

Re Beacon Securities Ltd

IN THE MATTER OF:

**The Market Integrity Rules of the
Investment Industry Regulatory Organization of Canada**

and

The Universal Market Integrity Rules

and

Beacon Securities Ltd

2011 IIROC 20

Investment Industry Regulatory Organization of Canada
Hearing Panel (Nova Scotia District Council)

Heard: March 29, 2011 in Halifax, NS

Decision: March 30, 2011

(10 paras.)

Hearing Panel:

The Honourable Stewart McInnes Q.C. (Chair), Jerome Grady, Bruce Walker

Appearances:

Andrew Werbowski, Enforcement Counsel

Michelle Awad, Respondent's Counsel

REASONS FOR THE PANEL'S DECISION

¶ 1 By Offer of Settlement dated the 22nd day of March, 2011, Senior Enforcement Counsel of the Investment Industry Regulatory Organization of Canada ("IIROC"), advised the Respondent that an investigation into the latter's conduct "has disclosed matters for which IIROC seeks certain sanctions ... pursuant to Rule 10.5 of the Universal Market Integrity Rules ("UMIR")."

¶ 2 The "matters" for which sanctions were sought were set out in Appendix "A" of the Offer of Settlement, and they consisted of the following contravention:

1. Between December, 2008 and November, 2010, Beacon Securities Ltd. (the "Respondent") failed to make "reasonable efforts" to ensure that orders were executed at the best price, contrary to UMIR 5.2 and UMIR Policy 5.2;
2. Between December, 2008 and March, 2010, the Respondent failed to have adequate policies and procedures in place to ensure "reasonable efforts" were made to execute orders at the best price, contrary to UMIR 7.1;
3. In essence, UMIR 5.2 deals with the "Best Price Obligation," and it requires all Participants to make "reasonable efforts" at the time of the execution of an order to ensure that the order is executed at the best price, be it an offer or a bid;
4. Policy 5.2, which accompanies the Rule, provides that while "reasonable efforts" did not

require a Participant to become a member, user or subscriber of each protected marketplace, a “Participant will have been found to have made ‘reasonable efforts’ ... if the Participant has: (i) Entered the order on a marketplace that will ensure compliance with the ‘best price’ obligation; (ii) Used an acceptable order router; or (iii) Provided the order to another Participant for entry on a marketplace.”;

5. Policy 5.2, which accompanied the Rule, further provided that “reasonable efforts” did not require that a participant become a member, user, or subscriber of each protected marketplace. IIROC’s August 27, 2009 Notice concerning Policy 5.2 stated the following:

The “best price” obligation under Rule 5.2 of UMIR requires a Participant to make “reasonable efforts” to fill better-priced orders displayed on a “protected marketplace” at the time the Participant executes at an inferior price on another marketplace or foreign organized regulated market. IIROC will accept that a Participant has made “reasonable efforts” to comply with the ‘best price’ obligation if the Participant has:

- (a) entered the order on a marketplace that will ensure compliance with the “best price” obligation;
- (b) used an acceptable order router; or
- (c) provided the order to another Participant for entry on a marketplace.

If a Participant uses another means to enter an order on a marketplace, IIROC will determine whether a Participant has made “reasonable efforts” to obtain the best available prices on a “protected marketplace”. Each Participant must adopt policies and procedures to ensure compliance with its “best price” obligation, which will include the relevant factors upon which it is relying in making trading decisions.

