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VIA E-MAIL: SCopland@iiac.ca

Susan Copland
Managing Director, Investment Industry Association of Canada
1500 - 701 West Georgia Street
Vancouver, BC V7Y 1C6

Dear Susan,

Re: Wash Trades

We have received the IIAC letter outlining your members' concerns about IIROC's expectations regarding the treatment of wash trades. We would like to confirm that IIROC's expectations have not changed. For that reason, we do not intend to undertake formal industry consultation. Rather, in this letter, we set out the applicable rule and guidance and confirm our expectations. We highlight certain information in this letter to clarify our message.

We would be pleased to have you share this response with your membership.

The Rule

The UMIR rule regarding wash trades has not changed. UMIR Policy 2.2 sets out certain activities which, by their very nature, will be considered to be manipulative or deceptive methods, acts or practices. One example of such an act is a trade in a security which involves no change in beneficial or economic ownership.

The Guidance

IIROC has issued guidance¹ relating to the entry of orders on both sides of the market for the benefit of the same person. The guidance identifies certain circumstances of wash trades in relation to which a Participant will not be considered to be engaging in a manipulative or deceptive activity. In particular, the guidance provides the following:

Trades Executed by an Automated Program Trading System - If a Participant or Access Person uses an automated program trading system to generate orders, the matching of orders for the same beneficial or economic owner will not be treated as a manipulative or deceptive activity **provided the Participant or Access Person has taken reasonable steps** to ensure that the automated program trading system does not enter orders that may execute as a “wash trade” on a regular basis.

Reasonable Steps – Regulatory Expectations

In considering whether a Participant has taken reasonable steps, IIROC takes into account the following factors.

Regular Monitoring

IIROC’s expectation is that a Participant would **regularly monitor** its level of wash trading. This expectation is consistent with UMIR Policy 7.1 which requires a Participant to develop and implement supervision and compliance procedures that are appropriate for the Participant’s size and lines of business.

Assessment of Tools

IIROC’s expectation is that a Participant would **consider** using methods that would be practicable for its business to prevent wash trading from occurring. While **IIROC does not require a Participant to use marketplace tools** to show that reasonable steps have been taken to prevent wash trades from occurring, IIROC’s expectation is that a Participant’s consideration of methods to prevent wash trades **would include a review and assessment** of tools to prevent wash trading, as these tools become available.

¹ See IIROC Notice [2005-029](#) *Entering Orders on Both Sides of the Market* (September 1, 2005).

Results of Reviews to be Maintained

Consistent with UMIR Policy 7.1, IIROC expects Participants to **document** their activities to monitor for wash trading and any actions taken to consider methods that could be used to prevent wash trading.

Regulatory Reporting

We wish to correct a statement made in our 2013 Annual Consolidated Compliance Report in which we stated that a firm should file a gatekeeper report if it determines that a wash trade was intentional. In fact, **all wash trades** that have not been cancelled, including wash trades that have been generated by automated program trading systems, **must be reported to IIROC** as part of the UMIR gatekeeper obligation.

Records of wash trades can be compiled and filed with IIROC on a monthly basis. Participants may file gatekeeper reports for wash trades more frequently if desired.

I trust that this response addresses the concerns raised in your letter.

Sincerely,

A handwritten signature in blue ink that reads "WRudd".

Wendy Rudd

cc: Deanna Dobrowsky, IIROC
Kevin McCoy, IIROC
Mike Prior, IIROC
Victoria Pinnington, IIROC