

July 19, 2007

SENT VIA E-MAIL

Mr. John Stevenson
Ontario Securities Commission
20 Queen Street West
Suite 1900 Box 55
Toronto, Ontario
M5H 3S8

Madame Anne-Marie Beaudoin
Autorité des marchés financiers
800, square Victoria 22e étage
C.P. 246, tour de la Bourse
Montréal, Québec
H4Z 1G3

Mr. James E. Twiss
Market Regulation Services Inc.
145 King Street West - Suite 900
Toronto, Ontario
M5H 1J8

Dear Mr. Stevenson, Ms. Beaudoin and Mr. Twiss:

Re: Request for Comments on Proposed Trade-Through Protection, Best Execution and Access to Marketplaces

RBC Dominion Securities Inc. ("RBC DS") commends the Canadian Securities Administrators ("CSA") and Market Regulation Services Inc. ("RS") for continuing to jointly work on improving marketplace regulation with thorough public consultation and is pleased to have the opportunity to provide comments on the Trade-Through Protection, Best Execution and Access to Marketplaces joint request for comments (collectively, the "ATS Amendments").

Our comments will serve as a response to RS' Request for Comments in Market Integrity Notices 2007-007, 2007-008 and 2007-009.

RBC DS is a strong supporter of RS' and the CSA's position of ensuring market integrity through trade-through protections while maintaining market efficiency. Further to this point, RBC DS believes that only properly registered Participants and approved ATS subscribers should have direct access to the marketplace in order to ensure efficient and orderly markets.

TRADE-THROUGH PROTECTION

EXECUTION OF ORDERS ON FOREIGN MARKETPLACES

QUESTION 1: IN ADDITION TO IMPOSING A GENERAL OBLIGATION ON MARKETPLACES TO ESTABLISH, MAINTAIN AND ENFORCE WRITTEN POLICIES AND PROCEDURES TO PREVENT TRADE-THROUGHS, WOULD IT ALSO BE NECESSARY TO PLACE AN OBLIGATION ON MARKETPLACE PARTICIPANTS TO ADDRESS TRADE EXECUTION ON A FOREIGN MARKET?

RBC DS believes that Participants should consider foreign marketplaces but that this should not be a requirement because there are material extenuating circumstances inherent in foreign marketplaces (i.e. FX volatility, exchange/ATS membership requirements, jitney costs, etc) that are beyond the control of the Participant.

QUESTION 2: WHAT FACTORS SHOULD WE CONSIDER IN DEVELOPING OUR COST-BENEFIT ANALYSIS FOR THE TRADE-THROUGH PROPOSAL?

RBC DS recommends that the following factors be considered in developing a cost benefit analysis of the trade-through proposal:

- (1) The total cost to the marketplace of imposing a trade-through obligation on various marketplace participants. For example, would the total cost to the market be minimized if marketplaces were required to implement technological solutions (linkages) that ensured that trade-throughs did not occur. How would the cost compare to the total cost if the dealer community is forced to implement such technological solutions?
- (2) Although difficult, there should be an attempt made to measure the specific benefits that adherents to the theory that strict trade-through protection should be maintained. For example, it is assumed that if protected orders are traded through, then market participants lose their incentive to exposure their orders, thus harming the price discovery process. An attempt should be made to measure this effect and other similar assumptions.
- (3) A net measurement of the benefit to the client.

QUESTION 3: WOULD YOU LIKE TO PARTICIPATE IN THE COST-BENEFIT ANALYSIS BY PROVIDING YOUR INPUT?

RBC DS would be pleased to work with RS and the CSA on the cost-benefit analysis and share our experience on measuring best execution.

SCOPE OF TRADE-THROUGH PROTECTION

QUESTION 4: SHOULD TRADE-THROUGH PROTECTION APPLY ONLY DURING "REGULAR TRADING HOURS"? IF SO, WHAT IS THE APPROPRIATE DEFINITION OF "REGULAR TRADING HOURS"?

Trade-through protections should only apply when there is more than one marketplace open at the same time that trades the same security because the Participant's Best Execution obligations will have functional priority when only one marketplace is open.

"PROTECTED ORDERS"

QUESTION 5: SHOULD THE CONSOLIDATED FEED (AND, BY EXTENSION, TRADE-THROUGH OBLIGATIONS) BE LIMITED TO THE TOP FIVE LEVELS? WOULD ANOTHER NUMBER OF LEVELS (FOR EXAMPLE, TOP-OF-BOOK) BE MORE APPROPRIATE FOR TRADE-THROUGH PURPOSES?