6. The Respondent was provided with notice of its best price obligation under UMIR and RS delineated a process that allowed for time to comply. When the Respondent obtained its TSX Participating Organization number, IIROC Staff specifically reminded an employee of the Respondent, SI, that it would now be responsible for compliance with the “best price” obligation;
7. There are six protected marketplaces: TSX, TSX Venture, CNQ (includes Pure), Alpha, Omega and Chi-X. These were in existence as of May 16, 2008, with the exception of Alpha, which was launched in November 2008;
8. As noted, a participant has an obligation to execute against better price orders on these protected marketplaces before executing at an inferior price on any marketplace or foreign organized regulatory market;
9. On April 17, 2009, IIROC issued a Rule Notice, Notice of Approval of UMIR 09-0107. This Rule Notice advised that the Rule effected on May 16, 2008 had been retroactively approved by the recognizing securities regulators;
10. From December 2008 to November 2010, the Respondent traded on the TSX through the IRESS platform and jitneyed all TSX-Venture trades through TDWIS. The Respondent was not, however, directly connected to the remaining four protected marketplaces;
11. On November 19, 2010, the Respondent upgraded its IRESS trading platform to include BMR (the Smart Order Router available on the IRESS platform) and is now directly connected to the remaining four protected marketplaces;
12. Prior to November 19, 2010, the Respondent was not directly connected to the following four protected marketplaces: Alpha, CNQ, Omega, and Chi-X. The Respondent did make certain efforts to have access to the four marketplaces, the specifics of which are set out in the following paragraphs;
13. In the time since the Respondent secured its TSX Participating Organization number in

- November, 2007, the Respondent has always had access to all 6 protected marketplaces via its ongoing jitney relationship with TDWIS, but prior to April 12, 2010 had never, in practice used this option;
14. In December, 2007, the Respondent opened a file on multiple marketplaces to keep abreast of this market development. The file contained a newsletter on the subject from the President of the Investment Industry Association of Canada (“IIAC”), which the Respondent had reviewed and considered in relation to its ongoing operations. IIAC is an advocacy group on behalf of securities industry participants; it does not perform any regulatory function;
 15. In September 2008, an employee of the Respondent, SI, made telephone inquiries to staff of the TSX regarding possible options of accessing ATS trading, another method of direct access to the remaining four protected marketplaces. In the employee’s opinion, the up-front cost of purchasing ATS trading was very high;
 16. In November 2008, the Respondent discussed the issue of accessing the remaining four protected marketplaces with representatives of IIAC and as a result of that consultation, concluded that due to: (i) the Respondent’s limited institutional trading volume; (ii) the limited volume of all trading on those remaining four protected marketplaces; (iii) the Respondent’s ability to trade passively; and (iv) the Respondent’s ability to jitney via TDWIS, if required, there would be very little risk of trade-through violations or a breach of the best-price obligation;
 17. In December 2008, employee, SI, spoke with Market Surveillance Staff at IIROC and was advised that the Respondent must comply with the Securities Commission Policies. IIROC Surveillance Staff indicated to employee, SI, that the onus was on the dealer firms to comply with the best-price execution obligation and to avoid trade throughs;
 18. Throughout the first 7 months of 2009 the Respondent took steps to keep abreast of the issue of its obligation to make reasonable efforts to ensure it complied with the best price obligation through its receipt and reviewing of copies of letters from IIAC to the Ontario Securities Commission dated May 2009, June 2009, July 2009, and August 2009;
 19. In August, 2009, the Respondent was contacted by the TSX regarding the purchase of a smart order router (the “TSX SOR”) which would automatically jitney orders to the trading system with the best bid or offer. The Respondent was interested in the TSX SOR as it appeared to be a cost-effective method to access all protected marketplaces;
 20. In September 2009, the Respondent investigated direct connections to the other four protected marketplaces with both the Pure and Alpha alternative trading systems. The Respondent determined that the best option would be to use the TSX SOR;
 21. On November 24, 2009, the Respondent signed an agreement with the TSX Group to use the TSX SOR as soon as it became available. The Respondent was told by the TSX Group that the TSX would be available in January, 2010;
 22. Later in August 2009, and unrelated to the contact by the TSX regarding the TSX SOR, IIROC’s Trading Conduct Compliance Group (“TCC”) conducted an on-site review of the Respondent’s trade desk procedures. TCC noted that the Respondent was connected to the TSX and TSX-Venture, but was not directly connected to the other four protected markets;
 23. TCC also noted that while the Respondent had written policies and procedures in place to ensure that trade throughs did not occur, those policies required enhancement;
 24. In January, 2010, IIROC Staff delivered its written 2009 Trading Conduct Compliance Review Report to the Respondent. The failure of the Respondent to comply with the best price obligation and supervision of trading were identified as significant deficiencies which would be referred internally;
 25. Also in January 2010, the Respondent inquired as to the status of the TSX SOR and was advised that the implementation date had been pushed back and the system which it had

