



INVESTMENT INDUSTRY ASSOCIATION OF CANADA
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

www.iiac.ca

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Delivered Via Email: csa-acvm-secretariat@acvm-csa.ca; comments@osc.gov.on.ca; consultation-en-cours@lautorite.qc.ca

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des Marchés Financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

Attention: **M^e Louis Morisset**
President and Chief Executive Officer, Autorité des marchés financiers
Chair, Canadian Securities Administrators
Tour de la Bourse, P.O. Box 246
800 Victoria Square, 22nd floor
Montréal, Québec H4Z 1G3

Dear M^e Morisset,

Re: Request for Harmonization – Cease Trade Order Management by the Canadian Securities Administrators

The Investment Industry Association of Canada (the “IIAC”) is the national association representing the position of 118 IIROC-regulated Dealer Member firms on securities regulation, public policy and industry issues. We work to foster a vibrant, prosperous investment industry driven by strong and efficient capital markets.

The IIAC and its members would like to take this opportunity to offer recommendations regarding the management process of Cease Trade Orders by the Canadian Securities Administrators (“CSA”). The IIAC and its members believe that the implementation of our recommendations will enhance the cease trade order regime in Canada and ensure that the underlying goal of investor protection is fully achieved.

Managing cease trade orders, as will be discussed below, has proven to be particularly difficult for Order Execution Only (“OEO”) firms. In our view, the implementation of a coordinated approach to cease trade orders amongst the members of the CSA would greatly improve the ability of OEO firms to ensure that investors are adequately protected and treated fairly in circumstances where a securities regulator deems it necessary to issue such an order.

The IIAC has been informing the CSA about the issues that the cease trade order process creates for its members and Canadian investors as far back as January 3, 2012 when we issued a comment letter to the CSA and OSC on the topic. Our 2012 letter stated concerns regarding data integrity of the cease trade order database administered by the CSA. Some of these concerns remain in 2019.

This current letter aims at creating a dialogue between the CSA and industry members in the hopes that improvements can be made to the cease trade order management process in Canada.

Recommendation #1: Provide CUSIP in addition to company name

When the CSA issues cease trade orders, the order often only mentions the name of the company. In some cases, a CUSIP is also provided. When the CUSIP is not provided by the CSA, manual administration tasks by compliance staff must be performed to identify the symbol and CUSIP of the company. This additional manual process increases the risk of error. Compliance staff may identify an incorrect or outdated symbol rather than the accurate current symbol.

Solution: Given that company names are sometimes substantially similar to an unrelated company, the CSA should construct and maintain a consolidated list of CUSIPs corresponding to companies under cease trade order. The CSA should also build an Application Programming Interface (“API”) functionality for this list such that dealers can update their cease trade order list of securities daily via API on an automated basis.

Recommendation #2: Clarify the impact of corporate actions

Companies under cease trade order commonly go through reorganizations, and only in some cases are cease trade orders varied to reflect the new name. Furthermore, no guidance exists on what action(s) compliance departments should take for reorganizations, leading to firms proactively halting companies before the order has been varied to reflect the new name. There is pushback by clients in some cases where a cease trade order does not reflect the latest name of the company – as such, the clients believe they should be able to trade the product.

Solution: The CSA should issue clear guidance on what is expected of dealer members when cease trade order securities go through reorganizations. If recommendation #1 above was implemented, then the CUSIP database should also be updated on the reorganization date to reflect the updated CUSIP. Given that dealer members know of corporate actions in advance of the event, the CSA should know the same.

Recommendation #3: Clarify the impact of cease trade orders on over-the-counter (“OTC”) traded reporting issuers

Currently, the British Columbia Securities Commission issues a wider berth of cease trade orders than the other provinces on companies which are only OTC reporting issuers in Canada. These companies do not have Canadian symbols and, as such, may not be halted nationally. Some dealer members halt trading for all Canadians while others only halt trading for B.C. residents. We believe all investors should be treated fairly in regard to cease trade orders.

Solution: The CSA needs to be clear and issue guidance on whether these orders affect residents outside British Columbia given auto-reciprocation rules, or whether they are considered separate and distinct from the rest of the cease trade orders. The IIAC wishes for a nationally consistent approach.

Recommendation #4: Identify a lead cease trade order regulator contact

Currently, when a firm calls IIROC in regard to a trading halt, or the provincial securities commission for a cease trade order, they (IIROC or the provincial securities commission) will commonly refer the firm to each other.

When asked if a certain client can trade a security, neither IIROC nor the provincial securities commission is willing to provide an answer or any guidance. They are often simply suggesting that firms should consult with their internal compliance departments.

Solution: There should be one definitive authority on trading in cease trade order or halted securities who can answer all questions including whether clients can trade or not. We believe IIROC should be given the authority to provide guidance or permission on all cease trade orders and trading halts. As mentioned in our January 3, 2012 IIAC letter:

“...members are recommending that the CSA consider delegating the administration of the CTO database to the Investment Industry Regulatory Organization of Canada (IIROC). Given that IIROC is responsible for regulating trading and market-related activities, members believe that IIROC may be better positioned to manage the communication and implementation of the CTOs since it is a national organization and could provide timely notifications to participants by issuing a trading halt when a CTO is issued.”

Improvements recommended by industry members

The IIAC and its members would like to recommend these general improvements to the cease trade order management process in Canada:

- There should be one national cease trade order list in Canada (possibly on the CSA website);
- CUSIPs should be added to the national cease trade order list consistently;
- Name changes (if applicable) should be added to the national cease trade order list, similar to what the BCSC does on its own website;
- There should be defined criteria as to when a cease trade order should continue to be applied as an issuer transitions through merger/acquisition/spinoff. For example: if a company spins off another while under a cease trade order, should the cease trade order be carried over to the new security?;
- The CSA website should be aligned with provincial websites to avoid misinterpretation, especially after the reciprocal approach taken in 2016 amongst all provinces;
- Clarity is required from regulators regarding the transfer of securities under cease trade order from a client’s account to a firm’s error account. Is such a transfer permissible if it is performed without a cash consideration?;
- For non-issuer cease trade orders: the CSA only provides the names of individuals who have cease trade orders against them. Our members have to reach out to anyone who has the same name as an individual with a cease trade order against them. For common names (e.g. John Smith), it creates a large amount of manual work, false matches, and negative customer experiences. Additional information should be provided by the CSA to ensure an accurate match with the cease trade order.

We also suggest certain additions to the existing rules:

- An exemption that permits the sale of securities acquired, for example, before the date of the cease trade order, by a non-insider/control person of the issuer on a foreign-organized market. In short, the ability for the client to sell securities on Nasdaq or another foreign exchange for example;
- An exemption that permits the exercise and settlement of outstanding put contracts cleared by CDCC acquired before the date of the cease trade order by a non-insider/control person.

Conclusion:

The IIAC requests that the CSA harmonizes its cease trade order management process throughout Canada and creates one single national list. Such list should also contain additional information as stated above.

Harmonization between all Canadian jurisdictions would greatly simplify the administration of this process for our members, would increase transparency, and in turn, would benefit Canadian investors.

Please note that the IIAC and its members, as always, remain available for further consultations.

Yours sincerely,



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