RBC DS believes that all visible, better-priced orders should be protected, especially in light of the difficulties the US is facing under Regulation NMS. Therefore, the trade-through obligation should extend through the whole depth of book.

WHAT IS THE IMPACT OF THE ABSENCE OF AN INFORMATION PROCESSOR TO PROVIDE CENTRALIZED ORDER AND TRADE INFORMATION?

RBC DS believes that trade-through obligations can only be imposed if the Participant can obtain access to the quote. If the Participant is unable to obtain access to the quote, a requirement should be created for the Participant to log the rationale for the quote being inaccessible.

In addition to Question 5 specifically addressed above, RBC DS wishes to obtain further clarity on:

- (1) the difference between a 'data consolidator' (which was deemed to be unnecessary) and an 'information processor/vendor' and who will provide the information processing;
- (2) examples of an "excluded order" since the exemptions are "similar to the current exemptions in UMIR" but not the same; and
- (3) how RS and industry compliance professionals will monitor and test for "other costs of the transaction" when executing best execution requirements.

ACCESS FEES

QUESTION 6: SHOULD THERE BE A LIMIT ON THE FEES CHARGED ON A TRADE-BY-TRADE BASIS TO ACCESS AN ORDER ON A MARKETPLACE FOR TRADE-THROUGH PURPOSES?

RBC DS believes that there should not be any fees charged to access a fully electronic marketplace. If there is a better price, due to a fee differential, the fee will affect overall cost of the trade and therefore affect the Participant's best-price obligation in the aggregate. Given that a Participant will not have a fixed number of trades, it would not be possible for the Participant to calculate how this fee will affect the price of each trade.

SPECIALIZED MARKETPLACES

QUESTION 7: SHOULD THE CSA ESTABLISH A THRESHOLD THAT WOULD REQUIRE AN ATS TO PERMIT ACCESS TO ALL GROUPS OF MARKETPLACE PARTICIPANTS? IF SO, WHAT IS THE APPROPRIATE THRESHOLD?

RBC DS strongly believes only regulated Participants and approved ATS subscribers should be allowed to have direct access to the marketplace. See comments in opening paragraph.

QUESTION 8: SHOULD IT BE A REQUIREMENT THAT SPECIALIZED MARKETPLACES NOT PROHIBIT ACCESS TO NON-MEMBERS SO THEY CAN ACCESS, THROUGH A MEMBER (OR SUBSCRIBER), IMMEDIATELY ACCESSIBLE, VISIBLE LIMIT ORDERS TO SATISFY THE TRADE-THROUGH OBLIGATION?

See response to Question 7.

- *SHOULD AN ATS BE REQUIRED TO PROVIDE DIRECT ORDER EXECUTION ACCESS IF NO SUBSCRIBER WILL PROVIDE THIS SERVICE?*

No, per above statement.

- *IS THIS SOLUTION PRACTICAL?*

Yes.

- *SHOULD THERE BE A CERTAIN PERCENTAGE THRESHOLD FOR SPECIALIZED MARKETPLACES BELOW WHICH A TRADE-THROUGH OBLIGATION WOULD NOT APPLY TO ORDERS AND/OR TRADES ON THAT MARKETPLACE?*

The threshold for trade-through obligations should be 100 shares or a board lot (with board lot sizes remaining as is).

EXCEPTIONS

QUESTION 9: ARE THERE ANY TYPES OF SPECIAL TERMS ORDERS THAT SHOULD NOT BE EXEMPT FROM TRADE-THROUGH OBLIGATIONS?

The exclusion of special terms orders should be consistent with UMIR.

QUESTION 10: ARE THERE CURRENT TECHNOLOGY TOOLS THAT WOULD ALLOW MONITORING AND ENFORCEMENT OF A FLICKERING QUOTE EXCEPTION?

To our knowledge, there are no tools available. On this point however, RBC DS believes that trade-through obligations should not exist for any non-executable quote, including flickering orders. For audit purposes, RBC DS propose that a log book be kept that will document the instances and rationale as to why an order was non-executable.. If appropriate, the Participant could send an exception report to RS when this occurs.

QUESTION 11: SHOULD THE EXCEPTION ONLY APPLY FOR A SPECIFIED PERIOD OF TIME (FOR EXAMPLE, ONE SECOND)? IF SO, WHAT IS THE APPROPRIATE PERIOD OF TIME?

See answer to Question 10.

