each security tendered.	It is the intention of the OSC and RS that restrictions will apply to an adviser in respect of a securities exchange take-over bid or issuer bid or in respect of obtaining securityholder approval for an amalgamation, arrangement, capital reorganization or similar transaction. In the view of the OSC and RS, it is appropriate to impose restrictions only when the party has a specific financial interest in the outcome of the transaction and that such restrictions are not necessary when a party is merely providing advice for a flat or specified fee. The OSC and RS intend that the rules impose restrictions only on members of the soliciting dealer group who are providing the offeror or issuer with services as an adviser or are playing a key role in soliciting the deposit of securities pursuant to a take-over bid or soliciting support for a specified transaction. If a dealer is only a member of the soliciting dealer group as a result of making themselves available for the deposit of securities for a fee, the restrictions should not apply.
15.	“dealer-restricted person” – 10% threshold 48-501 s.1.1 UMIR s.1.1	One commenter pointed out that Reg M does not provide a threshold under which best efforts offering will not be considered distributions and suggests that the 10% threshold set out in subclause (a)(ii) of the definition be eliminated. The commenter indicated that the 10% threshold does not have any relation to the potential market impact of trading activity conducted by dealer-restricted persons and suggests that the more subjective test relied upon in Reg M of applying the restrictions to distributions which involve the use of special selling efforts.	The OSC and RS believe that the “special selling efforts” test set out in Reg M creates a subjective test which is difficult to apply. It should be noted that the amended version of the rules has deleted the 10% threshold except when a dealer is acting as an agent in a restricted private placement and has been allotted more than 25% of the distribution. The OSC and RS believe that, in relation to the restricted private placement, these thresholds create an objective test which is easy to apply. By setting these thresholds, only dealers with a significant interest in a significant restricted private placement that may have an impact on the market, and in which a dealer-restricted person might have sufficient incentive to manipulate, will be caught.
16.	“dealer-restricted person” – Exception for Related Entities 48-501 s.1.1(b) UMIR s.1.1(b)	Two commenters expressly supported the narrowing of the scope of the definition of dealer-restricted person provided for in the clause 1.1(b) exception where adequate information barriers are in place, noted its consistency with Reg M and urged that the provision be adopted as proposed. A commenter expressed a concern that the carve-out of the definition of “dealer-restricted person” in part (b) would be unlikely to exempt affiliated dealers in the US as it is typical to share information relating to a public distribution with such affiliates.	It should be noted that the carve-out for “related entities” is consistent with Reg M. It should also be noted that “related entity” is defined in UMIR and in s. 1.2(4) of the OSC rule as an affiliated entity of as a person carrying on business in Canada registered as a dealer or adviser. Dealers operating in the US, which are not registered in Canada would not be subject to restrictions. As discussed in Item # 2 above, an Ontario resident would face sanctions if it was found to be carrying out prohibited activities indirectly through a related entity that is a foreign resident.
17.	“dealer-restricted person” – Exception for Related Entities	A commenter stated that clause b(ii) of the definition of “dealer-restricted person” would be difficult to apply as typically employees of a department or division are also employees of the	Under the requirements in clause b(ii) of the definition of “dealer-restricted person”, a related entity, department or division that has employees or officers that solicit client orders or recommend

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
	48-501 s.1.1(b) UMIR s.1.1(b)	dealer as well and, as a result, may not enjoy the benefit of the carve-out. The commenter suggested that additional clarification on the application of the carve-out could be included in the companion policy.	transactions in common with the restricted Participant would not fall within the “carve-out” and would, therefore, be subject to the restrictions and prohibitions under the rules.
18.	“highly-liquid security” 48-501 s.1.1 UMIR s.1.1	A commenter expressed support for the proposal, particularly the exemption from restrictions relating to highly-liquid securities. The commenter also indicated support for the proposal that RS would maintain and distribute a list of securities which would be considered to be highly-liquid.	It should be noted that RS will maintain and distribute a list of securities which, based on data available to RS, fall within 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. RS will not maintain a list of securities considered to be “actively-traded” under Reg M. Persons may rely on this list 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.
