



January 12, 2011

Via E-Mail

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Secretary
Ontario Securities Commission
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James E. Twiss, Vice President, Market Regulation Policy
Kevin McCoy, Senior Policy Analyst, Market Regulation Policy
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Anne-Marie Beaudoin
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Dear Mr. Stevenson, Ms. Beaudoin, Mr. Twiss and Mr. McCoy:

**Re: Joint Canadian Securities Administrators/Investment Industry
Regulatory Organization of Canada Position Paper 23-405 – Dark
Liquidity in the Canadian Market**

We are writing on behalf of RBC Dominion Securities Inc. ("RBC DS"), in response to the request for comments put forth by the Canadian Securities Administrators ("CSA") and the Investment Industry Organization of Canada ("IIROC") in Position Paper 23-405 – Dark Liquidity in the Canadian Market published on November 19, 2010 (the "Position Paper" or "Paper").

RBC DS welcomes the opportunity to provide comments on the issues outlined in the Position Paper. We also appreciate and recognize the importance behind the CSA and IIROC decision in soliciting comments from market participants on these complex and far-reaching matters.

General Comments:

RBC DS is fully supportive of regulatory initiatives that promote fair and efficient markets. To this end, RBC DS generally supports the position(s) expressed in the Paper, which in the view of RBC DS, strike an appropriate balance between two key and competing objectives: the promotion of price discovery and the facilitation of block trades with minimal market impact costs.

Views of RBC DS

The views of RBC DS respecting the positions of IIROC/CSA staff in the Paper are set out below:

Staff View #1 – The only exemption to pre-trade transparency should be for orders that meet a minimum size threshold.

In the view of RBC DS, the imposition of a “minimum size threshold” for dark orders is appropriate. The posting of visible orders on protected marketplaces is a central tenet of price discovery and vibrant markets and is something that should continue to be encouraged. While RBC DS is not opposed to dark marketplaces and dark orders generally, encouraging the posting of visible limit orders to a broad spectrum of marketplace participants is necessary to counteract the increasing tendency of dark orders and marketplaces to “free ride” on the pre-trade price discovery provided by visible orders.

The Paper correctly points out that while small orders may provide some price improvement when posted as dark orders, the limited size of such orders renders the net benefit to the market negligible. This is coupled with the fact that recent market innovations allow for as little as 10% price improvement over the NBBO, which suggests that much of the price improvement provided by small dark orders is not at all meaningful.

The one key drawback to the imposition of a “minimum size” for dark orders is that it provides the opportunity to potentially “game” dark orders. Insofar as small orders can interact with dark orders, any execution would effectively uncover, at the very least, a minimum size contra-side order. While RBC DS agrees that this is not an ideal outcome, the same situation currently exists with “iceberg orders” and various “iceberg seeking” algorithms that seek to uncover un-displayed volume.

RBC DS is of the view that a minimum size threshold of 50 standard trading units is appropriate.

Staff View #2 – Two Dark Orders meeting the size exemption should be able to execute at the NBBO. Meaningful price improvement should be required in all other circumstances, including all executions with orders not specifically marked in a manner indicating they are utilizing the minimum size exemption.

Should a minimum size threshold be adopted, RBC DS agrees that two dark orders should be allowed to execute at the NBBO. The basis for providing “time priority” for dark orders over lit orders at the same price is that “large” orders contribute to the price discovery process, albeit on a post-trade basis. In the view of RBC DS, the provision of “time priority” for large dark orders is a novel approach that effectively balances the stated objectives of the Paper: to promote price discovery and facilitate block trades with minimal market impact. While “time priority” for dark orders marks a break with the current guidance set out by IROC which provides priority to lit orders, in circumstances where the minimum size threshold is set sufficiently high (i.e. at least 50 standard trading units), the rationale for exempting dark orders makes sense.

Staff View #4 – Meaningful price improvement means that the price is improved over the NBBO by a minimum of one trading increment as defined in UMIR, except where the NBBO spread is already at the minimum tick. In a case where the NBBO is already at a minimum tick, meaningful price improvement would be at the mid-point of the spread.

In the view of RBC DS, sub-penny price improvement (in cases where the NBBO spread is greater than the minimum trading increment), is a practice that should be discontinued. Apart from the increased technological and compliance costs associated with potentially infinitesimal decimal point price improvement, the allowance for sub-penny price improvement, particularly for retail-sized orders, begs the question of whether a \$0.001 price improvement matters to clients.

Additional Questions

In addition to the comments set out above, RBC DS seeks clarification on the following:

- As market-on-close orders are not publicly disseminated, will such orders be subject to the minimum size requirement?
- In the event that a dark order receives a partial fill, will the unfilled portion, which is less than the minimum size requirement for dark orders, continue to be eligible to interact with other dark orders at the NBBO?
- Take the following example:

- Marketplace A has a visible bid of \$10 for 100 shares of stock XYZ and a resting dark bid for 5,000 shares of stock XYZ at \$10. At the same time Marketplace B has a bid of \$10 for 500 shares of stock XYZ. Assuming a Participant enters an order an order to sell 1,000 shares at \$10 on Marketplace A without marking it "bypass", in the normal course the 100 visible shares on Marketplace A would execute first. Assuming that following that trade the best visible bid on Marketplace A dropped to \$9.99, could the remaining 900 shares trade with the dark order on Marketplace A notwithstanding that there is a visible order at the same price on Marketplace B? Would meaningful price improvement over the NBBO be required?
- What would constitute meaningful price improvement in the case of a locked or crossed market?
- To limit "gaming" of dark order through the entry of small orders to interact with (uncover) dark orders, would it be advisable to establish a minimum fill size for interaction with dark orders?

Thank you for providing us with the opportunity to provide comments on the Paper. We would welcome the opportunity to discuss the foregoing with you in further detail. If you have any questions or require further information, please do not hesitate to contact the undersigned.

Sincerely,

"Greg Mills"

Greg Mills
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RBC Dominion Securities Inc.

cc. Alberta Securities Commission
British Columbia Securities Commission
Manitoba Securities Commission
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New Brunswick Securities Commission
Superintendent of Securities, Government Services of Newfoundland and Labrador
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