QUESTION 12: SHOULD THIS EXCEPTION ONLY BE APPLICABLE FOR TRADES THAT MUST OCCUR AT A SPECIFIC MARKETPLACE'S CLOSING PRICE? ARE THERE ANY ISSUES OF FAIRNESS IF THERE IS NO RECIPROCAL TREATMENT FOR ORDERS ON ANOTHER MARKETPLACE EXEMPTING THEM FROM HAVING TO EXECUTE AT THE CLOSING PRICE IN A SPECIAL FACILITY IF THAT PRICE IS BETTER?

RBC DS strongly supports further commentary on this issue. We would like further clarification on what factors will be used to determine what the opening and closing price is for a security. This issue will be extremely important once other marketplaces are executing exchange listed securities.

QUESTION 13: SHOULD A LAST SALE PRICE ORDER FACILITY EXCEPTION BE LIMITED TO ANY RESIDUAL VOLUME OF A TRADE OR SHOULD IT APPLY FOR ANY AMOUNT BETWEEN THE TWO ORIGINAL PARTIES TO A TRADE? WHAT IS THE APPROPRIATE TIME LIMIT?

Trade-through obligations should be adhered to at the time of order. No facility should exist to allow a non-displayed order to trade through a current quote.

QUESTION 14: SHOULD TRADE-THROUGHS BE ALLOWED IN ANY OTHER CIRCUMSTANCES? FOR EXAMPLE, ARE THERE SPECIFIC TYPES OR CHARACTERISTICS OF ORDERS THAT SHOULD BE SUBJECT TO AN EXEMPTION FROM THE TRADE-THROUGH OBLIGATION?

No comment.

In addition to the Questions specifically noted above, RBC DS believes that RS would be in the best position to establish, maintain and enforce written policies and procedures that are universally consistent and are reasonably designed to prevent trade-throughs. Relying on each marketplace to establish their own policies and procedures creates the potential for a patchwork of differing requirements, standards and review timetables; thereby creating potential regulatory arbitrage opportunities if universal standards are not set and enforced.

BEST EXECUTION REQUIREMENTS

In assessing the most advantageous execution terms reasonably available under the circumstances, the key elements identified (i.e., price, speed of execution, certainty of execution and overall cost of the transaction) are relevant. However, different criteria should exist for portfolio executions vis-à-vis single stock executions; specifically by allowing exemptions for certain types of trades (i.e. baskets).

QUESTION 15: ARE THERE OTHER CONSIDERATIONS THAT ARE RELEVANT?

RBC DS believes there should be no other considerations. Only fully disclosed visible orders should be subject to trade-through protection.

QUESTION 16: HOW DOES THE MULTIPLE MARKETPLACE ENVIRONMENT AND BROADENING THE DESCRIPTION OF BEST EXECUTION IMPACT SMALL DEALERS?

No comment.

QUESTION 17: SHOULD THE BEST EXECUTION OBLIGATION BE THE SAME FOR AN ADVISER AS A DEALER WHERE THE ADVISER RETAINS CONTROL OVER TRADING DECISIONS OR SHOULD THE FOCUS REMAIN ON THE PERFORMANCE OF THE PORTFOLIO? UNDER WHAT CIRCUMSTANCES SHOULD THE BEST EXECUTION OBLIGATION BE DIFFERENT?

See comments in opening paragraph.

QUESTION 18: ARE THERE ANY OTHER AREAS OF COST OR BENEFIT NOT COVERED BY THE CBA?

RBC DS believes that trade-through obligations can only be imposed if the Participant can obtain access to the quote. The CBA should consider visible but not accessible quotes and the option of the Participant logging the quote as non-accessible, providing the rationale for the quote being non-accessible and making it available to the regulator upon request.

REPORTING OF ORDER EXECUTION AND MARKET QUALITY INFORMATION

QUESTION 19: PLEASE COMMENT ON WHETHER THE PROPOSED REPORTING REQUIREMENTS FOR MARKETPLACES AND DEALERS WOULD PROVIDE USEFUL INFORMATION. IS THERE OTHER INFORMATION THAT WOULD BE USEFUL? ARE THERE DIFFERENCES BETWEEN THE US AND CANADIAN MARKETS THAT MAKE THIS INFORMATION LESS USEFUL IN CANADA?

No comment.

QUESTION 20: SHOULD TRADES EXECUTED ON A FOREIGN MARKET OR OVER-THE-COUNTER BE INCLUDED IN THE DATA REPORTED BY DEALERS?

RBC DS believes there should be no requirement to report foreign trades in Canada.

