

Ian C.W. Russell FCSI
President & Chief Executive Officer

June 16, 2009

Mr. David T. Wilson
Chair
Ontario Securities Commission
P.O. Box 55, 19th Floor
20 Queen Street West, 19th Floor
Toronto, ON M5H 3S8
dwilson@osc.gov.on.ca

Mr. Jean St-Gelais
President-directeur general
Autorité des marchés financiers
Place de la Cité, Tour Cominar
2640, boulevard Laurier, bureau 400, 4e étage
Sainte-Foy, PQ G1V 5C1
jean.st-gelais@lautorite.qc.ca

Mr. Douglas M. Hyndman
Chair
British Columbia Securities Commission
701 West Georgia Street
P.O. Box 10142, Pacific Centre
Vancouver, BC V7Y 1L2
dhyndman@bcsc.bc.ca

Mr. William Rice
Chair
Alberta Securities Commission
#400, 300-5 Avenue S.W.
Calgary, AB T2P 3C4
bill.rice@seccom.ab.ca

Dear Sirs:

Re: Marketplace Fees for Access, Trading and Data

Thank you for your letter dated June 5, 2009. We are encouraged by the CSA's recognition that the issue of the market data fees requires an immediate review. While we agree that this review should not delay the implementation of the industry information processor, it is critical the problems associated with the current marketplace fee structures (including data fees) be addressed as soon as possible. As the Canadian investment industry continues to grapple with the many issues resulting from a multiple marketplace environment, marketplace fees have emerged as one of the most serious concerns. The increased costs resulting from the various types of fees imposed by the marketplaces undermine the advantages of a competitive marketplace environment, and threaten the survival of the 125 + small firms in Canada.

The reduction of costs through marketplace competition is a laudable goal. In practice, however, this goal has been subverted by regulation that forces dealers to support emerging and untested marketplaces without any counterbalancing provisions imposing reasonable constraints on fees. As a result, in order to comply with regulatory obligations, dealers must pay access fees, trading fees and data fees which may not reflect the viability or value of the marketplaces and have a significant impact on firms' ability to compete and remain viable.

Ian C.W. Russell FCSI
President & Chief Executive Officer

Access, Transaction and Trading Fees

Although the current and proposed regulation states that dealers are not required to connect to all marketplaces in order to meet their trade-through and best execution obligations, in the world of high frequency electronic trading, the notion of jitney relationships is not feasible. As such, in order to meet trade-through and best execution requirements, firms must subscribe to all protected marketplaces, and the marketplace subscription or access fees effectively become non-discretionary regulatory costs. Caps should apply to prevent marketplaces from charging fees that bear no resemblance to the size or relative importance of the marketplace.

The need to address trading fees has also been recognized by the regulators, and has been discussed at the CSA trade-through implementation committee. However, we are concerned that the lack of consensus at that committee will result in further delays or unsatisfactory compromises between the marketplaces that benefit from regulation, and the dealers who are effectively required to pay whatever fees are imposed by the marketplaces. When the US market evolved into a multiple marketplace environment, the SEC recognized that unrestricted trading fees undermined the competitiveness of the market and imposed trading fee caps in Regulation NMS. Given the similar market framework and challenges in the Canadian context, the CSA model should also include such protections.

Ultimately excessive fees will either be passed along to the dealers' clients, potentially driving business away from the market, or will be absorbed in the dealers operating costs, threatening the firms' viability. Since it is not feasible to pass most of these costs on to clients, firms are currently foregoing other important expenditures, such as technology that would improve their productivity, in order to pay to connect to marketplaces on which they rarely trade. The eventual result of this market structure will be a significant reduction of small firms and a narrowing of consumer options for investment advice.

In order to correct this regulatory imbalance, and ensure clients are provided with the option to use a small firm at a reasonable cost, it is critical that access and transaction fees either be capped, or that dealers be permitted to take trading fees into account in determining best price. If such fees are factored into the best price calculation, the market will benefit from true competition, as order routing decisions will favour efficient marketplaces, thus imposing a strict discipline on marketplaces' trading fee strategies.

Data Fees

We are pleased to see that an information processor for the industry has been established. However, as noted in the CSA Staff Notice, the cost of data remains an issue that must be resolved. While the CSA has indicated its intention to examine this issue, we would like to stress the urgency of this matter and encourage the CSA to act immediately to ensure data costs are reasonably contained. As with the other costs, certain marketplaces have begun charging fees for data that are disproportionate to their standing in the market in general. Given that firms must obtain market data from all protected marketplaces in

Ian C.W. Russell FCSI
President & Chief Executive Officer

order to comply with trade-through obligations, data costs represent another blank cheque written to the marketplaces where a commensurate benefit is not necessarily provided to the dealers and their clients.

Conclusion

The IIAC is very concerned that the current regulatory imbalance between the marketplaces and the dealer community has led to a situation where costs are escalating to the point where certain smaller dealers may be forced out of the market. Certain of our small firms have indicated that the additional costs in access and increased trading fees resulting from the multiple market environment (not including additional data costs) exceed \$100,000 per year. This result is contrary to the CSA's objective of providing an environment to encourage the development of multiple marketplaces to enhance competition and reduce costs to consumers and the industry as a whole. Given the dynamic and fast moving nature of the financial sector, and the fact that current economic conditions have taken a toll on the overall health of the industry, it is critical that the CSA act quickly to correct this situation by carrying out a comprehensive and transparent review of trading, access and data fees, followed by implementation of remedial regulation to correct the current imbalances, or a fulsome explanation as to why such regulation is not necessary.

These actions are critical to ensure that all market participants are operating on a level playing field, and the industry remains robust and competitive, providing investors with a wide array of services at a reasonable cost.

We look forward to participating in the industry consultation process. If you have any questions or require assistance in the consultation process, please do not hesitate to contact me.

Yours sincerely,

CC: Susan Greenglass, Ontario Securities Commission
Susan Wolburgh Jenah, IIROC