- contracted for was likely to be available in March 2010;
26. In February 2010, the Respondent responded to the written Trading Conduct Compliance Review Report and advised that it had contracted with the TSX Group to use the TSX SOR and that implementation of this solution was expected imminently. The Respondent also indicated that it was in the process of updating its policies and procedures regarding trading supervision to ensure compliance with the best price obligation;
 27. There were further delays with the TSX SOR and as a result, the Respondent pursued the option of upgrading its IRESS platform to include BMR as set out in paragraph 8 above;
 28. In March 2010, the Respondent updated its policies and procedures regarding trading supervision;
 29. In October 2010, Staff advised the Respondent that throughout the time period November 2008 to April 2010, the Respondent generated 899 trade through alerts. A trade through alert occurs when a possible trade through violation has been identified by IIROC market surveillance staff. Not all trade through alerts constitute trade through violations;
 30. Also in October 2010, Staff advised the Respondent that their random sampling of 5 days upon which the Respondent generated trade through alerts indicated that on each day, at least one trade through violation had occurred;
 31. The Respondent agrees that it has an obligation to make reasonable efforts to comply with UMIR 5.2 and UMIR 7.1, it did not do so.

¶ 3 IIROC's Enforcement Department began its' investigation in April, 2010, and it concluded that although the Respondent had taken some steps to address the concern of IIROC in the relevant period, it had not met the reasonable efforts requirement of IIROC Rule 5.2, and hence the charge.

¶ 4 The Respondent accepted IIROC's Offer of Settlement, admitting thereby that, from December, 2008 until November, 2010, the Respondent failed to make "reasonable efforts" to ensure that orders were executed at the best price, contrary to UMIR 5.2 and UMIR Policy 5.2.

¶ 5 And from December, 2008 until March, 2010, the Respondent failed to have adequate policies and procedures in place in order to ensure reasonable efforts were made to execute orders at the best price, contrary to UMIR 7.1.

¶ 6 The Respondent further accepted the penalties proposed by IIROC's Staff in the offer; that is a fine of \$70,000.00 together with costs in the amount of \$5,000.00.

¶ 7 It is well accepted that Hearing Panels should not attempt to "fine tune" agreements reached by the Parties, particularly where, as here the two sides are evenly matched and represented by experienced and competent counsel. What is important is that the proposed agreement appears to the panel to be reasonable given the specific facts of the case, and that the proposed penalties will not only be a punishment for the Party, but also a warning to others who may be tempted to conduct themselves in a similar manner (see Universal Market Integrity Rules and BMO Nesbitt Burns Inc. [2010] IIROC No. 39.

¶ 8 The Respondent has no history of regulatory violations and has never previously been subject to investigation or disciplinary proceedings. It is a small full service, regionally-based firm with its head office in Halifax, Nova Scotia, and is engaged in both retail and institutional trading. Its retail business is Jitneyed through TD Waterhouse Institutional Services Inc., and it is fully compliant with IIROC and UMIR policies for its retail business. However, using TDWIS for institutional transactional activity was not acceptable from a client satisfaction point of view. The Respondent now uses BMR (the Smart Order Router) available on the IRESS platform, and is now fully compliant with all IIROC and UMIR policies for its institutional transactional activity.