QUESTION 21: SHOULD DEALERS REPORT INFORMATION ABOUT ORDERS THAT ARE ROUTED DUE TO TRADE-THROUGH OBLIGATIONS?

No.

QUESTION 22: SHOULD INFORMATION REPORTED BY A MARKETPLACE INCLUDE SPREAD-BASED STATISTICS?

No. Depending on the nature of the marketplace, it may be completely irrelevant information.

QUESTION 23: IF SECURITIES ARE TRADED ON ONLY ONE MARKETPLACE, WOULD THE INFORMATION INCLUDED IN THE PROPOSED REPORTING REQUIREMENTS BE USEFUL? IS IT PRACTICAL FOR THE REQUIREMENT TO BE TRIGGERED ONLY ONCE SECURITIES ARE ALSO TRADED ON OTHER MARKETPLACES? WOULD MARKETPLACES ALWAYS BE IN A POSITION TO KNOW WHEN THIS HAS OCCURRED?

RBC DS believes that if there is only one marketplace trading the security, there is no functional trade-through obligation because the Participant's Best Execution obligations would take priority.

In addition to the Questions specifically addressed above, RBC DS wishes to obtain further clarity on the following:

- (1) If the Participant's "best execution" obligation (which is primarily driven by obtaining the "best price") is consistent with Participant's trade-through obligations under the definition provided by the CSA;
- (2) What is the "consolidated market display", who is going to provide it, whether there is going to be a charge for this service, and how is the consolidated market display going to be provided to the public;
- (3) What does "the most advantageous execution of terms reasonably available under the circumstances" means. The Companion Policy's guidance of the "definition will vary depending on...who is responsible for obtaining best execution" provides little clarity to the question;
- (4) Why UMIR will not include comparable language to the CSA's provision for the reporting of order execution and market quantity given the objective is to harmonize best execution requirements;
- (5) Whether client instructions or consent have any impact on a Participant's "best execution price obligation". To the extent they will not, would this constitute discretionary trading or will the client instructions be considered as 'special terms'?

DIRECT ACCESS ISSUES

QUESTION 24: SHOULD DSA CLIENTS BE SUBJECT TO THE SAME REQUIREMENTS AS SUBSCRIBERS BEFORE BEING PERMITTED ACCESS TO A MARKETPLACE?

See opening paragraph commentary.

QUESTION 25: SHOULD THE REQUIREMENTS REGARDING DEALER-SPONSORED PARTICIPANTS APPLY WHEN THE PRODUCTS TRADED ARE FIXED INCOME SECURITIES? DERIVATIVES? WHY OR WHY NOT?

RBC DS does not believe these requirements should apply to fixed income securities or derivatives because there is no central order book with price transparency (with the exception of listed options).

QUESTION 26: WOULD YOUR VIEW ABOUT THE JURISDICTION OF A REGULATION SERVICES PROVIDER (SUCH AS RS FOR ATS SUBSCRIBERS OR AN EXCHANGE FOR DSA CLIENTS) DEPEND ON WHETHER IT WAS LIMITED TO CERTAIN CIRCUMSTANCES? FOR EXAMPLE, IF FOR VIOLATIONS RELATING TO MANIPULATION AND FRAUD, THE SECURITIES COMMISSIONS WOULD BE THE APPLICABLE REGULATORY AUTHORITIES FOR ENFORCEMENT PURPOSES?

RBC DS believes that RS should have jurisdiction in all circumstances over ATS subscribers and only for the purposes of UMIR 2.2 for DSA clients (see opening comment under "UMIR Amendments"). For all other matters relating to DSA clients, RBC DS is of the view RS should contact the sponsoring registered Participant.

QUESTION 27: COULD THE PROPOSED AMENDMENTS LEAD DEALER-SPONSORED PARTICIPANTS TO CHOOSE ALTERNATIVE WAYS TO ACCESS THE MARKET SUCH AS USING MORE TRADITIONAL ACCESS (FOR EXAMPLE, BY TELEPHONE), USING FOREIGN MARKETS (FOR INTER-LISTED SECURITIES) OR CREATING MULTIPLE LEVELS OF DSA (FOR EXAMPLE, A DSA CLIENT PROVIDING ACCESS TO OTHER PERSONS)?

Foreign clients must use a registered Participant in Canada.

QUESTION 28: SHOULD THERE BE AN EXEMPTION FOR FOREIGN CLIENTS WHO ARE DEALER-SPONSORED PARTICIPANTS FROM THE REQUIREMENTS TO ENTER INTO AN AGREEMENT WITH THE EXCHANGE OR REGULATIONS SERVICES PROVIDER? IF SO, WHY AND UNDER WHAT CIRCUMSTANCES?

