



Susan Copland, B.Comm, LLB.
Director

Meg Tassie
Senior Advisor, Capital Markets Regulation
British Columbia Securities Commission
PO Box 10142, Pacific Centre
701 West Georgia St.
Vancouver, BC V7Y 1L2
mtassie@bcsc.bc.ca

Dear Ms. Tassie:

Re: Proposed Changes to Conditions of Registration – Investment Dealers with a BC Office that Trade in US Over-the-Counter Markets (the “Proposed Conditions”)

The IIAC appreciates the opportunity to comment on the Proposed Conditions. Although we understand that the Commission is interested in obtaining more information about certain activities in Over-the-Counter Markets (OTC markets), we are concerned that the information sought to be gathered is insufficiently targeted. The broad scope of the information gathering may inadvertently target clients carrying on legal and legitimate business simply due to the jurisdiction in which they operate. We are also concerned that the broad definitions in the Proposed Conditions will require dealers to obtain, analyze and be responsible for the integrity of data that is either not available, or cannot be found in any consolidated and/or reliable source.

We are aware that there are certain activities in the OTC markets that are of concern to regulators and market participants, as they compromise the integrity of capital markets. It is, however, important to ensure that regulatory efforts to gather information and impose rules to curtail this activity do not impose costs and operational burdens on dealers and other capital market participants that are out of proportion to the benefit derived from information that is sought to be obtained.

We have several questions and concerns about the Proposed Conditions, noted below.

In respect of the requirements to report on the clients' jurisdiction, it is important to understand that the actual act of ascertaining clients' jurisdiction currently requires manual processes, which adds to firms' resource burden. At this point in time, IIROC dealers are faced with an accumulating list of regulatory initiatives requiring the development of systems and processes for compliance. Further initiatives should be carefully analyzed to ensure the benefits are clearly ascertainable and commensurate with the burdens imposed by the incremental and mounting regulatory requirements imposed on dealers.

The Proposed Conditions ask for information regarding clients' jurisdiction where dealers refuse to accept securities of specified OTC issuers. In respect of refusals, it should be noted that in many cases, there is not a refusal, per se, but the transaction is not completed due to the client's failure to provide certain documentation requested by the dealer, or comply with additional dealer requirements. In these cases, there are not concerns about improper trading concerns, but a lack of administrative follow up. Such situations should be distinguished from a refusal in the regulation.

In section 4(c) of the Proposed Conditions, a refused deposit would also include a dealer indicating to a "would-be client" that they would not accept a certificate that was presented for deposit or trading at the dealer. Identifying the jurisdiction of a "would-be client" poses additional problems due to the lack of records related to such individuals.

We are quite concerned about the expanded definition of "Specified OTC Issuer". The change, which removes the specificity of the OTCBB and Pink Sheet markets to refer to US OTC markets generally, potentially opens up the reporting requirements to debt securities and derivatives. We question whether this was intended.

The type of data to be provided on the issuers of such securities may be time consuming and difficult to obtain and verify, as such information is not consolidated in any one location. As such, the resulting reports may be inaccurate. In addition, beneficial ownership information relating to non equity instruments is difficult to impossible to obtain. As noted above, it is important to ensure that the benefits of obtaining this information can be clearly demonstrated to outweigh the operational and cost burdens involved the collection and reporting process.

We also question whether the realm of Specified OTC Issuers now includes issuers trading on foreign markets such as AIM and Frankfurt. This has further implications on the ability to gather data, and the time and resources required to obtain and conform the data to Form B.

If the scope of the "Specified OTC Issuer" is to be expanded as proposed, it is important that other regulated markets be included in section 1(b). For example, the Australian Stock Exchange and other regulated foreign markets set out in BC Instrument 51-511,

Exemptions from Multilateral Instrument 51-105 – Issuers Quoted in the US Over-the-Counter Markets should be explicitly carved out of the definition.

As noted above, certain information that is required by the Instrument and in Form B may not be available. For instance, sections 4(h)(i) and question 9(f) of Form B require information about the total outstanding securities of an OTC issuer and the trading volume for all markets on which they trade. OTC Markets, which includes OTC Pink, is not regulated by FINRA or SEC. As such, many of the issuers quoted on OTC Markets do not file periodic reports or audited financial statements with the SEC, which means there often is not information available to determine the total number of securities outstanding of certain issuers quoted these markets. This problem is compounded by the potential broadening of the scope of the definition of “Specified OTC Issuer.”

The 100,000 unit reporting threshold for units traded in section 4(h)(ii) and question 12 of Form B is also problematic, in that often such securities trade in penny increments. This would result in over-reporting of non-material trading volume.

In addition, it may not be possible to obtain information about the 3 highest percentage security holders under 10% as required in question 10 of Form B. We are unaware of where this information is consistently and reliably published.

Question 11 of Form B asks for trading information of a Specified OTC Issuer on all markets during a calendar week. Again, this is often not possible to ascertain, as there is no consolidated source of information that will allow dealers to ascertain how many units are traded in all OTC venues. If this is retained, the form should specify all applicable markets in a drop down menu or otherwise.

We appreciate the efforts of the BCSC to ensure the capital markets are operating with integrity, and are not subject to systemic abuse. However, it is important to ascertain the specific benefits of initiatives against the costs they will impose on legitimate and valuable participants in the marketplace. Although the data sought to be obtained under the Proposed Conditions may yield some useful information, the specific abuse or problem is not sufficiently defined to be able to determine if the costs of compliance would be justified by the benefit of collecting the data, particularly where such information may not be available in a consistent and accurate form.

Thank you for considering our feedback. If you have any further questions, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Copland'.

Susan Copland