¶ 9 The panel concludes that the agreement reached was reasonable and served the purpose and objectives relating to punishment in general. The Respondent co-operated with IIROC Staff throughout, and the damage done was slight, and the deficiencies were eventually corrected. It was suggested that the amount involved in the "deficient" trading relative to the times of violation totalled approximately \$10.00, and in this regard its

violation is more technical than substantive.

¶ 10 And for these reasons, the Settlement Agreement was approved.

Dated at Halifax, Nova Scotia, the 30th day of March, 2010.

The Honourable Stewart McInnes, Chair

Jerome Grady, Panel Member

Bruce Walker, Panel Member

OFFER OF SETTLEMENT

INTRODUCTION

1. On April 7, 2010, the Enforcement Department Staff (“Staff”) of the Investment Industry Regulatory Organization of Canada (“IIROC”) began an investigation (the “Investigation”) into the conduct of Beacon Securities Limited (the “Respondent”).
2. The Investigation has disclosed matters for which IIROC seeks certain sanctions against the Respondent pursuant to Rule 10.5 of the Universal Market Integrity Rules (“UMIR”).
3. If this Offer of Settlement is accepted by the Respondent, the resulting settlement agreement (the “Settlement Agreement”) which has been negotiated in accordance with Part 3 of UMIR Policy 10.8, is conditional upon approval by a hearing panel appointed pursuant to IIROC Transitional Rule No. 1, Schedule C.1 (the “Hearing Panel”).
4. The Respondent agrees to waive all rights under UMIR to a hearing or to an appeal or review if the Settlement Agreement is approved by the Hearing Panel.
5. The Respondent consents to be subject to the jurisdiction of IIROC and its relevant disciplinary process and rules in relation to this matter.
6. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement.

AGREEMENT AS TO REQUIREMENTS CONTRAVENED

7. The Respondent agrees that:
 - (i) From December 2008 until November 2010, the Respondent failed to make reasonable efforts to ensure that orders were executed at the best price, contrary to UMIR 5.2 and UMIR Policy 5.2; and
 - (ii) From December 2008 until March 2010, the Respondent failed to have adequate policies and procedures in place in order to ensure reasonable efforts were made to execute orders at the best price, contrary to UMIR 7.1.

ADMITTED FACTS

8. For the purposes of this Settlement Agreement, Staff and the Respondent agree with and rely upon the admitted facts and conclusions which are set out in the Statement of Allegations attached as Appendix A to this Settlement Agreement.

DISPOSITION

9. For the contraventions in paragraph 7(i) and (ii) above, Staff and the Respondent have agreed upon disposition on the basis of the payment by the Respondent of:
 - (i) a fine in the amount of \$70,000; and
 - (ii) costs in the amount of \$5,000.

PROCEDURES FOR ACCEPTANCE OF OFFER OF SETTLEMENT AND APPROVAL OF SETTLEMENT AGREEMENT

10. The Respondent shall have until the close of business on March 22, 2011 to sign this Settlement Agreement and serve an executed copy thereof on Staff.
11. This Settlement Agreement shall be presented to the Hearing Panel at a hearing (the “Approval Hearing”) held for the purpose of approving the Settlement Agreement, in accordance with the procedures described in UMIR Policy 10.8 in addition to any other procedures as may be agreed upon between the parties. The Respondent acknowledges that IIROC shall notify the public and media of the Approval Hearing in such manner and by such media as IIROC sees fit.
12. Pursuant to Part 3.4 of UMIR Policy 10.8, the Hearing Panel may accept or reject this Settlement Agreement.
13. In the event the Settlement Agreement is accepted by a Hearing Panel, the matter becomes final, there can be no appeal or review of the matter, the disposition of the matter agreed upon in this Settlement Agreement will be included in the permanent record of IIROC in respect of the Respondent and IIROC will publish a summary of the Requirements contravened, the facts, and the disposition agreed upon in the Settlement Agreement.
14. In the event the Hearing Panel rejects the Settlement Agreement, IIROC may proceed with a hearing of the matter before a differently constituted Hearing Panel pursuant to Part 3.7 of UMIR Policy 10.8 and this Settlement Agreement may not be referred to without the consent of both parties.
15. The Respondent agrees that, in the event it fails to comply with any of the terms of the Settlement Agreement, IIROC may enforce this settlement in any manner it deems appropriate.
16. The Respondent agrees that neither it nor anyone on its behalf will make a public statement inconsistent with this Settlement Agreement.