No, see answer to Question 26 and opening comments under "UMIR Amendments".

QUESTION 29: PLEASE PROVIDE THE ADVANTAGES AND DISADVANTAGES OF A NEW CATEGORY OF MEMBER OF AN EXCHANGE THAT WOULD HAVE DIRECT ACCESS TO EXCHANGES WITHOUT THE INVOLVEMENT OF A DEALER (ASSUMING CLEARING AND SETTLEMENT COULD CONTINUE TO BE THROUGH A PARTICIPANT OF THE CLEARING AGENCY).

RBC DS believes there should not be any new categories. See opening paragraph comments.

In addition to the Questions specifically addressed above, RBC DS wishes to obtain further clarity on Market Integrity Notice 2007-010, specifically a definition for “Icebergs” and “Spoofing” respectively;

UMIR AMENDMENTS

Although RBC DS believes the contractual relationship is between the Participant and the DSA client, we believe that RS' authority to investigate and enforce violations of UMIR 2.2 (manipulative and deceptive activities) should be extended to allow for them to deal directly with those clients to the extent a violation has occurred with the Participant being advised by RS of the investigation.

1. SHOULD UMIR ESTABLISH UNIFORM CRITERIA FOR THE GRANTING OF ACCESS TO ANY MARKETPLACE SUBJECT TO UMIR OR SHOULD AN EXCHANGE OR QTRS BE ABLE TO CONTINUE TO ESTABLISH RULES REGARDING THE GRANT OF DIRECT MARKET ACCESS?

RBC DS is of the view that RS should establish criteria for the granting of access to any domestic marketplace subject to UMIR.

2. SHOULD AN ATS BE ABLE TO ESTABLISH CRITERIA FOR THE GRANTING OF ACCESS TO ITS MARKETPLACE IN THE CONTRACT BETWEEN THE ATS AND ANY PARTICIPANT THAT IS A SUBSCRIBER TO THE ATS?

RBC DS believes that all DSA account should be through a registered Participant. Therefore ATS's should only have agreements with ATS subscribers and registered Participants, not with DSA clients directly.

3. IF TRAINING REQUIREMENTS ARE ADOPTED FOR EACH REPRESENTATIVE OF AN ACCESS PERSON SHOULD MARKETPLACES BE RELIEVED ON ANY FURTHER TRAINING OBLIGATIONS IN RESPECT OF ACCESS PERSONS OR SHOULD THE REQUIREMENT BE CONTINUED IN LIEU OF “CONTINUING EDUCATION REQUIREMENTS” FOR REPRESENTATIVES?

RBC DS is of the view that requiring client representatives to complete the trader training course is problematic because it would be extremely difficult to verify that the client's employee entering the order is in fact the one that completed the training. We believe it is better to leave it as a contractual provision of the DSA agreement.

4. SHOULD THERE BE AN EXEMPTION FROM THE REQUIREMENT FOR A FOREIGN DSA CLIENT TO ENTER INTO AN AGREEMENT DIRECTLY WITH RS? IF SO, WHY AND UNDER WHAT CIRCUMSTANCES SHOULD SUCH AN EXEMPTION BE AVAILABLE?

RBC DS believes that all DSA account should be through a registered Participant. Therefore there is no need for an exemption because there will already be an agreement in place between RS and the registered Participant.

5. IF A DSA CLIENT IS EXEMPTED FROM EXECUTING AN AGREEMENT WITH RS, SHOULD THE PARTICIPANT ACCEPT A HIGHER LEVEL OF RESPONSIBILITY FOR THE CONDUCT OF THE FOREIGN DSA CLIENT.

See comment above.

CONCLUDING REMARKS

Thank you for providing us with the opportunity to comment. We would be pleased to discuss our comments further with you. If you have any questions or require further information, please do not hesitate to contact us.

Yours truly,

"John Reilly"
John Reilly
Managing Director
Head of Canadian Equity Trading
RBC Capital Markets

"Kelley J. Hoffer"
Kelley J. Hoffer
Director, Compliance
RBC Canadian Wealth Management
& Capital Markets

Cc: Alberta Securities Commission
British Columbia Securities Commission
Manitoba Securities Commission
New Brunswick Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Department of Justice, Government of the Northwest Territories
Nova Scotia Securities Commission
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut
Ontario Securities Commission
Prince Edward Island Securities Office
Saskatchewan Financial Services Commission
Registrar of Securities, Government of Yukon