19.	“highly-liquid security” – measurement of trading activity 48-501 s.1.1 UMIR s.1.1	A commenter noted that the definition only considers trading on Canadian marketplaces in determining whether a security would qualify as a “highly-liquid security” and does not consider trading volume on other markets around the world. The commenter noted that Reg M takes into account world-wide trading in determining whether a security is an “actively-traded security”. Although the definition of highly-liquid security includes any security that is considered an “actively traded security” under Reg M, the commenter is of the view that it is unfair to treat an issuer differently because it is inter-listed and a portion of its public float is traded in a non-Canadian marketplace.	See the response to Item #1. The OSC and RS recognize that there are practical concerns which arise when there are restrictions on trading on Canadian marketplaces where such trades can occur on a foreign market. The OSC and RS do, however, believe that the test utilized in the definition of the term “highly-liquid security” is more appropriate for securities traded on Canadian marketplaces than the test established in the definition of “actively-traded security” in Reg M.
20.	“issuer-restricted person” – Insider of an Issuer 48-501 s.1.1 UMIR s.1.1	<p>A commenter expressed a concern that insiders of the issuer or a selling securityholder are included as “issuer restricted persons”. The commenter indicated that an insider does not necessarily have an interest in the outcome of a distribution or transaction which is different than a person which is not an insider. The commenter further indicated that an insider does not necessarily have knowledge regarding a distribution that ordinary investors do not possess.</p> <p>In addition, the commenter noted that compliance with rules will be difficult for an insider as the insider may not have sufficient knowledge to determine when an “issuer restricted period” will begin or end.</p> <p>The commenter indicated that they believed that the imposition of trading restrictions in the rules unnecessarily restricted the ability of insiders to conduct trading activity for an extended duration.</p> <p>The commenter also suggested that the</p>	<p>The OSC and RS agree that it may not be appropriate to impose restrictions on an insider of a issuer or selling securityholder solely because they may own in excess of 10% of the voting rights of an issuer. The rules have been amended to provide that an “issuer-restricted person” does not include a person who is an insider of an issuer only by virtue of clause (c) of the definition of “insider” under the Act and provided that person has not had within the preceding 12 months any board or management representation in respect of the issuer and has no knowledge of any material information concerning the issuer or its securities which has not generally been disclosed. This 12 month “cooling-off period” is consistent with a similar provision for an insider to be exempt from the formal valuation requirements on an insider bid under paragraph 2 of section 2.4 of Ontario Securities Commission Rule 61-501 – <i>Insider Bids, Issuer Bids, Going Private Transactions and Related Party Transactions</i>.</p> <p>An “associated entity” is defined to include an</p>

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		definition of "associated entity" should be revised to eliminate the inclusion in the definition of situations where an investor owns more than 10% of the voting securities of the issuer.	entity in which the issuer of the offered security owns 10% of that entity's voting securities thereby making that entity an issuer-restricted person. The OSC and RS believe that this requirement is appropriate and no change has been made.
21.	"offered security" – scope of definition and "public distribution" – scope of definition 48-501 s.1.1 UMIR s.1.1	A commenter expressed a concern that the definition of the term "offered security" is too broad and will apply to distributions of securities which will be outside of present regulation. The commenter noted that the definition, when considered together with the recommended definition of "public offering", will result in restrictions applying to all offerings of debt or equity, whether by prospectus or by way of private placement, and situations where a dealer is an underwriter or a selling agent. The commenter suggests that the rules' application be restricted to securities which are listed or quoted for trading in Canada. The commenter further suggested that "private placement" be defined as an exempt offering comprised of more than 10% of the issued and outstanding securities of a class, to help define the scope of the rules.	The change to the OSC rule was only intended to capture markets where there is mandated transparency of trade information, such as, for example, any marketplace as defined in National Instrument 21-101 – <i>Marketplace Operation</i> . The definitions of offered security and connected security have been revised to reflect this requirement. RS has amended the definition of "offered security" under UMIR to clarify in all circumstances that the security must be a listed or quoted security. A definition of "restricted private placement" has been added in each of the rules. See the response to Item # 13.
Permitted Activities and Exemptions			
22.	Exemptions from Trading Restrictions – Private Placements 48-501, s.3.1(1) UMIR s.7.7(4)(a)	One commenter indicated that Reg M does not provide an exemption from restrictions for private placements but only for Rule 144A offerings to Qualified Institutional Investors of securities not listed on a stock exchange. The commenter wrote that the broad exemption for private placements that is being proposed is not appropriate.	The amendments to the rules impose similar restrictions on both prospectus distributions and restricted private placements. The OSC and RS believe, particularly in the context of the Canadian market, that similar restrictions should be imposed on both private placement and prospectus distributions. The rules have been amended to clarify that a Participant acting as an underwriter in private placement is subject to the restrictions and a Participant acting as a selling agent in a private placement may be subject to the restrictions under the rules if the distribution is of a material size (more than 10% of the issued and outstanding offered securities) and the Participant's participation in the private placement is substantial (the Participant has been allotted more than 25% of the distribution).