IN WITNESS WHEREOF the parties have signed this Settlement Agreement as of the dates noted below.

DATED at Halifax on the 22nd day of March, 2011.

Witness Signature

BEACON SECURITIES LIMITED

Name of Witness

“Beacon Securities Limited”

Address of Witness

DATED at Toronto, Ontario on the 23rd day of March, 2011.

Per: “Jeff Kehoe”

JEFF KEHOE

VICE-PRESIDENT, ENFORCEMENT

Investment Industry Regulatory Organization of Canada

Suite 1600, 121 King Street West

Toronto, Ontario M5H 3T9

This foregoing Settlement Agreement is hereby approved this 29th day of March, 2011, by the following hearing panel constituted to review the terms thereof:

Per: "Stewart McInnes"

Panel Chair

Per: "Bruce Walker"

Panel Member

Per: "Jerome Grady"

Panel Member

STATEMENT OF ALLEGATIONS

I. REQUIREMENTS CONTRAVENED

1. Between December 2008 and November 2010, Beacon Securities Ltd. (the "Respondent") failed to make reasonable efforts to ensure that orders were executed at the best price, contrary to UMIR 5.2 and Policy 5.2.
2. Between December 2008 and March 2010, the Respondent failed to have adequate policies and procedures in place to ensure reasonable efforts were made to execute orders at the best price, contrary to UMIR 7.1.
3. The text of the relevant UMIR Requirements is set out in Schedule A hereto.

II. FACTS AND CONCLUSIONS

Overview:

4. The best price obligation set out in UMIR 5.2 is a general duty owed to the market as a whole to ensure fairness to all market participants and promote competition, efficiency and transparency while maintaining investor confidence in the market. UMIR Policy 5.2, requires IIROC regulated member firms to adopt policies and procedures that will ensure compliance with their ongoing best price obligations and reflect changes in the trading environment and market structure. UMIR 7.1 sets out regulatory obligations for trading supervision. A Rules Notice was issued in April 2009 indicating that the amendments to UMIR Policy 5.2 which create these requirements were approved by the Canadian Securities Administrators (the "CSA") retroactively to May 16, 2008.
5. The Respondent has been a member with the IDA and now IIROC since 1988. The Respondent is registered as an investment dealer, is a Participating Organization of the Toronto Stock Exchange (the "TSX"), and is therefore a Participant under UMIR.
6. The Respondent has no history of regulatory violations and has never previously been subject to investigation or disciplinary proceedings. It is a full service, regionally-based firm with its head office in Halifax, Nova Scotia. The Respondent is a small firm, with approximately 40 employees nationally and two dozen at its head office. The Respondent is engaged in both retail and institutional trading.
7. The Respondent's retail business is jitneyed through TD Waterhouse Institutional Services Inc., ("TDWIS"). It is fully compliant with all IIROC and UMIR Policies for its retail business. Using TDWIS for institutional transactional activity was not acceptable from a client satisfaction point of view.
8. For its institutional transactional activity, the Respondent uses BMR (the Smart Order Router available on the IRESS platform) and by the use of BMR, the Respondent is now fully compliant with all IIROC and UMIR Policies for its institutional transactional activity.

9. Prior to November 19, 2010, the Respondent used the IRESS trading platform for its institutional transactional activity but had not upgraded to include BMR. Without BMR, the Respondent's institutional trader had the ability to monitor two screens on Bloomberg, specifically the Market Depth Monitor screen and Best Bid Offer screen and those screens showed prices for all protected marketplaces.

