CANADIAN SECURITY TRADERS ASSOCIATION, INC.
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November 21th, 2014

Market Regulation Branch
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and

Richard J. Millar
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via email

Re: Omega Securities Inc. Notice of Proposed Change and Request for Comments: Self Trade Management

The Canadian Security Traders Association, Inc. is a professional trade organization that works to improve the ethics, business standards and working environment for members who are engaged in the buying, selling and trading of securities (mainly equities). The CSTA represents over 850 members nationwide, and is led by Governors from each of three distinct regions (Toronto, Montreal and Vancouver). The organization was founded in 2000 to serve as a national voice for our affiliate organizations. The CSTA is also affiliated with the Security Traders Association (STA) in the United States of America, which has approximately 4,200 members globally, making it the largest organization of its kind in the world.

This letter was prepared by the CSTA Trading Issues Committee (the "Committee" or "we"), a group of 21 appointed members from amongst the CSTA. This committee has an approximately equal proportion of buy-side and sell-side representatives with various areas of market structure expertise, in addition to one independent member. It is important to note that there was no survey sent to our members to determine popular opinion; the Committee was assigned the responsibility of presenting the views of the CSTA as a whole. The views and statements

provided below do not necessarily reflect those of all CSTA members or of all members of the Trading Issues Committee.

We appreciate the opportunity to comment on proposals from Omega Securities, Inc. with respect to a facility for managing cross-dealer wash trades. We do not have specific views on the mechanics and utility of the mechanisms proposed by Omega ATS and Lynx ATS. However, we wish to specifically address the two questions raised by OSC Staff:

1) Whether it is appropriate to expand the role of the marketplace in the manner proposed, which would result in a marketplace managing compliance with regulatory obligations belonging to dealers' clients, with whom they have limited or no relationship other than indirectly through various dealers.

2) Whether it is appropriate for a marketplace to manage the regulatory responsibilities of a dealer, in situations where marketplace service offerings would result in a dealer having limited or no ability to independently do so.

The proposals at question contemplates the use of a private user-defined code on orders entered on Omega and Lynx to identify a specific beneficial owner. Buy side users (either through full service dealers or DMA relationships) would, conceivably, specify the same code on all orders entered to Omega or Lynx regardless of which dealer entered the order onto those marketplaces. In turn, Omega and Lynx would be able to enact Self-Trade Prevention (STP) features across brokers because such trades would ultimately be for the benefit of the same account.

We recognize that in some situations, large institutional investors may have multiple trading desks acting independently, and wash trades may occur unbeknownst to either party within the same firm. However, in such situations, we believe that the key question is one of intent and the degree to which the person entering the trade is isolated from other parts of a firm. Simply put, if an individual enters an order, they would expect to see their transactions on the public tape regardless of whether the trades are ultimately with other (unrelated and unknown) parts of the same firm or not. Such an individual has no intent to enter into wash trades, no means of knowing that the counterparty is in fact internal, and would have reason to believe that they are acting for the benefit of a specific, definable part of the larger investment firm. In other words, in the mind of each of the parties to an "accidental" wash trade, there is no wash trade at all.

We believe that the responsibility for prevention of wash trades on marketplaces rests ultimately with the party originating the orders. In other words, if investors are accessing the market through multiple dealers, potentially on both sides of the market, we believe the responsibility to prevent wash trades must start with the client. Therefore, attempts by marketplaces to solve this "problem" through functionality such as the proposed should be not be viewed as a replacement for sound processes and procedures at the client level.

In situations where a single entity is operating two-sided trading strategies through multiple dealers, the argument for wash trade suppression is stronger. However, we believe that the onus rests with the end client to identify possible wash trades, and to work with both dealers to remove them from the public tape. If this becomes impractical, the firms at question retain the ability to operate through a single dealer and rely on established intra-dealer STP mechanisms available today - or invest in systems which would prevent wash trades upstream. In all cases, the responsibility for wash trade prevention must ultimately rest with the client involved.

We are concerned that by relying on a client-specified identifier for the prevention of wash trades, Omega and Lynx greatly reduce the ability of dealers offering access to the market to fulfill their gatekeeper duties. There is no mechanism for a dealer to verify that a counterparty dealer using the same code is representing the same client. In fact, there is no mechanism for a dealer to verify which counterparty dealer they are facing (since the trades are suppressed from the tape). There is also no mechanism for OSI to ensure that the codes are being used legitimately, because they may have no relationship with the client. OSI would therefore assume a compliance function for its dealer clients with no ability to discharge the function. We view this as an inappropriate expansion of the role of a marketplace.

In cases where neither the dealer nor the marketplaces have the means to verify that the STP features are used properly, the STP mechanism becomes an honour system. In turn, IIROC becomes the sole body able to perform a surveillance function on this facility. This increases the surveillance burden at IIROC, without a clear material benefit to the marketplace as a whole.

We are particularly concerned that this feature has the potential for being abused by parties looking to circumvent requirements for trade reporting under UMIR for purposes which could include criminal activity. This would be as simple as two parties, operating through two dealers, to agree on a common code and enter into pre-arranged trades on Omega ATS or Lynx ATS. Such trades would be suppressed from the public tape and ultimately be known only to the marketplace and to IIROC. Neither the marketplace nor the dealers involved have any means of verifying the legitimacy of the hidden "wash trade." Supervision would be solely the responsibility of IIROC. If cross-dealers "wash trade" prevention were to be approved, we would expect that IIROC introduce additional surveillance for fraudulent or inappropriate use (potentially requiring additional rule amendments).

In a situation where the facility is abused, dealers involved in the transaction could be held liable for beach of their gatekeeper duties based on features offered by Omega ATS and Lynx ATS. However, both Omega ATS and Lynx ATS operate in a marketplace liability regime which fully indemnifies them from liability for any misuse and abuse of marketplace features. In this situation, the dealer is left liable, without a recourse, despite having no ability to properly perform its compliance and gatekeeper function.

We also note that for a cross-dealer wash trade management mechanism to be truly effective, it must be implemented consistently across marketplaces. Given the level of fragmentation in the marketplace today, and the share of trading from marketplaces proposing this functionality,

we do not believe this feature would greatly reduce the incidence of inadvertent wash trades across dealers.

In summary, we believe that it is inappropriate for a marketplace to offer a feature which would offer limited (or no) means for the marketplace or the dealer to verify that it is being used appropriately. It is also inappropriate for a marketplace to offer a feature which would impede or negate a dealer's ability to perform its critical gatekeeper duties and discharge its regulatory responsibility. On the basis of this argument, we believe the proposal from Omega ATS and Lynx ATS, and similar marketplace features which may be present elsewhere, should be denied.

We appreciate the opportunity to comment on this matter.

Respectfully,

"Signed by the CSTA Trading Issues Committee"

c.c. to:

Ontario Securities Commission:
Mr. Howard Wetston, Chair and CEO
Ms. Maureen Jensen, Executive Director & CAO
Ms. Susan Greenglass, Director, Market Regulation
Ms. Tracey Stern, Manager, Market Regulation

British Columbia Securities Commission:
Ms. Sandra Jakab, Director, Capital Markets Regulation

Alberta Securities Commission:
Ms. Lynn Tsutsumi, Director, Market Regulation

Autorité des Marchés Financiers:
Mme. Élaine Lanouette, Directrice des bourses et des OAR

IIROC:
Mr. Andrew Kriegler, President and CEO
Ms. Wendy Rudd, SVP, Market Regulation and Policy
Ms. Deanna Dobrowsky, Vice President, Market Regulation Policy
Ms. Victoria Pinnington, Vice President, Trading Review & Analysis