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The Secretary
Ontario Securities Commission
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comments@osc.gov.on.ca

Delivery Via E-mail

Re: Joint CSA and IIROC Staff Notice 23-329, Short Selling in Canada

Dear Sirs and Mesdames,

TD Securities Inc. ("TD Securities", "TDS" and "we") welcomes the opportunity to comment on Joint CSA and IIROC Staff Notice 23-329, Short Selling in Canada.

TD Securities is a leading securities dealer in Canada and a top ranked block trader in Canadian equities and options based on both dollar value and shares/contracts traded. TD Securities also acts as the executing dealer for TD Waterhouse, one of the largest brokerage firms in Canada.

The prevailing view at TDS is that there should be more regimented guidelines/rules in our marketplace around short selling, as is common in other jurisdictions. In the section below, we will answer the specific questions presented in the joint staff notice:

Question 1 - **Should the existing regulatory regime around pre-borrowing in certain circumstances be strengthened? What requirements would be appropriate? Specifically, should there be “pre-borrow” requirements similar to those in the U.S., as described above? Please provide supporting rationale and data.**

TDS Response - We agree that rules should be more robust, to align more efficiently with the U.S. Not necessarily a pre-borrow but locates should be required before shorting Canadian securities. There is currently a framework in place, however, there needs to be stricter enforcement. Having a locate requirement allows for better inventory management controls and reduces the instances of fails in the market, specifically on securities that are difficult to borrow. This will prevent issues regarding unapproved short selling which has been a concern in all markets globally.

Question 2 - What would be the costs and benefits of implementing such requirements?

TDS Response – The additional costs to implement a locate requirement would be minimal since most prime brokers are accustomed to this practice as it is a requirement for short selling in other global markets. The additional costs from an operational perspective would appear to be minimal. Having a locate requirement would enhance the ability to manage inventory more efficiently and likely reduce failed deliveries in the market.

Question 3 - Does the current definition of a “failed trade”, as described in Part 1, above, appropriately describe a failed trade?

TDS Response – Yes.

Question 4 - Should a timeline shorter than ten days following the expected settlement date be considered? What would be an appropriate timeline? Please provide rationale and supporting data.

TDS Response - We would recommend a reasonably shorter timeline before punitive steps. Harmonization with the U.S. timeline (two days after settlement) would create consistency across markets which is beneficial.

Question 5 - Should additional public transparency requirements of short selling activities or short positions be considered? Please indicate what such requirements should be and the frequency of any disclosure. Please also provide a rationale and empirical data to support your suggestions or to support why changes are not needed.

TDS Response - Issues could be easily resolved with RegSho Buy-In's. Disclosure of underlying investors does not appear to be required.

Question 6 - Should additional reporting requirements regarding short selling activities be considered by the securities regulatory authorities? Please indicate what such requirements should be and the frequency of any disclosure. Please also provide a rationale and empirical data to support your suggestions or to support why changes are not needed.

TDS Response - Not necessary as short data is already published biweekly.

Question 7 - As noted above, IIROC’s study of failed trades showed that correlations between short sales and settlement issues in junior securities were more significant, and that junior securities experience more settlement issues compared to other securities. Should specific reporting, transparency or other requirements be considered for junior issuers? Please provide additional relevant details to support your response.

TDS Response – The US has contemplated similar regulations across all asset classes. As mentioned earlier, aligning the Canadian rules regarding failing securities by having a mandatory buy-in on the first day after a fail would be a deterrent to shorting junior securities. Reducing the demand to short these, by implementing a locate requirement and a mandatory buy-in requirement, prime brokers will be able to more effectively manage and control their book, thereby resulting in reduced fails in the market.

Question 8 - Would mandatory close-out or buy-in requirements similar to those in the U.S. and the European Union be beneficial for the Canadian capital markets? Please provide rationale and data substantiating the costs and benefits of such requirements on market participants.

TDS Response – We are unable to speak about European rules but yes, aligning Canada with the U.S., would create increased efficiency. Prime Brokers are already knowledgeable on these rules and have controls in place to manage them so this would be an easy transition. Enforcement of locates before shorting would prevent Canadian listed companies from being aggressively sold short where there is lack of liquidity creating the potential for fail logjams. Costs associated with these enforcements should be minimal, but we see the benefits for traders who are paying for pre-borrows and for companies with low share prices/low liquidity.

Once again, we thank the CSA and IROC for its thorough review of short selling in Canada and look forward to being part of the conversation on this important topic in the months to come.

Respectfully,

A handwritten signature in black ink, appearing to read "Jenn Ocampo-King". The signature is stylized and written over a faint, light-colored rectangular box.

Jenn Ocampo-King
Managing Director, TD Securities Inc.