

IIROC NOTICE

Enforcement Notice Decision

Please distribute internally to:
Legal and Compliance

Contact:
Jeff Kehoe
Vice President, Enforcement
416.943.6996
jkehoe@iiroc.ca

10-0228
August 25, 2010

IN THE MATTER OF BMO Nesbitt Burns Inc. – Settlement

Summary

On August 16, 2010, a Hearing Panel of the Investment Industry Regulatory Organization of Canada (IIROC) approved a Settlement Agreement between IIROC staff and BMO Nesbitt Burns Inc. (BMONB) in which the firm admitted to misconduct that occurred between October 2008 and October 2009.

BMONB admitted that it breached the Universal Market Integrity Rules (UMIR) when it failed to make reasonable efforts to meet its best price obligations by connecting to all available “protected marketplaces” and, in particular, the Omega ATS, an alternative trading system for Canadian exchange listed equities.

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.

Notwithstanding two warnings from IIROC in December 2008 and February 2009 that it was responsible for a larger than average number of “trade through” alerts identifying possible



violations, BMONB failed to respond in a timely manner and make reasonable efforts to connect to the Omega ATS until October, 2009.

Pursuant to the Settlement Agreement, BMONB admitted to the following misconduct:

- Between October 2008 and October 2009, it failed to make reasonable efforts to connect to the Omega ATS protected marketplace, contrary to UMIR 5.2 and UMIR Policy 5.2.

Pursuant to the Settlement Agreement, BMONB agreed to pay a fine in the amount of \$250,000 and costs of \$15,000.

IIROC formally initiated the investigation into BMONB's conduct on September 30, 2009. BMONB is an IIROC-regulated firm.

The panel's decision and reasons and the approved Settlement Agreement are available at

<http://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=470D4F76E81B4FCC8E58238BFD260A3C&Language=en>