UMIR 5.2/Policy 5.2

10. On May 16, 2008, Market Regulation Services Inc. instituted amendments to UMIR 5.2, which required Participants to make reasonable efforts at the time of execution of an order to ensure that:
- (a) In the case of an offer, the order is executed at the best bid price; and
 - (b) In the case of a bid, the order is executed at the best ask price.
11. Policy 5.2, which accompanied the Rule, further provided that "reasonable efforts" did not require that a Participant become a member, user or subscriber of each protected marketplace. IIROC's August 27, 2009 Notice concerning Policy 5.2 stated the following:

The "best price" obligation under Rule 5.2 of UMIR requires a Participant to make "reasonable efforts" to fill better-priced orders displayed on a "protected marketplace" at the time the Participant executes at an inferior price on another marketplace or foreign organized regulated market. IIROC will accept that a Participant has made "reasonable efforts" to comply with the "best price" obligation if the Participant has:

- (a) entered the order on a marketplace that will ensure compliance with the "best price" obligation;
- (b) used an acceptable order router; or
- (c) provided the order to another Participant for entry on a marketplace.

If a Participant uses another means to enter an order on a marketplace, IIROC will determine whether a Participant has made "reasonable efforts" to obtain the best available prices on a "protected marketplace". Each Participant must adopt policies and procedures to ensure compliance with its "best price" obligation, which will include the relevant factors upon which it is relying in making trading decisions.

12. The Respondent was provided with notice of its best price obligation under UMIR and RS delineated a process that allowed for time to comply. When the Respondent obtained its TSX Participating Organization number, IIROC Staff specifically reminded an employee of the Respondent, SI, that it would now be responsible for compliance with the "best price" obligation.
13. There are six protected marketplaces: TSX, TSX Venture, CNQ (includes Pure), Alpha, Omega and Chi-X. These were in existence as of May 16, 2008, with the exception of Alpha, which was launched in November 2008.
14. As noted, a Participant has an obligation to execute against better price orders on these protected marketplaces before executing at an inferior price on any marketplace or foreign organized regulatory market.
15. On April 17, 2009, IIROC issued a Rule Notice, Notice of Approval of UMIR 09-0107. This Rule Notice advised that the Rule effected on May 16, 2008 had been retroactively approved by the recognizing securities regulators.

The Respondent's Connection to the various Protected Marketplaces:

16. From December 2008 to November 2010, the Respondent traded on the TSX through the IRESS platform and jitneyed all TSX-Venture trades through TDWIS. The Respondent was not, however, directly connected to the remaining four protected marketplaces.