23.	Exemptions from Trading Restrictions – Additional Exemptions 48-501, s.3.1(1) UMIR s.7.7(4)	A commenter noted that the rules did not include an exemption from the prohibition on attempting to induce a person to purchase a restricted security issued pursuant to a private placement or marketing activity to induce subscriptions for the private placement. The commenter suggested that an exemption, similar to the exemption in clause 3.1(g) of 48-501 be included for the solicitation of subscriptions pursuant to the private placement.	The solicitation of purchases of an offered security by private placement is exempt under clause 3.1(g) of 48-501, as well as s.7.7(4)(g) of UMIR. In order to clarify the drafting in the rules, the definition of "public distribution" has been replaced by references to "prospectus distribution" and "restricted private placement". See the response to Item # 22.

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
24.	Exemptions from Trading Restrictions 48-501, s.3.1(1) UMIR s.7.7(4)	One commenter expressed their concern that an exemption has not been included to allow dealers to purchase shares to offset positions entered into in error. The commenter indicated that such activity should not be considered to be manipulative.	The OSC and RS do not believe that a specific exemption allowing dealers to cover positions entered into in error is necessary. A Participant who wishes to make a purchase to offset a short position entered into in error should request an exemption on a case-by-case basis based on the circumstances that gave rise to the error and the need to cover that error by a purchase during the restricted period.
25.	Market Stabilization 48-501, s.3.1(1)(a) UMIR s.7.7(4)(a)	<p>A commenter was concerned that the provisions of the rules do not allow a trade to be exempted from the restrictions where the purchase price exceeds the lesser of the last independent sale price or the best independent bid price unduly restricts a dealer's ability to participate in stabilization activities. The commenter suggested that the existing rule allowing a restricted party to purchase below the "last independent sale price" be retained.</p> <p>Another commenter expressed a concern that the proposal to provide an exception to restrictions for purchases at a price which does not exceed the lesser of the issue price (or if not determined the last independent sale price) and the best independent bid price, at the time of the bid may, in certain circumstances may be more restrictive than the current exemption which provides the exemption where the bid is below the lesser of the issue price (if determined) and the last independent sale price. The commenter believes that the last independent sale price is the fairest indicator of the market for a security and should be the appropriate reference for the application of the exemption.</p>	<p>The OSC and RS have harmonized to a certain extent with Reg M, and have modified the rules so that for purposes of market stabilization, bids or purchases may be made at the lesser of the distribution price and the last independent sale price determined at the time the bid or purchase is entered on a marketplace. In the case of a connected security, the bid or purchase must not exceed the lesser of the last independent sale price at the commencement of the restricted period and the last independent sale price determined at the time the bid or purchase is entered on a marketplace.</p> <p>Currently under UMIR, a Participant who is not short the security must bid or purchase the restricted security below the last sale price or at the last sale price if that price is below the immediately preceding different-priced trade. In the view of the OSC and RS, limiting the price of a bid to the last independent transaction price determined at the time the bid or purchase is entered on a marketplace provides the best independent reflection of the market.</p>
26.	Exemptions from Trading Restrictions – Additional Exemptions 48-501, s.3.1(1) UMIR s.7.7(4)	<p>A commenter wrote that the proposal includes exemptions from the general trading restriction for a transaction which would have the effect of unwinding an existing hedge position to allow the position to be unwound or rebalanced to maintain market neutrality.</p> <p>An exemption was also sought to permit the dealer to satisfy an unsolicited client order to enter into a swap transaction and enter into the associated hedge, as long as the trade position is market neutral.</p>	<p>While the OSC and RS agree that an exemption for the unwinding of a perfect hedge position is desirable, they do not think that a general exemption to unwind any hedge position is appropriate. The unwinding of an imperfect hedge will have an impact on the market which must be considered before an exemption should be granted.</p> <p>Requests for specific exemptions to unwind a hedge, where such an unwinding would be market neutral, will be considered on a case-by-case basis. While the OSC and RS are of the opinion that most client orders or their accompanying hedges can be satisfied in the market, they will consider granting exemptions from the restrictions of the rules on a case-by-case basis, as appropriate, particularly where a client's request cannot be satisfied in the market.</p>

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
Research Reports			
