



TD Securities Inc.
Institutional Compliance
TD Tower
66 Wellington Street West, 6th Floor
Toronto, Ontario M5K 1A2

December 7, 2006

Via Electronic Mail (rule-comments@sec.gov))

Nancy M. Morris
Secretary
Office of the Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-1090

Re: File Number SR-NASD-2004-130

Dear Ms. Morris:

This letter is submitted by TD Securities Inc. and TD Securities (USA) LLC in response to the request for comments regarding the above-referenced amendment to NASD Rule 2320(g) ("Three Quote Rule"), as amended, and reflected in SEC Release No. 34-54660, dated October 31, 2006 (the "Release").

The amendments to the Three Quote Rule are designed to liberalize the exceptions for liquid, foreign-listed securities. However, Footnote 13 in the Release states that the NASD intends to withdraw all existing exemptions that relate to foreign securities, including Canadian listed securities.

Since very few Canadian securities are included in the FTSE All-World Index (the "Index"), this aspect of the proposed amendments is far more restrictive with regard to Canadian securities than the status quo.

The Index is an Inappropriate Measure of Liquidity for Canadian Securities for purposes of the Three Quote Rule.

The Index is dramatically under-inclusive for Canadian stocks. The Index is not useful in determining whether quotes from U.S. based OTC dealers are likely to be more favorable than quotations disseminated by Canadian marketplaces.

Canada's present weighting in the Index is 0.94% and only 61 Canadian stocks are included.

As a result of proximity, similar legal and regulatory systems, common trading hours and other factors, North American markets are highly integrated. One result has been very high U.S. investor confidence, in and demand for, Canadian listed securities by both institutional and retail customers. This demand is necessarily out of proportion to the relative market capitalization of Canadian-listed issuers and the weight given the Canadian market in the Index.

Since nearly all of the Canadian stocks included in the Index are interlisted on U.S. exchanges or NASDAQ, the elimination of the exemption from the Three Quote Rule would result in approximately



3000 Canadian listed stocks instantly becoming subject to a rule for which an exemption has been in place since 1998.

We submit that such a significant policy reversal should receive more attention, and reflection, than will occur in a 21 day comment period as a result of a statement in a footnote in a release concerning amendments that are otherwise liberalizing in effect.

Canadian Market Integrity Rules Are Designed to Ensure Best Execution.

Rule 5.1 of the Canadian Universal Market Integrity Rules (“UMIR”)¹ requires dealers to diligently pursue the execution of each client order on the most advantageous terms for the client as expeditiously as practical under prevailing market conditions. Under UMIR Rule 5.2, dealers must make reasonable efforts to ensure that a client order is executed at the “best price”. Each dealer must take into account order and trade information from all marketplaces that trade the same securities when discharging their best execution responsibilities. Indeed, this obligation requires dealers to have direct access to all Canadian marketplaces or to make arrangements to have indirect access through other market participants. Unlike U.S. best execution principles, which do not give effect to foreign quotations, Canadian dealers are directed to consider U.S. quotations in assessing best execution. Canadian rules, subject to certain exceptions, prohibit dealers from “trading through” superior quotations and extend this protection to all orders in the book and not just the “top of the market.”

¹ The Universal Market Integrity Rules (UMIR) are a common set of equities trading rules designed to ensure fairness and maintain investor confidence.

These rules essentially create the framework for the integrity of trading activity on marketplaces and allow for the competitive operation of exchanges, quotation and trade reporting systems (QTRSs) and alternative trading systems (ATSS) in Canada. UMIR has been established to regulate various trading practices, including manipulative or deceptive methods of trading, short selling, front running, best execution obligations, order entry and order exposure, as well as trading halts, delays and suspensions.

UMIR seeks to foster trading of securities in a fair and transparent manner. The cornerstone of these integrity rules is universality, in that UMIR:

- Applies to trading on any Canadian marketplaces that retain Market Regulation Services Inc. as their market regulation services provider
- Applies equally to each class of marketplace participants
- Cannot be circumvented by directing trading activity to another marketplace
- Applies to trading of all forms of listed or quoted securities
- Incorporates exceptions to the rules to accommodate the workings of an individual marketplace or ATS

Market Regulation Services Inc. ("RS"), the Canadian self-regulatory organization responsible for ensuring compliance with UMIR, policies these requirements.²

Canadian markets have pre and post trade transparency similar to U.S. markets. Canadian exchange last sale and quotation data is disseminated globally by TSX Datalinx to over 100,000 subscribers, via over 80 financial information service providers.

Canadian regulatory requirements are designed to ensure that customers have access to the best fills. It is highly unlikely that OTC dealers in the United States can offer any price improvement to U.S. customers in Canadian solely listed securities.

Application of the Three Quote Rule to Canadian Securities will disadvantage U.S. Customers and Market Intermediaries.

Since Canadian quotes will represent the best price in the vast majority of cases, application of the Three Quote Rule will only result in delay and the possibility of inferior prices.

OTC dealers will, at best, match Canadian prices or seek a spread before laying off these orders on to Canadian markets.

The undersigned firms have invested considerable resources in establishing highly efficient means for U.S. broker-dealers and institutional investors to access the best Canadian quotations. Application of the Three Quote Rule will impair this efficiency by introducing a manual check on OTC prices prior to routing orders to Canadian participants for entry on the Canadian exchanges.

Our firms have made this investment in efficient cross-border trading systems in the reasonable expectation that the process would not be disrupted by rapid policy changes unsupported by any economic or investor protection analysis. Indirect electronic access is also provided by many order routing and terminal vendors, enabling other U.S.-based firms that do not have Canadian affiliates to readily access Canadian quotes.

Withdrawal of the relief for Canadian markets will be very costly for both investors and intermediaries. We submit that such a change fails to give sufficient importance to the well developed and

² RS is the independent regulation services provider for Canadian equity marketplaces, including The Toronto Stock Exchange (TSX); TSX Venture Exchange (TSX-V), Canadian Trading and Quotation System (CNQ), including its "Pure Trading" facility; Bloomberg Tradebook Canada Company; Liquidnet Canada Inc.; Perimeter Markets Inc. (BlockBook™); and Shorcan ATS Limited.

RS is recognized by the securities commissions of Ontario, British Columbia, Alberta and Manitoba, and by the Autorité des marchés financiers in Québec, to regulate the trading of securities on these marketplaces by participant firms and their trading and sales staff. RS's mandate is to foster investor confidence and ensure market integrity through the administration, regulated persons, including dealers, in all marketplaces regulated by RS.

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regulated Canadian markets. It creates a barrier to cross-border trading that is inconsistent with the increasing integration of markets.

We submit that any action taken on the amendments should be conditioned on retention of the existing Canadian exemptions. Any further consideration of this issue should be the subject of a separate proposal and comment process by the NASD and the SEC.

Please direct any questions concerning this letter to Chris Climo at (416) 983-6532 or our counsel, Grant Vingo, Arnold & Porter LLP, at (212) 715-1130, who have been authorized to represent TD Securities Inc. and TD Securities (USA) LLC in this matter.

Very truly yours,



Christopher Climo

Managing Director, Compliance
Chief Compliance Officer
TD Securities Inc.

General Securities Principal
TD Securities (USA) LLC