17. On November 19, 2010, the Respondent upgraded its IRESS trading platform to include BMR (the Smart Order Router available on the IRESS platform) and is now directly connected to the remaining four protected marketplaces.
18. Prior to November 19, 2010, the Respondent was not directly connected to the following four protected marketplaces: Alpha, CNQ, Omega, and Chi X. The Respondent did make certain efforts to have access to the four marketplaces, the specifics of which are set out in the following paragraphs.
19. In the time since the Respondent secured its TSX Participating Organization number in November, 2007, the Respondent has always had access to all 6 protected marketplaces via its ongoing jitney relationship with TDWIS, but prior to April 12, 2010 had never, in practice used this option.
20. In December 2007, the Respondent opened a file on multiple marketplaces to keep abreast of this market development. The file contained a newsletter on the subject from the President of the Investment Industry Association of Canada ("IIAC"), which the Respondent had reviewed and considered in relation to its ongoing operations. IIAC is an advocacy group on behalf of securities industry participants; it does not perform any regulatory function.
21. In September 2008, an employee of the Respondent, SI, made telephone inquiries to staff of the TSX regarding possible options of accessing ATS trading, another method of direct access to the remaining four protected marketplaces. In the employee's opinion, the up-front cost of purchasing ATS trading was very high.
22. In November 2008, the Respondent discussed the issue of accessing the remaining four protected marketplaces with representatives of IIAC and as a result of that consultation, concluded that due to: (i) the Respondent's limited institutional trading volume; (ii) the limited volume of all trading on those remaining four protected marketplaces; (iii) the Respondent's ability to trade passively; and (iv) the Respondent's ability to jitney via TDWIS, if required, there would be very little risk of trade-through violations or a breach of the best-price obligation.
23. In December 2008, employee, SI, spoke with Market Surveillance Staff at IIROC and was advised that the Respondent must comply with the Securities Commission policies. IIROC Surveillance Staff indicated to employee, SI, that the onus was on the dealer firms to comply with the best-price execution obligation and to avoid trade throughs.
24. Throughout the first 7 months of 2009 the Respondent took steps to keep abreast of the issue of its obligation to make reasonable efforts to ensure it complied with the best price obligation through its receipt and reviewing of copies of letters from IIAC to the Ontario Securities Commission dated May 2009, June 2009, July 2009 and August 2009.
25. In August, 2009, the Respondent was contacted by the TSX regarding the purchase of a smart order router (the "TSX SOR") which would automatically jitney orders to the trading system with the best bid or offer. The Respondent was interested in the TSX SOR as it appeared to be a cost-effective method to access all protected marketplaces.
26. In September 2009, the Respondent investigated direct connections to the other four protected marketplaces with both the Pure and Alpha alternative trading systems. The Respondent determined that the best option would be to use the TSX SOR.
27. On November 24, 2009, the Respondent signed an agreement with the TSX Group to use the TSX SOR as soon as it became available. The Respondent was told by the TSX group that the TSX would be available in January, 2010.

Trading conduct compliance review:

28. Later in August 2009, and unrelated to the contact by the TSX regarding the TSX SOR, IIROC's Trading Conduct Compliance group ("TCC") conducted an on-site review of the Respondent's trade

desk procedures. TCC noted that the Respondent was connected to the TSX and TSX-Venture, but was not directly connected to the other four protected markets.

29. TCC also noted that while the Respondent had written policies and procedures in place to ensure that trade throughs did not occur, those policies required enhancement.

2010:

30. In January, 2010, IIROC Staff delivered its written 2009 Trading Conduct Compliance Review Report to the Respondent. The failure of the Respondent to comply with the best price obligation and supervision of trading were identified as significant deficiencies which would be referred internally.
31. Also in January, 2010, the Respondent inquired as to the status of the TSX SOR and was advised that the implementation date had been pushed back and the system which it had contracted for was likely to be available in March, 2010.
32. In February 2010, the Respondent responded to the written Trading Conduct Compliance Review report and advised that it had contracted with the TSX Group to use the TSX SOR and that implementation of this solution was expected imminently. The Respondent also indicated that it was in the process of updating its policies and procedures regarding trading supervision to ensure compliance with the best price obligation.
33. There were further delays with the TSX SOR and as a result, the Respondent pursued the option of upgrading its IRESS platform to include BMR as set out in paragraph 8 above.
34. In March, 2010, the Respondent updated its policies and procedures regarding trading supervision.
35. In October, 2010, Staff advised the Respondent that throughout the time period November 2008 to April 2010, the Respondent generated 899 trade through alerts. A trade through alert occurs when a possible trade through violation has been identified by IIROC market surveillance staff. Not all trade through alerts constitute trade through violations.
36. Also in October, 2010, Staff advised the Respondent that their random sampling of 5 days upon which the Respondent generated trade through alerts indicated that on each day, at least one trade through violation had occurred.
37. The Respondent agrees that it has an obligation to make reasonable efforts to comply with UMIR 5.2 and UMIR 7.1 it did not do so.

Copyright © 2011 Investment Industry Regulatory Organization of Canada. All Rights Reserved.