27.	Research Reports – Restrictions on the Distribution of Research Reports 48-501, s. 4.1 and 4.2 UMIR, s.7.7(6)	<p>A commenter stressed the importance of maximizing consistency between the proposed regulations and Reg M to limit the burden imposed on dealers and other financial institutions. They are concerned that the rules are markedly different from Rule 138 and 139 of the United States <i>Securities Act</i>, 1933 (“1933 Act”).</p> <p>In particular a concern was expressed that the rules restrict research report dissemination during the course of a distribution, take-over bid, issuer bid or similar transaction where the US Rules only apply to offerings.</p> <p>In addition, the proposal would prohibit single issuer research reports relating to offered securities, allowing only compilation reports. The US Rules allow single issuer and compilation reports to be issued during an offering in certain circumstances, in the ordinary course of business. The commenter stressed that more strict restrictions on the publication of research reports could make Canadian capital markets less competitive.</p> <p>The commenter also indicated that the proposed provisions restricting the publication of research reports should not be applied to private placements.</p> <p>The commenter recommended that the rules should be amended to be consistent with the U.S. rules by exempting single issuer reports in respect of certain connected securities from Section 2.1 of 48-501 and Section 53 of the Act and by exempting research reports relating to highly-liquid securities from the requirements of Section 53 of the Act.</p>	<p>The OSC and RS agree that consistency between the rules and Reg M is desirable and important. Every effort was made to ensure that the rules were consistent with Reg M where appropriate. The OSC and RS believe that the differences between Rule 138 and 139 of the 1933 Act and the rules are justified given the nature of the Canadian market.</p> <p>The application of restrictions on the distribution of research for transactions such as take-over bid or issuer bids in addition to restrictions during a distribution recognizes that transactions other than distributions also provide an incentive to manipulate and the OSC and RS believe that restrictions on the publication of research are justified during such transactions.</p> <p>The OSC and RS also believe that the same incentive to manipulate a security's price exists where a distribution is a public offering or a restricted private placement and that similar restrictions should apply in either case.</p> <p>The OSC and RS have made amendments to the proposed restrictions on distribution of research to exempt research reports relating to issuers of restricted securities that meet the definition of a “highly-liquid security”.</p>
28.	Research Reports – Restrictions of the Distribution of Research Reports 48-501, s. 4.1 and 4.2 UMIR, s.7.7(6)	<p>A commenter wrote that the restrictions on distribution of research reports was unnecessary, particularly where the security distributed was a highly-liquid security. The commenter noted that Policy 11 of the Investment Dealers Association of Canada (“IDA”) ensures that the research function is independent from other business activities.</p> <p>The commenter further noted that many dealers provide a monthly summary of reports created in relation to securities on which they provide research. Such summaries do not include detailed analysis explaining the reasons for the conclusions provided and investors who wish to obtain such information must rely on specific research reports. The commenter noted that restrictions on the delivery of specific reports would limit an investor's ability to make</p>	<p>The OSC and RS did consider the requirements of the IDA's Policy 11. Policy 11 is a policy of general application and obliges analysts to provide investors with timely research. The rules provide specific restrictions regarding the provisions regarding the analyst's ability to distribute reports where the dealer has an interest in the success of a distribution or other transaction. It should be noted that the rules should be considered to apply during the course of the distribution and analysts should not distribute research material, unless permitted by the rules, until the restrictions have been lifted.</p> <p>The OSC and RS are aware that the restrictions may reduce the information available to investors, however, believe that this is justified in circumstances where there is an incentive to manipulate a security's price.</p>

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
		<p>investment decisions and the ability of analysts to respond to investor questions.</p> <p>Another commenter stated that the proposed restrictions relating to the distribution of research reports would conflict with the obligations of an analyst to provide investors with timely, meaningful and useful research, including current financial estimates and recommendations following the release of material information, as required in IDA Policy 11, Guideline 3. The commenter indicated that the exemption from such restrictions only for a compilation report will not provide analysts with a practical method for distributing such information.</p> <p>A third commenter expressed a concern that restrictions on a dealer's ability to issue research reports which do not provide for the analysis of a single issuer or which limits the ability to change a rating allocated to issued securities would potentially mislead investors and certainly be of limited value. The commenter suggested that dealers should be able to give added prominence to opinion changes relating to the issued security to ensure that the changes are communicated clearly.</p>	
29.	<p>Research Reports – Restrictions of the Distribution of Research Reports</p> <p>48-501, s. 4.1 UMIR, s.7.7(6)</p>	<p>A commenter urged that the OSC consider avoiding regulating dealer communications in the context of a public offering in a rule dealing with market stabilization and that it would be preferable for the CSA to consider taking a wholesale approach to reforming issuer and dealer communications in the context of a public offering. The commenter noted that the SEC has recently proposed reforms to public offering rules, including reforms regulating dealer communications.</p>	<p>The OSC and RS wish to harmonize the regulation of the distribution of research reports with US regulation, to the extent possible given the differences in the US and Canadian markets. The restrictions on research have been modified to permit the distribution of single issuer research in the case of highly-liquid securities as described in Item # 27 above. The OSC and RS will monitor any change to the SEC rules regulating dealer communication, and may harmonize the rules at a future date, if appropriate.</p> <p>Section 53 of the Act does prohibit the distribution of research material during a distribution as such material is considered to be a solicitation to purchase or an effort to induce the purchase of a security. As such, the reference to Section 53 is required in s.4.1 of the OSC rule.</p>
30.	<p>Research Reports – Compilations and Industry Research and Issuers of Exempt Securities</p> <p>48-501, s. 4.1 and 4.2 UMIR, s.7.7(6)</p>	<p>A commenter recommended that an exemption to the restriction on distribution of research reports be included for research distributed with reasonable regularity in the normal course of business involving “seasoned issuers” similar to provisions in SEC Rule 139(a) and Reg M. The commenter expressed a belief that the failure to provide such an exemption would place Canadian dealers at a disadvantage in cross-border transactions. The commenter expressed a belief that dealers would review all research issued to ensure that it provided impartial analysis rather than promote the success of an offering.</p>	<p>The OSC and RS believe that an incentive to manipulate the price of a security may exist in many situations even when the issuer is a “seasoned issuer” and do not believe that a “seasoned issuer” exemption is appropriate. It should be noted that the OSC and RS have made amendments to the proposed restrictions on distribution of research by agreeing to exempt research reports relating to issuers of “highly-liquid securities” from the restrictions.</p>

Item	Topic and Section Reference	Summary of Comments	OSC and RS Response
31.	Research Reports – Restrictions of the Distribution of Research Reports 48-501, s. 4.1 UMIR, s.7.7(6)	<p>A commenter inquired whether dealer-restricted persons would be free to distribute single-issuer research during the distribution of a security that would qualify as a “highly-liquid security”.</p> <p>The commenter also sought clarification as to what communications would be precluded under section 2.1. The commenter inquired, for example, whether a dealer could issue a single-issuer report relating to a significant development if the report did not have the effect of inducing an investor to purchase a restricted security. The commenter further noted that the application of the rules must be consistent with IDA’s Policy 11.</p>	<p>As noted above, the OSC and RS have made amendments to the proposed restrictions on distribution of research by exempting research reports relating to “highly-liquid securities” from the restrictions.</p> <p>The OSC and RS did consider the requirements of the IDA’s Policy 11. The rules provide specific restrictions regarding the analyst’s ability to distribute reports where the dealer has an interest in the success of a distribution or other transaction. It should be noted that the rules should be considered to apply during the course of restrictions and analysts should not distribute research material, unless permitted to do so in the rules, until the restrictions have been lifted.</p>
32.	Research 48-501, s. 4.1 Policy 7.7 – Part 4	<p>A comment was received noting that Part 4 of Policy 7.7 of UMIR states that the OSC rule does not permit dealers to distribute research reports where the dealer, the analyst covering the security or any other person representing the dealer has possession of non-disclosed material information. The commenter agreed that a research analyst in possession of non-disclosed material information should not be used in a research report but noted that dealers maintain information walls to ensure that information does not flow between working groups and that possession of such information by the dealer or its representative should not automatically prevent the publication of research reports. The commenter urged that the policy be amended to reflect dealer practices.</p>	<p>The OSC and RS understand the commenter’s concern, but are of the belief that no research material should be distributed when a dealer has possession of non-disclosed material information. However, it should be noted that when there is sufficient independence between functions and the “carve-out” contained in clause (b) of the definition of “dealer-restricted person” applies, the person issuing the research would not be subject to s.2.1 of the OSC rule and s.53 of the Act.</p>